

# Development Management Sub-Committee Report

**Wednesday 10 January 2024**

**Application for Planning Permission  
Ocean Terminal, 98 Ocean Drive, Edinburgh.**

**Proposal: Erection of mixed-use development comprising residential 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.**

**Item – Committee Hearing  
Application Number – 22/05599/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 pre-determination hearing is required prior to determination.

## **Recommendation**

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

## **Summary**

Residential led mixed-use development is acceptable at this location and permission has already been granted for the demolition of the northern part of Ocean Terminal. The proposed uses comply with the NPF4 designation.

Based on the information submitted the height is generally in keeping with the emerging character of the area will have an acceptable impact on the views considered in the submitted Townscape and Visual Impact Assessment (TVIA).

The proposed materials and detailing references the various surrounding areas and the design approach is acceptable as it provides a smart contemporary development. The proposed layout is acceptable, and it provides a mix of uses that allow for activity and surveillance. The scheme opens up the area more than the present buildings and introduces good areas of public realm.

However, the fence associated with the Royal Yacht Britannia yard requires upgrading to enhance the public realm experience. The proposed housing mix is acceptable, and the level of affordable housing proposed complies with policy.

The proposal results in some potential minor infringements with regards to daylighting within the new properties. In addition, Environmental Protection has raised concerns with regards to some amenity aspects of the development, mostly in relation to port noise. In this regard, a number of conditions have been recommended.

Other matters such as 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 (LDP), as well as the Council's non-statutory Edinburgh Design Guidance. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The site, covering 5.39 hectares, is located at the northern point of Ocean Terminal; a large shopping centre in the north of the city. The site fronts both the Port of Leith basin and the Royal Yacht Britannia at Leith Docks as well as Ocean Drive. To the north-east is the entrance to the Albert Dock basin, to the south east is Ocean Drive, the office building known as Ocean Point 1, and the residential area known as Waterfront Plaza, with Victoria Dock beyond. To the south-west is Melrose Drive with a mix of hotel and residential uses nearby and mixed uses including commercial uses in the vicinity. To the north-west is the Port of Leith basin and the Royal Yacht Britannia. The new Port of Leith Distillery is located to the immediate north-east of the application site, but not within it.

The site consists of existing buildings including:

- Ocean Terminal Shopping Centre and entrance area
- Ocean Terminal's Red and Blue Car Parks and surface level car park
- The Discovery Garden
- Ocean Terminal bus stop and public realm fronting onto Ocean Drive

Within the application site is Whisky Quay, parallel to Ocean Terminal along the Port of Leith basin and the Albert Dock and the ancillary infrastructure for the Royal Yacht Britannia.

There are a number of landscaped areas including trees on site - within the discovery garden, fronting onto Melrose Drive, between Whisky Quay and the Port of Leith basin and between Whisky Quay and Albert Dock Basin and around the surface level car park between Ocean Terminal and Ocean Point 1.

Bus stops are located immediately outside the main pedestrian entrance to Ocean Terminal and the tram line is now complete along Ocean Drive.

The site is located within the Central Leith Waterfront area (Proposal reference EW1b) as identified in the adopted Edinburgh Local Development Plan (LDP). Ocean Terminal is designated as one of the City's Commercial Centres.

The LDP Proposals Map contains a safeguarded route for the Waterfront Promenade.

Further north of the site is the Imperial Dock Lock Special Protection Area (SPA) which contains a tern colony.

## **Description of the Proposal**

The proposals relate to the northern area of Ocean Terminal primarily covering the northern-most multi-storey car park and the former Debenhams retail unit. Planning permission has previously been given for the demolition of these areas and for a new gable end and entrance. The remainder of the Ocean Terminal shopping centre is not included in the proposals.

The proposal is for a mixed-use development that in summary consists of:

- 531 residential units including 135 affordable units and 396 build to rent units;
- Nine commercial units providing a total of 1,236 sqm of floor space split between Class 1A and Class 3 uses;
- 52 car parking spaces including four disabled spaces and 10 EV ready spaces;
- 1130 cycle spaces are provided, 26 for the commercial uses and 1104 for the 531 residential units. A further 33 external stands are provided;
- Highest elements at 55.95m AOD (17 storeys in height);
- Landscape deck and terraces providing residential amenity space; and
- New public realm space of approximately 6000 sqm, including padel tennis court, playground, access arrangements and ancillary infrastructure.

A new pedestrian street would be created linking Ocean Drive directly with the Royal Yacht Britannia and opening out to a public space fronting the ship. The Royal Yacht Britannia Dock compound remains in its current location.

The proposals include three groups of buildings A, B and C in a rectangular format around a central area which includes cycle and car parking, bin store at ground level with an upper deck comprising landscaping and amenity space. The buildings would be encircled by Whisky Quay and the new pedestrian street would connect the proposals with Ocean Terminal shopping centre. Each block has its own design, though the primary material proposed throughout is brick of various colours.

Block A contains 174 BTR units and is angled towards Western Harbour and the Royal Yacht and has seven commercial units at the ground floor level which sit behind a colonnade. The building rises up to 17 storeys alongside 10 and six storey elements with sawtooth roofs. Two roof terraces are also proposed. The material palette contains buff brick and tinted concrete.

Block B contains 222 BTR units and is orientated to the north facing onto Leith Docks and is dog-legged in shape. It responds to the existing road that runs adjacent to the newly completed distillery. There is variation in height with six, ten, twelve and seventeen storeys proposed. The design is described as having a 'warehouse' typology with a butterfly roof and punched window openings. The primary material is red brick.

The ground floor amenity space consists of bookable rooms, library, lounge, coffee-shop and bar, cinema, fitness centre and studios. Two roof terraces would also be provided.

Block C is an 'L' shaped block located on the eastern part of the site. It contains 135 affordable housing units above two commercial units alongside amenity space and ancillary infrastructure. It fronts onto the existing road and the existing Ocean Point 1 office building. It also forms a frontage onto new end of Ocean Terminal. The height is a mix of eight and twelve storeys. The design is described as having a 'tenemental' typology which utilises a material palette of grey brick with decorative upstands and corncicing.

The commercial uses are proposed at the ground floor under Block A and C. Those on the southern elevation will front onto the new bookend of Ocean Terminal the units on the western elevation will front onto the proposed new area of public realm adjacent to the yacht.

The six class 3 units are 102 sqm, 109 sqm, 141 sqm, 161 sqm, 242 sqm and 86 sqm in size. The three class 1A units are 102 sqm, 128 sqm and 165 sqm in size.

A padel tennis court and playground would be located next to Ocean Terminal fronting onto Ocean Drive. A sculpture would be erected fronting onto Ocean Drive opposite the Ocean Point 1 building.

Previous schemes:

The original scheme contained 580 units in a similar design and had a higher overall height with differing design of the uppermost sections. Block A was private for sale instead of build to rent. An interim scheme was also proposed which lowered the number of units to 571 and altered the height and massing.

The design and form of the development consisted of largely the same form of development. The internal courtyard area was smaller, the affordable housing contained less three bedroom units, the ground floor BTR amenity space was undefined and the design of the three main buildings contained more mismatched elements. Fifty-eight car parking spaces were proposed.

