

Development Management Sub-Committee Report

Wednesday 7 February 2024

**Application for Listed Building Consent
Liberton Public Park, Liberton Gardens