## **Supporting Information**

- Cultural and heritage assessment;
- Daylight and sunlight and amenity report;
- Design and access statement;
- Ecology assessment;
- Economic and social benefits statement;
- Flood risk assessment;
- Geo-environmental desktop study;
- Industrial emissions assessment;
- Habitat regulations information;
- Landscape management and maintenance and specification;
- Noise impact assessment;
- Planning statement;

- Pre-application consultation report;
- Sustainability statement;
- Townscape and visual impact assessment;
- Transport assessment and
- Wind microclimate assessment.

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

### **Relevant Site History**

99/00018/FUL

Land @

Ocean Drive

Edinburgh

Erect mixed use development, including retail, leisure, restaurants & bars, multi-screen cinema and Britannia Visitor Centre with 2 car parks

Granted

2 December 1999

14/04482/FUL

Ocean Terminal

98 Ocean Drive

Edinburgh

Front extension to units comprising Class 1 retail on the ground floor, staff welfare facilities on the first floor and mechanical plant on the second floor.

Granted

12 August 2015

16/02815/PPP

Car Park 137 Metres Northeast Of 98

Ocean Drive

Edinburgh

Erection of Hotel development (Class 7), associated facilities and ancillary works, including Boardwalk (As Amended)

Minded to Grant - Legal Agreement

21/04565/SCR

Ocean Terminal

98 Ocean Drive

Edinburgh

Request for EIA Screening Opinion.

EIA Not Required

20 September 2021

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 September 2022

23/01625/FUL

Ocean Terminal

98 Ocean Drive

Edinburgh

Change of use of 5 units within Ocean Terminal to accommodate new tenants and relocation of existing tenants within the centre. Unit S2 - Class 1A to Class 11; amalgamate units S1, RU11-RU19, and area of common mall space - Class 1A to Class 11; amalgamate units LSU3, RU56a/b, and RE2a - Class 1A to Class 11; amalgamate units RU50/51 - Class 1A Class 11; amalgamate units RE9 and L2.83 - Class 1A to Class 10.

Granted

13 September 2023

### **Other Relevant Site History**

Land adjacent to the site:

01/01030/FUL

Ocean Drive

Edinburgh

Erection of two office buildings of 9 and 11 storeys respectively, with a combined floor area of 25,000sqm. The 9-storey building (Ocean Point) has been implemented.

Granted

31 October 2001

16/03684/FUL

Land 120 Metres South East Of 98 Ocean Drive (Waterfront Plaza)

Edinburgh

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

Granted

14 August 2018

17/04428/FUL

Land Adjacent To Ocean Drive  
Edinburgh

Proposed distillery (sui generis) and ancillary uses, including visitor experience/tasting area and shop; office and restaurant, bar and use of the external yard for distillery-related servicing and storage.

Granted

26 September 2019

19/02778/FUL

Land 143 Metres Southeast Of 94 Ocean Drive (Skyliner/Dockside)  
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

23/01615/FUL

Land 143 Metres Southeast Of 94 Ocean Drive (Skyliner/Dockside)  
Edinburgh

Erection of residential development with associated landscaping and infrastructure (variation of design approved under permission 19/02778/FUL) for a 14 storey Block A.

Minded to grant

22/011/2023

23/04069/FUL

Land 58 Metres South Of 94 Ocean Drive (Ocean Point 2)  
Edinburgh

Erection of mixed-use development comprising residential and purpose-built student accommodation, along with commercial uses /co-working and amenity space, landscaping, and infrastructure.

Application pending consideration

Submitted 01.09.2023

## **Pre-Application process**

Pre-application discussions took place on this application.

Early proposals and concepts were presented to the Edinburgh Urban Design Panel (EUDP) on 29 September 2021. The full report is available to view on the Planning and Building Standards Online Service.

In taking forward this proposal, the Panel recommended that the following should be addressed:

- expand the brief to allow the remaining ocean terminal building to be adapted to engage with both the street and water's edge
- consider the site in the wider context with respect to opportunities to link to wider coastal projects and to Leith

- place sustainability at the heart of the design and expand energy-reduction measures to address 2030 zero-carbon targets
- develop a residential proposal which places liveability first and visitors second
- develop a strong public realm and landscape strategy
- use microclimate studies to inform the design process
- develop a proposal which is car free
- security and public safety should be integral to the early design process

## **Consultation Engagement**

SEPA

NatureScot

Leith Harbour and Newhaven Community Council

Flood Prevention

Roads Authority

Environmental Protection

Affordable Housing

Communities and Families

Waste Services

Archaeology Officer

NatureScot - Further Comment

SEPA - Further Comment

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

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 26 September 2023

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

**Press Publication Date(s):** 29 September 2023 19 May 2023 22 December 2022

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

**Number of Contributors:** 35

## Section B - Assessment

### Determining Issues

This report will 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 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, 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 4, Des 5, Des 7, Des 8, Des 10 and Des 11.
- LDP Environment policies, Env 21 and Env 22.
- LDP Housing policies Hou 1, Hou 2, Hou 3, Hou 4 and Hou 6.
- LDP Retail policy Ret 4.
- LDP Transport policies Tra 2, Tra 3, Tra 4, Tra 7 and Tra 9.

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

The Scottish Government's Planning Minister and Chief Planning Officer wrote to stakeholders on 03 February 2023 in a letter that sets out guidance on the interpretation of NPF 4 policies 1, 2, 3, 16, 23 and 27(d) and this guidance is a material consideration where applicable to development proposals.

### Principle

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 will be granted 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). The policy requires (amongst other matters) comprehensively designed proposals which maximise the development potential of the area, the provision of a series of mixed use sustainable neighbourhoods, proposals for a mix of house types, sizes and affordability and the provision of local retail facilities and leisure and tourism attractions.

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 a housing led mixed use development at this location accords with these policies.

The proposal ties with the earlier permission to demolish part of Ocean Terminal and the multistorey car park and responds to the space that will be created in line with LDP Policy Des 2 (Co-ordinated Development) that seeks to ensure the effective development of adjacent land.

LDP Policy Ret 4 (Commercial Centres) sets criteria to assess additional retail floorspace and allows additional floorspace with very specific justification and demonstrating impact on sequentially preferable locations. As a significant amount of floor space is to be lost with the demolition of the northern end of the centre and the proposal is for a mixed use development, the proposed nine commercial units, split between classes 1A (shops and financial, professional and other services) and class 3 (food and drink) are acceptable in principle.

NPF4 Policy 15 (Local Living and 20 minute neighbourhoods) states that development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. Developments should have access to a sustainable mode of transport, including walking, wheeling and cycling networks alongside uses such as employment, shopping, health and social care facilities, play and open space and housing diversity.

A high density mixed use proposal adjacent to the remaining Ocean Terminal building, with its associated commercial and leisure uses, and the tram stop puts the development in a strong position to meet the aspirations of a 20-minute neighbourhood.

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 located within Edinburgh Waterfront which the LDP identifies for mixed use regeneration proposals. It provides a mix of new housing of which 25% will be affordable. The supporting information indicates that some of the affordable housing will be let on a social rent basis to those over 55 years with homes designed to meet their needs as they get older.
- In terms of infrastructure and services, it notes that the applicant is willing to work with the Council to agree appropriate developer contributions. The statement also sets out the economic benefits of the development including the construction stage and operational stages, with the proposal including a number of commercial units. The statement also provides information on the community tenants that the wider Ocean Terminal facility helps support including the Wee Hub (a community hub supporting community organisations/ groups), the Wee Museum of History, Leith Collective, House of Jack (non-profit dance studio), and St Columba's Hospice.
- The residential amenity will be enhanced by the development which will improve the relationship and streetscape by providing new active frontages, pedestrian links and opening up the waterfront.

In summary, residential led mixed use development is acceptable at this location. The proposal complies with NPF4 designation at this location alongside the relevant parts of NPF4 Policy 15 and LDP Policies Del 3, Hou 1 and Ret 4.

#### Design, Quality and Place:

##### 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.

Three potential options for development were presented at the EUDP and encouragement was given to option 3 that appeared to create a lower more broken urban form which will allow some sunlight and daylight to the residential units and open space. The submitted planning application has built upon this option and has expressed a variation in height, with the higher elements positioned to create urban markers and to maximise views, whilst the lower elements are used to aid in achieving adequate daylighting.

The proposed urban form of the development creates a large perimeter block with a range of heights and roof top designs. The proposal contains three higher elements, with the highest tower elements rising up to 59.55m AOD (which equates to 54m above the average ground level).

The development is split into three 'typologies' that relate to the various parts of the site and adjacent areas. The variation in heights and roof forms consisting of flat, pitched and sawtooth formats, and this provides a layered approach that breaks up the urban form and potential impact.

A Townscape and Visual Impact Assessment and associated addendums have been provided in support of the application.

In local views the proposal can be broadly viewed in scale within other modern built form and strengthens the relationship of the current disparate grouping of buildings. The different architectural treatments go some way to breaking up the mass.

View 1 from Western Harbour Drive and View 2 from Lindsay Road shows the development as providing visual interest and the changes in the heights show the built form rising up and then lowering down towards the distillery and the dock.

Views taken from Portland Street (View 3), Lindsay Road at the crossroads with Ocean Drive (View 8) and Leith Links (View 4) show that the proposal will have limited perceivable impact. Likewise, the view provided from Rennie's Isle shows visible sections of the proposed development sitting comfortably with the granted development at Skyliner/Dockside and the distillery building.

The height of the proposed buildings matches the emerging height in the area. The Ocean Terminal site located at the western area of this part of the harbour is the most appropriate area for the highest sections. There is general compliance with Policy Des 11 a) and b).

The main longer citywide views that need consideration are from the Castle Ramparts (TVIA View 11) (Protected View C1b), Calton Hill (TVIA View 9) and Arthur's Seat (TVIA View 10).

The protected view from the castle (TVIA View 11) towards Inchkeith Island. The proposal retains a visible extent of water between the proposed roofline and the shore of Inchkeith Island. The height appears to sit in line and in part behind the existing high-rise tower block of Persevere Court. The lower elements then allow for a greater extent of water to remain visible. The massing from this view, although providing a cluster of buildings over the current scenario would have limited overall impact in the context of the World Heritage Site and, as noted above retains the importance backdrop of water space between the top of the building and Inchkeith Island.

TVIA View 9 from Calton Hill shows the development rising and falling with the variation in heights and roof forms. It largely ties in with the emerging development and retains some gaps in the development from this view. Views across to Fife are retained.

TVIA View 10 from Arthur's Seat indicates that the development will not have an overall negative impact on the view in the context of the emerging pattern of development and the expanse of water that is visible to the north of the development.

Cumulatively, the submitted information shows the proposals against the backdrop of some of the emerging development on the adjacent sites. This generally shows differing heights which helps to avoid clustering of the blocks.

Other developments and permissions in the locality, such as Ocean Point (including the unbuilt section) and the Skyliner/Dockside development, establish that tall buildings in the area reflecting the relatively low-lying coastline and broad expanse of water can be acceptable.

The plans have been revised since the original submission to refine the massing, materiality and the introduction of some visual breaks which reduce the bulk. The main change to townscape character is appraised in the TVIA as beneficial due to change within and surrounding the development site, reflecting an area of regeneration at the waterfront and owing to the opening up of access and views to the water's edge, Royal Yacht, formation of new public realm and introduction of higher density living supporting a range of uses at ground floor.

Overall, based on the information submitted the height is generally in keeping with the emerging character of the area and will have an acceptable impact on the views considered in the submitted TVIA. It therefore complies with LDP Policy Des 11.

#### Materials and Detailing:

The development has been split into three character types that the Design and Access Statement Addendum sets out have taken inspiration from sections of the wider Leith area.

Brick has been proposed as the primary material with different colours and tones proposed for the different areas.

The elevations for the Block A show a uniform style of development utilising ordered fenestration flanked by concrete panelling. The primary material is a buff brick on the upper levels which is split by a horizontal pigmented concrete string course. The lower levels contain ground floor colonnades with a concrete arch detail. The sawtooth roof details add interest and variation to the scheme.

Block B which largely forms the northern elevation has been designed to reference warehouses given the location within the former dock area. This is emphasised with the pitched roofs proposed. The primary material proposed is a red/rose brick with the introduction of panelling and ground floor arch style design. The overall design of the elevations is relatively uniform with simple repetitive window patterns.

Block C is closer to the adjacent Waterfront Plaza development and takes its design cues from the tenements in the area. A grey brick has been proposed as the primary material and the elevations take a simple form of ordered fenestration and a horizontal concrete string course.

The design attempts to strike a balance between being contemporary yet taking more historic design cues with roof styles and detailing. The simplification of the design from the earlier scheme enables each area to be more identifiable rather than the previous more elaborate approach which mixed a number of styles throughout the development providing a lack of coherence.

There are a number of metal Juliet balconies through the development and metal and glass balustrades where the roof gardens/terraces come to the edges of the blocks. The introduction of ground floor colonnades adds some character to the development and improves the interaction with the surrounding public realm.

The proposed materials and detailing references the various surrounding areas and the design approach is acceptable providing a smart contemporary development.

Layout:

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 designed as an integral part of a scheme as whole.

The position of the buildings enables active elevations to all four public facing sides of the development. The southern elevation of the development aligns along the east/west access of Ocean Drive, opening up the area and providing views through to the yacht. The proposal helps to enliven an area that is currently impenetrable, creating new spaces and the orientation of the development ensures that newly created areas of public realm will be overlooked.

The EUDP recommended that active frontage should be provided to both the waterfront and to Ocean Drive which is currently an unfriendly pedestrian environment. The proposals address this by including ground floor uses, either with commercial spaces or the internal amenity areas associated with the BTR blocks. This allows for interaction between the internal and external areas. This includes adding windows and uses in areas such as the access point to the underdeck car parking area.

As a mixed use development within a commercial centre next to the bus and tram stops, the proposal provides good accessible links to services and meets the requirements of LDP Policy Des 7.

An area of high quality public realm is proposed around the development. The planting and seating in the link space between Ocean Terminal and the proposed development is positive as is the landscaped edge to the commercial units. The proposals contain 127 new trees and large shrubs. The application has been supported by a wind microclimate study that notes effects in certain areas from wind due to the coastal location.

The study also notes that with the proposed landscaping details and features, the risk posed to pedestrians and users are considered to be low or the wind speeds will be reduced to acceptable comfort levels. It is recommended that the materials and planting specification are conditioned to ensure their quality and acceptability for the proposed use.

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.

The six qualities relate to the following headings of healthy, pleasant, connected, distinctive, sustainable, and adaptability.

The proposals will provide an attractive development and a much improved pedestrian experience when compared with the existing buildings. The inclusion of ground floor activity, areas for sitting and increased planting are all positive additions. The design and materials will contribute to a sense of place with enhanced connectivity and potential views through to the yacht. The main landscape courtyard for the future residents provides opportunities for various outdoor activities. The proposal will create a more welcoming and pleasant area and includes a play area and a padel tennis court that adds further leisure activities and opportunities for social interaction. Natural surveillance is provided onto the surrounding spaces. Biodiversity enhancements and sustainability measures have been incorporated into the development.

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.

There is currently limited access to the water's edge. The proposals open up access to part of the waterfront. However, this is still limited as the Royal Yacht Britannia and its existing compound is remaining in place. The applicant has advised that the compound is necessary for security, ancillary exhibitions, access and fire exits and is currently formed by an unappealing fence. The Royal Yacht Britannia has written in support of the application. The Design and Access Statement sets out that there is potential for a new feature fence that could form a piece of artwork and perforations to make the yacht more visible. When assessed against the requirements of Policy Des 10 this is considered an essential element to make the waterfront more attractive. Therefore, a condition is recommended for the design and implementation of the proposed fence.

Forth Ports has advised that within the site, adjacent to the distillery is a navigational aid that is an important guide for vessels and that nothing should hinder its ability to be used. A drawing has been provided by the applicant to show that the aid is remaining in situ. Forth Ports has recommended a condition to prevent any lights or structures being placed in front of it.

Overall, the proposed layout is acceptable and builds on previous designs presented to the EUDP. It provides a mix of uses that allows for activity and surveillance. The scheme opens up the area more than the present buildings and introduces good areas of public realm, but the remaining compound yard requires enhancement. Subject to conditions the layout is acceptable.

## 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.

Across the two BTR blocks 79 of the units are three bedroom units, which out of the 396 BTR units accounts for 20%. Likewise, 20% percent of the affordable units are also made up of three bedroom units (27 out of the 135). Due to concerns from SEPA there are no ground floor residential units proposed within the development, which would usually be the best location for the three bedroom units. There are a limited number of three bedroom units that have direct access to the larger communal garden area and terraces. Otherwise the three bedroom units are scattered throughout the development, but will have lift access through the development. Accordingly, a wide range of units are proposed and the number of three bedroom units meets the quantitative requirements of LDP Policy Hou 2.

The Edinburgh Design Guidance includes recommended internal floor areas for flat sizes. The proposal complies with the minimum sizes, noting that there is some allowance for slightly smaller one bedroom units.

The EDG sets out that single aspect dwellings should not make up more than 50% of the overall dwelling numbers. The schedule of accommodation shows that 48% of the units are dual aspect. In the context of BTR development the level of dual aspect units is acceptable as the EDG allows for a limited increase in single aspect units over the standard 50%.

The proposed housing mix, floor sizes and percentage of dual aspect units are all generally in accordance with LDP Policy Hou 2 and the standards in the EDG.

## Affordable Housing:

NPF4 Policy 16 supports development proposals for new homes where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes.

LDP Policy Hou 6 states that planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. For proposals of 20 or more dwellings, the provision should normally be onsite.

Block C has been designated as an affordable housing block containing 135 units, which equates to 25% of the total number of units proposed. The applicant has indicated that there will be 57 social rent units (17 x one bedroom units, 13 x two bedroom units and 27 x three bedroom units), 38 mid-market rent units (17 x one bedroom and 21 x two bedroom units) and 40 'Livingwell' units aimed at supporting elderly occupants (29 x one bedroom units and 11 x two bedroom units). There is a mix of unit sizes provided and the 20% of units contain three bedrooms. The applicant has been in discussion with an RSL.

Subject to a legal agreement the provision of affordable housing within the development is acceptable.

#### 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 the need to encourage local services.

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.

Using a simple calculation of 531 units on the area being developed at approximately 1.5 hectares (excluding the wider Ocean Terminal site within the redline boundary) this equates to 354 dwellings per hectare. This calculation does not take into account any commercial uses.

This is a high density development, but is an efficient redevelopment of a brownfield site within a commercial centre and near to public transport options. It is within an area where the character is changing and a number of developments on adjacent land with longstanding developments are coming forward. The proposals comply with LDP Policy Hou 4 and NPF4 Policy 9.

#### Amenity

Policy 23 of NPF 4 supports development that will have positive effects on human health and protects 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 531 proposed residential units requires 5,310 sqm of open space.

A large central area of open space covering 3,542 sqm is provided in the internal courtyard area. There are then six roof terraces throughout the development which have been attributed to the blocks of development.

Block A contains 174 units, eight of which have a private garden space, resulting in the requirement for 1,660 sqm for the remaining units. The two roof terraces associated with this block provide a combined area of 437sqm. Leaving a requirement of 1,223 sqm within the communal area.

Block B contains 222 units, six of which have a private garden space leaving the requirement for 2160 sqm. The two roof terraces associated with the block account for 775 sqm leaving a requirement for 1385 sqm of space within the communal area.

Block C contains 135 units with the requirement for 1,350 sqm of open space. The two roof terraces associated with this block provide 791 sqm of open space leaving a requirement of 559 sqm within the communal area.

Taking the figures above into account there is the need for 3,399 sqm to be provided within the central courtyard area. This size of space is provided and as noted above is 3,542 sqm.

The space has been designed to provide a range of uses. It incorporates trees, various planting, areas for seating, winter gardens and play areas.

Additional to this is the 6,048 sqm of public realm that is provided outwith the blocks and around the development. The commercial nature of the public realm means that the majority of this is hard landscaping rather than greenspace. Taking this figure against a development site of approximately 1.5 hectares, this provides a figure of 40% (not including the residential space).

The overshadowing assessment demonstrates that the garden area assessed meets the EDG requirements for overshadowing on the spring equinox.

#### Open Space Strategy:

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.

The existing park at Leith Links is approximately 1,300 metres from the development and the proposed park at Western Harbour is of a similar distance.

It would not be feasible to provide a two hectare park at this location without giving over most of the Ocean Terminal building to open space. There are no relevant actions within the LDP action program for open space contributions. The proposal does provide adequate private communal space for future residents.

The proposal does provide an area of approximately 6048 sqm of public realm (outwith the open space for the blocks) which opens up the area more than the current buildings and also provides for further access to the water's edge.

It is noted that Leith Docks Development Framework shows public space / park on the area currently occupied by the Scottish Government car park. However, there is no timescale for the delivery of this.

Daylighting:

Daylight to adjacent sites:

Vertical Sky Component analysis has been undertaken for the nearest residential units in Block B of the Cala development at Waterfront Plaza alongside the proposed development on the nearby Ocean Point 2 site.

Out of the 115 windows analysed on the Cala Block B building, a total of 107 pass, with the remaining eight not attaining the required target level. Following this with an Average Daylighting Factor assessment shows that of the corresponding six rooms analysed that these also do not meet the target figures.

The Daylighting Study explains that the rooms in question are living/kitchen/dining spaces that already have low existing ADF values due in part to the design of the Cala Block which has deep recessed windows set behind internal balconies.

In terms of the proposed development on Ocean Point 2 site, the information submitted shows that using the VSC method there will be no impact on the proposed student block, although three windows on the residential block will potentially be impacted. Utilising the ADF method leaves one room that does not attain the target, which is a relatively small impact.

Daylight for future occupiers of the development:

The no sky line method of assessment has been used to assess the daylight for the future development blocks.

It should be noted, as set out in the Design and Access Statement, that where there are combined living/kitchen/dining spaces that the kitchen has been excluded from the calculation area as it is not by itself defined as a habitable room. A sliding door is shown to separate the kitchen from the rest of the room.

The information shows:

Block A - 388 rooms analysed and all meet the required target.

Block B - 602 rooms analysed with 588 meeting the target and 14 (2%) not.

Block C - 362 rooms analysed with 339 meeting the target and 23 (6%) not.

Therefore, out of the 1,352 rooms assessed 1,315 (97%) meet the target with 37 (3%) not.

The 37 rooms have been identified as bedrooms, which are in some circumstances less important than other habitable rooms.

Overall, the proposal will have some infringements in terms of daylighting when considered against the relevant tests, but as set out above these are generally minor.

Privacy distances:

The internal distances are generally quite generous across the rear courtyard area.

There are some pinch points between the ends of the blocks with two of them measuring approximately 13m. The gap between the Block A and Block B largely avoids direct overlooking due to the angle of the buildings and the location of the lift and stair well. The gap between Block B and Block C largely relates to bedroom windows.

The gap at the upper levels of Block A, where the roof terrace is created, is approximately 17 metres and similar sized space is proposed for the gap between the differing heights/urban form in Block B

Elsewhere, there will be a distance of approximately 18 metres between the southern elevation of the development and the new gable end of the Ocean Terminal Building.

The gap between the blocks and the Ocean Point 1 office building is approximately 30 metres.

The location of the development means that direct overlooking will be avoided with the distillery allowing for sufficient residential amenity.

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 and follow up assessment has been provided in support of the application. Environmental Protection has raised concerns in relation to a number of noise issues in relation to protecting future residents' amenity.

Commercial noise:

The NIA states that noise breakout from commercial units is likely to comply with NR15 with partially open windows and it recommends a glazing specification. Environmental Protection has recommended a condition to this effect.

The NIA advised that the final design of the extracts or other plant potential proposed within the development is not known at this stage and not considered appropriate to include a full assessment. Both Environmental Protection and the applicant indicate that a pre-occupation condition could address this.

Port Noise:

The site is opposite the dock and there are potential noise implications arising from port operations and the associated industrial uses. Environmental Protection has concerns over the noise impacts and the level of information submitted as the docks contains a number of sporadic noisy operations.

The applicant notes that the survey covered several days and the on-site consultant observed ships in the port and that the proposals will incorporate significant mitigation.

Applications for residential development on adjacent sites have been granted permission with mitigation measures and associated conditions. A number of noise conditions have been suggested by Environmental Protection.

#### Padel Court:

A Class 11 padel court is proposed adjacent to the new gable end of Ocean Terminal. It is not expected to impact upon residential amenity however the factors will be expected to manage any issues associated with the area. However, a condition is recommended to limit the use to just sports rather than the wider types of Assembly and Leisure uses that could be taken up under a wider Class 11 use.

#### Distillery Noise:

The development is in close proximity to the distillery. The submitted NIA goes into more detail than that submitted as part of the distillery application.

The information submitted indicates that acceptable internal noise levels will not be achieved, and so all habitable rooms are to be fitted with mechanical ventilation and installation of a glazing specification which would allow for acceptable noise levels as recommended within the NIA report.

Environmental Protection is of the opinion that future occupants should be allowed to purge ventilate their properties (i.e. open their windows) without being affected by noise. Furthermore, Environmental Protection do not generally support mechanical ventilation, though it has been accepted in other developments. Notwithstanding this a condition has been by Environmental Protection to ensure the recommended glazing and ventilation is installed.

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, housing-led mixed use development is acceptable on the site and will replace a large multi-storey car park and redundant retail area. A number of conditions have been recommended to help mitigate some of the concerns.

#### Odour/Fumes/Dust:

As number of units have been proposed for Class 3 use there is the potential for impact from cooking. Environmental Protection has recommended a condition for ventilation to be included within the build.

Within the wider area there are a number of uses that have potential for emissions and dust, including ADM Milling, the distillery, dry dock operations and port operations. An industrial emissions assessment has been provided to consider the potential effects. The results of the assessment indicated the predicted effect significance was between negligible and slight at the development site. Although Environmental Protection has concerns in relation to the vessels sitting in the port with their engines running, this is to be expected to some degree within a port.

With regards to the distillery there is also the potential for odours to impact upon the amenity of the proposed residential properties due to the height differential and separating distances.

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. The emissions assessment also notes that distilling emissions will not be continuous. Though this will be below some of the proposed heights of the development. However, overall responsibility for odour lies with the operator of the distillery and any environmental licences/legislation that it needs to adhere to.

The potential impacts from odour have been considered and information provided by the applicant that indicates impacts will be limited and other residential developments have been granted and are being built out in close proximity to the site.

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.

The previously granted permission for the demolition of the multistorey carpark will result in the loss of 754 car parking spaces, with limited car parking proposed within this application. The reduction in car parking is supported by Environmental Protection alongside the low and zero carbon technologies proposed.

Environmental Protection has raised no overall issues in relation to air quality identified and the proposal complies with LDP Policy Env 22.

In summary, the proposal largely complies with NPF4 Policy 23 and LDP Policy Des 5 (Development Design - Amenity) and there are some potential minor infringements on daylighting. Environmental Protection has raised concerns with regards to some amenity aspects of the development, largely in relation to port noise. It would be unreasonable to refuse an application at this location on noise grounds 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 existing servicing is via a one-way route taken from Melrose Drive and exiting at the northern end next to the distillery. This also provides access to some limited parking at the rear of Ocean Terminal. The proposed development continues to follow the same servicing route. This will result in vehicles needing to access the proposed public realm area.

The applicant has indicated that to minimise disruption on the public realm area, servicing windows will be introduced to avoid busy times when retail facilities are open and to avoid unsociable hours given the proximity to residential development. The servicing windows will likely fall at the beginning and end of the day. Enforcement of the servicing strategy will be through the introduction of rising bollards at both sides of the pedestrian area and signage identifying appropriate servicing times, such as that used within the pedestrian zone on Rose Street.

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 will not impede on the tram route which is now operational.

The LDP Proposals Map shows a proposed cycle/footpath link that runs along the water's edge adjacent to Ocean Terminal which would form part of the promenade.

Policy Tra 9 (Cycle and Footpath Network) states that planning permission will not be granted for development which would prevent the implementation of proposed cycle paths/footpaths.

Aside from the relatively limited access to the water's edge opened up through the development and associated public realm, the proposal does not provide additional access or a pedestrian / cycle link to the rear of Ocean Terminal.

In discussions with the applicant, they have responded that the area directly to the rear of the Ocean Terminal building is firstly a service area for the centre, involving significant manoeuvring for a range of vehicles, including large vehicles. This is a necessary function for the space, which cannot be achieved elsewhere. The area beyond the service yard is not within the ownership of the Ocean Terminal client- Forth Ports own the five metres from the dock edge. The entire length is a working quayside, with boats of different size and function tying up alongside at any time. While all of this may not preclude a future access, it is not within the exclusive gift of the applicant of this project to achieve. The project team have borne the aspirations in mind and have worked to ensure that nothing proposed precludes a connection in future.

It is unfortunate that a walkway cannot be delivered through this application, but in the strict terms of Policy Tra 9 the proposal does not prevent its potential future implementation.

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.

The access and servicing arrangements are generally acceptable.

## 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.

The proposal includes 52 car parking spaces, including four accessible spaces and ten electric vehicle charging spaces. These are all under the internal landscaped deck area and accessed from east of the proposed building opposite Ocean Point.

The parking standards allow for a maximum of one space per residential unit. The number of accessible spaces meets the guidance level of 8% and the number of EV spaces is above the requirement of one of every six spaces.

The relatively low level of car parking is supported in this location near to public transport choices. The parking is contained within the underdeck area of the building which complies with LDP Policy Tra 4. The low levels of parking proposed, and accessible nature of the site, ensure that the proposal complies with LDP Policy and Tra 3 Policy 13 of NPF4.

## Cycle parking:

A total of 1130 cycle spaces are provided; 26 for the commercial uses and 1104 for the 531 residential units. A further 33 external stands are provided.

The spaces for the residential units are split across the ground floor and the upper ground floor, the supporting information shows the following split: two tier 552 spaces (50%), standard 332 spaces (30%) and non-standard 222 spaces (20%). The proposed numbers meet the parking standards in the EDG (1103 spaces). Lifts are used between the floors.

The spaces for the commercial uses are located internally to the rear of one of the commercial units and consist of 20 standard and six non-standard.

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 standards 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 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. This accords with CEC Flood Preventions requirements.

SUDS measures proposed include green roofs, raingardens and permeable surfacing. The proposed SUDs measures are acceptable for a high-density urban development.

In terms of flood risk, SEPA originally responded that it would object unless a condition was applied to ensure that no residential development would be located on the ground floor level. The reason given was to protect highly vulnerable residential development from the residual risk of coastal flooding in the event defence failure and avoid the need for further coastal protection measures, taking into account future sea level change.

The applicant sets out that the proposed development does not require new defences to keep it safe from flooding during the 1 in 200 year plus climate change plus 600mm freeboard event including a total failure of all existing flood defences.

Nonetheless, following further discussions, the amended scheme removed residential units from the ground floor. Subsequently, SEPA has confirmed that it is content with the arrangements.

The proposed development is within a previously developed area and there is no requirement for further coastal defences as part of this development. The removal of the most vulnerable users (i.e. future residents) from the ground floor of the development meets with the requirements of SEPA and the requirements of NPF4 and the LDP.

Although this change removes the ground floor residential units it does retain the entrance points and for the northern BTR block it removes the previously proposed single aspect north facing residential units replacing it with the internal amenity space for the block which will still provide some ground floor activity.

In summary, the proposal complies with NPF4 policies 10 and 22 and LDP policy Env 21 which all seek to ensure that sustainable water management and flood risk measures are in place for new development.

### Archaeological Remains

The aim of NPF4 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 Archaeology Officer has noted that Ocean Terminal was constructed on the site of the historic Robb shipyard constructed in 1918, which itself had replaced earlier shipyards. The site has been significantly impacted by previous demolition and construction. However, evidence of the earlier dock infrastructure may survive and a condition has been recommended for a programme of archaeological work.

Subject to the use of a condition, the proposals will comply with the relevant parts of NPF4 Policy 7.

### Contaminated Land

Previous uses of the site may have caused the area to have become contaminated. Environmental Protection has recommended a condition to ensure the appropriate investigation and mitigation is undertaken.

### Biodiversity

The proposal has the potential to impact on three Special Protection Areas (SPA), the Firth of Forth SPA, the Imperial Dock Lock SPA and the St Andrew Bay Complex 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.

The status of these sites means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations"), are relevant. Consequently, the City of Edinburgh Council is required to consider the effect of the proposal on these sites (commonly known as Habitats Regulations Appraisal) and reach a conclusion of 'no adverse effects upon site integrity' before it can be consented.

NatureScot has commented that a building height under 55m would not require further assessment in relation to shadowing on the tern colony at the Imperial Dock Lock SPA.

The proposed highest part the development is 59.55m AOD, which equates to 54m above the ground level.

The terns nest in the open and appreciate the warm summer sun during this period. The shadow study diagrams, modelled on the 59.55m AOD height, from March through to August show that the shadow cast from the proposed development will fall short of the imperial dock between the hours of 9am to 5pm. It can be interpreted from the drawing that the shadows from the proposed development will move past and to the east of the nesting site after 5pm.

The NatureScot response also notes that the applicant has confirmed that use of the dock remains similar to previous years and that likely disturbance from the development will not be above that of normal port operations and activity.

Based on information submitted by the applicant, a Habitat Regulations Appraisal has been undertaken. On this basis, it has been possible to reach a conclusion of 'no adverse effects upon site integrity'. Therefore, the proposal complies with NPF4 Policy 4.

NPF4 Policy 3 (Biodiversity) requires that proposals for local development include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance.

Currently the site is fairly limited in relation to biodiversity given the built-up nature. The Ecology Report notes that the existing buildings and small areas of planting on the site have negligible habitat value. It does not identify any protected species using the site.

The information provided indicates that there will be no adverse impact on biodiversity from the loss of habitats. Furthermore, the redevelopment presents opportunities for habitat creation, roost provision and nesting provision.

Overall, there are no overriding concerns in relation to the SPA or protected species in or around the site. The proposals comply with NPF4 policies 3 and 4.

### Climate Mitigation and Adaptation

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 adaptation) is also relevant.

The proposed development contributes to the spatial principles of 'Compact Urban Growth' and 'Local Living' through the use of a brownfield site for sustainable, energy-efficient commercial use and housing within an emerging community.

NPF4 Policy 9 intends to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development. Permission has previously been granted for the demolition of the northern end of Ocean Terminal and this will represent a high density efficient re-use of previously developed land.

A Sustainability and Climate Mitigation and Adaptation Statement has been provided alongside the Sustainability Form.

The proposal meets the essential criteria of the sustainability form. Roof mounted Air to Water Heat Pumps feeding individual Water to Water Heat Pumps in each residential apartment are proposed. This will be supplemented by Solar PV on roof and roof amenity canopy PV subject to final design. The sustainability statement also indicates that investigations are currently ongoing into the feasibility of using waste heat from the distiller with the proposed development allowing for future connectivity.

The proposal complies with the aims of NPF4 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.

The applicant has been in dialogue with Waste Services and a waste strategy has been agreed.

The sustainability statement states that a pre-demolition waste audit (for the existing part of Ocean Terminal and car parks) has identified and categorise around 27,000 tons of materials and waste for re-use and re-cycling, diverting residual waste from landfill as appropriate.

### 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.

### Education:

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 notes that the cumulative impact of the proposed development on the capacity of the learning estate has not been previously assessed. The Ocean Terminal site was not included in the 2022 Housing Land Assessment (HLA).

The capacity of the extension to Victoria Primary School is required to accommodate known housing developments in its catchment area. The latest LDP Action Programme identified a requirement to extend Victoria Primary School to 21 classes. There is a risk it will not be able to accommodate other known housing developments if this application is approved.

Communities and Families has advised 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 is required (indexed linked). A cost of £325 per flat towards land contributions is also required.

The per unit rate is based on 238 units and excludes studio and one bedroom flats.

### 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**

Residential led mixed use development is acceptable at this location and permission has already been granted for the demolition of the northern part of Ocean Terminal. The proposed uses comply with the NPF4 designation.

Based on the information submitted the height is generally in keeping with the emerging character of the area will have an acceptable impact on the views considered in the submitted TVIA.

The proposed materials and detailing references the various surrounding areas and design approach is acceptable providing a smart contemporary development. The proposed layout is acceptable and it provides a mix of uses that allows for activity and surveillance. The scheme opens up the area more than the present buildings and introduces good areas of public realm, but the remaining Royal Yacht Britannia compound yard requires enhancement. The proposal housing mix and the level of affordable housing proposed.

The proposal has some potential minor infringements on daylighting and Environmental Protection has raised concerns with regards to some amenity aspects of the development, mostly in relation to port noise and a number of conditions have been recommended.

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

### **b) 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 on the Proposed City Plan 2030 and its supporting documents. These documents have now been submitted 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 City Plan 2030 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 16 representations - four support, 11 objecting and one general comment.

#### *Objections*

##### Principle

- the need for housing at this location - assessed in section a)
- not identified as housing site in the development plan - assessed in section a)

##### Design

- overdevelopment of the site with too high a density- assessed in section a)
- height of buildings excessive and not in line with building height in the area (e.g. Cala site) - assessed in section a)
- lack of access to open space in the area - assessed in section a)
- proposal will not provide 20% good quality, attractive open space - assessed in section a)
- overshadowing and overlooking of open space - assessed in section a)
- impact of high winds on public spaces and roof top terraces - proposals accompanied by a microclimate study, some wind inevitable.
- proposal will create an unattractive and alien waterfront image that will dominate the whole of Leith waterfront with its intrusive bland design which is different to the character of the area - assessed in section a)
- the proposal will adversely affect the amenity of the surrounding area by introducing architecturally brutalist, bland, oppressively dominant buildings of grossly excessive height - assessed in section a)
- proposals should be of a more human scale and meet the six qualities of successful places - assessed in section a)
- excessive building heights that are above the prevailing heights in the surrounding area. 18 storeys/58 metres high will not enhance the skyline and will negatively impact on views - assessed in section a)
- the proposed development comprises a random positioning of over dominant tower blocks - assessed in section a)
- view along Ocean Drive should be kept by not building on existing outdoor car park - views assessed in section a)
- proposal does not reflect its setting and harms views from many vantage points including that of the Royal Yacht Britannia - assessed in section a)
- development fails to draw upon positive characteristics of the area and would dominate in an oppressive and unattractive way - assessed in section a)

##### Flooding

- increased risk of flooding - assessed in section a)

## Transport

- traffic/congestion impacts - assessed in section a)
- lack of parking and potential for overspill parking to surrounding streets - assessed in section a)
- waste collection - assessed in section a)

## Infrastructure

- impact on infrastructure (schools, healthcare) - assessed in section a)

## Ecology

- proposed open space does not encourage biodiversity - assessed in section a)

## *General comments*

- requirement for navigation aid to remain in its precise location - now included on drawing.
- Detailed discussion on footpath to rear of Ocean Terminal required with Forth Ports - ownership not a planning matter
- phasing of works
- incorrect site area of 5.42 hectares used in the application form - redline boundary covers wider Ocean Terminal site.

## *Support*

- application as it is integral to the ongoing success and future of The Royal Yacht Britannia as one of the UK's top visitor attractions which will secure circa 200 jobs plus external suppliers - noted
- development will enhance the area, opening up the waterfront to the public and making this part of Leith a more exciting and accessible location - notes
- need to attract services to the area to support the increasing number of residents - noted

## *Non-material*

- construction stage matters

## **Scheme 2**

A further 12 representations were received - 10 support and two objecting.

## *Objections*

- residential properties need supported by new amenities - schools, doctors, dentists, supermarkets etc. - assessed in section a)

## *Support*

- general support for new look Ocean Terminal - noted
- proposal integral to on going success of Royal Yacht Britannia - noted
- provision of new homes (including affordable), commercial spaces and active public realm supports ongoing reinvention of Ocean Terminal as centre at the heart of 20 minute neighbourhood - assessed in section a)

- development commensurate with emerging scale of new building along Ocean Drive - assessed in section a)
- enhance viability of existing centre - noted
- create / secure jobs - noted
- support leisure uses - noted
- economic investment in area - noted
- uses support the ever changing population of Leith and Newhaven - noted

#### *Non-material*

- number of documents
- comments not public

### **Scheme 3**

A further seven representations were received - two support, five objecting.

#### *Objections*

##### Design

- height of buildings should be no higher than the adjacent distillery - assessed in section a)
- buildings too high- assessed in section a)
- replacement of private for sale flats to BTR attracts a niche market - BTR treated as a form of mainstream housing.
- high number of studio and one-bedroom apartments - assessed in section a)
- daylighting impacts - assessed in section a)
- overshadowing - assessed in section a)
- poor outlook of proposed flats - assessed in section a)
- poor public realm - assessed in section a)
- design lacks character due to block arrangement - assessed in section a)
- inappropriate density for small site - assessed in section a)
- impact on skyline - assessed in section a)
- block architecture reminiscent of worst 1960s tower block architecture that has thankfully been demolished - assessed in section a)
- lack of access to open space - assessed in section a)

##### Flooding

- careful consideration of flooding required - assessed in section a)

##### Infrastructure

- residential properties need supported by new amenities - schools, doctors, dentists, supermarkets etc. - assessed in section a)

##### General

- navigational aid should not be obstructed - now shown on plan.

##### *Support*

- support for the proposal - noted
- economic development - noted

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

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

### **Overall conclusion**

Residential led mixed-use development is acceptable at this location and permission has already been granted for the demolition of the northern part of Ocean Terminal. The proposed uses comply with the NPF4 designation.

Based on the information submitted the height is generally in keeping with the emerging character of the area will have an acceptable impact on the views considered in the submitted Townscape and Visual Impact Assessment (TVIA).

The proposed materials and detailing references the various surrounding areas and the design approach is acceptable as it provides a smart contemporary development. The proposed layout is acceptable, and it provides a mix of uses that allow for activity and surveillance. The scheme opens up the area more than the present buildings and introduces good areas of public realm. However, the fence associated with the Royal Yacht Britannia yard requires upgrading to enhance the public realm experience. The proposed housing mix is acceptable and the level of affordable housing proposed complies with policy.

The proposal results in some potential minor infringements with regards to daylighting within the new properties. In addition, Environmental Protection has raised concerns with regards to some amenity aspects of the development, mostly in relation to port noise. In this regard, a number of conditions have been recommended.

Other matters such as 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 (LDP), as well as the Council's non-statutory Edinburgh Design Guidance. There are no material considerations that outweigh this conclusion.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. 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.

3. 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.

4. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting, interpretation) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

5. Prior to occupation of the first residential unit, details shall be submitted showing the final design and location of a new decorative fence around the Royal Yacht Britannia compound. The fence will then be installed and maintained, unless otherwise agreed in writing with the Planning Authority.

6. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting (including specification), shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.

7. The development shall be carried out in accordance with the landscaping scheme approved under condition 5. 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.

8. Notwithstanding the provisions of the Use Classes Order, the use of the padel court and multi-use games area as shown on drawing OTM-KEP-D1-00-DR-A-852092 P02 (CEC reference 40A) and dated 01/24/22 shall be restricted to sports uses and for no other purpose falling within Class 11 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended).

9. The 10 parking spaces shown on drawing referenced OTM-KEP-D2-00-DR-A-706100 P14 (CEC reference 04C) and dated 19/11/21 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. They shall be installed and operational in full prior to the development being occupied.

10. A noise impact assessment shall be provided which considers noise from all plant (including cooking ventilation extraction) and commercial noise (separating wall and floor specifications) associated with the development with mitigation measures

specified and agreed in writing with the Planning Authority. All mitigation measures shall be installed and operational prior to occupation of the residential development and prior to start of proposed commercial operations.

11. The noise mitigation measures as recommended (and described in section 7) within noise impact assessment report Ref: P5024-R10-V2 Version 2 and dated 4/5/23 shall be installed and operational prior to the start of operations on site.

12. The Class 3 ventilation details as shown on drawings reference 202104-XBU-01-00-DR-ME-50-1201 Rev. P04 (CEC drawing 41), dated 22/12/21 and drawing reference 202104-XBU-03-00-DR-ME-50-1201 Rev. P04 (CEC drawing 42) dated 22/12/21 shall be installed and operational prior to the start of operations on site.

13. No structures or lighting are to be placed behind or around the navigational aid as shown on plan ref: plan ref; OTM-LDA-XX-ZZ-DR-L-0001 (CEC drawing 32C) without prior approval of the Planning Authority in consultation with the Statutory Harbour Authority and the Competent Harbour Authority for the Firth of Forth.

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

2. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.

3. In order to enable the planning authority to consider this/these matter/s in detail.

4. In order to safeguard the interests of archaeological heritage.

5. In order to enable the planning authority to consider this/these matter/s in detail.

6. In order to enable the planning authority to consider this/these matter/s in detail.

7. In order to ensure that the approved landscaping works are properly established on site.

8. In order to safeguard the amenity of neighbouring residents and other occupiers.

9. To encourage sustainable forms of transport.

10. In order to safeguard the amenity of neighbouring residents and other occupiers.

11. In order to safeguard the amenity of neighbouring residents and other occupiers.

12. In order to safeguard the amenity of neighbouring residents and other occupiers.

13. To enable safe movement of vessels.

## **Informatives**

It should be noted that:

### **1. Legal**

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

**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.

Plus a per unit rate of £325 towards land contributions.

**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. 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.

4. 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.

5. The applicant/developer is advised to contact Waste Services ([wasteplanning@edinburgh.gov.uk](mailto:wasteplanning@edinburgh.gov.uk)) a minimum of 12 weeks prior to any collection agreement to allow time to arrange a site visit and to add these to its collection systems.

### **6. 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>

7. The applicant should consider the provision of 2 car club vehicles in the area. Contributions would be required.

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

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

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

**Date Registered: 21 November 2022**

### **Drawing Numbers/Scheme**

01,02,03B,04D,05D,06B-20B,22B,23B,24B,25C,26B,27A,28A,32C,33B-39B,40A,41,42,44

Scheme 3

**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: SEPA

COMMENT: No objection subject to a planning condition requiring no residential development on the ground floor level.

DATE: 29 January 2023

NAME: NatureScot

COMMENT: Further information is required

DATE: 19 January 23

NAME: Leith Harbour and Newhaven Community Council

COMMENT: Object to the proposals:

- Creation of tunnel effect along Ocean Drive, height and density,
- the height and density is totally inappropriate and further obstructs the view and access to the Waterfront from Ocean Drive
- block arrangement lacks character
- Daylight and sunlight issues, particularly for the Affordable housing block, also amenities such as privacy, open space.
- Poor public realm which lacks greenspace
- Air quality and noise concerns
- Split between social rent and midmarket rent should be 70/30.
- Build to Rent (BTR) tends to attract niche market rather than fully integrated communities that include disabled and elderly.
- infrastructure impacts on schools and GP practices.
- Need to accommodate intergenerational services and public services such as nursery, community centre, carehome / disabled facilities.
- lack of play areas
- no facilities for hanging washing.

DATE: 26 January 2023

NAME: Flood Prevention

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

DATE: 16 January 2023

NAME: Roads Authority

COMMENT: No Objection

DATE: 11 December 2023

NAME: Environmental Protection

COMMENT: Environmental Protection continues to highlight noise, odour, dust and fume issues of concern that in the opinion of this team have the potential to impact upon the amenity of the proposed development and therefore cannot support the application. This team has however recommended the conditions should Planning be minded to support the application,

DATE: 25 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: 18 December 2023

NAME: Communities and Families

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

DATE: 12 December 2023

NAME: Waste Services

COMMENT: A waste strategy has been agreed.

DATE: 30 November 2023

NAME: Archaeology Officer

COMMENT: Earlier dock infrastructure may survive and recommend a condition for a programme of archaeological work.

DATE: 12 December 2023

NAME: NatureScot - Further Comment

COMMENT: If the building below 55m, then we advise no LSE in relation to the SPA, and therefore no appropriate assessment is required.

DATE: 6 October 2023

NAME: SEPA - Further Comment

COMMENT: As residential accommodation has been removed from the ground floor, SEPA withdraws its objection on the grounds of flood risk.

DATE: 19 May 2023

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

## Location Plan



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## Location Plan



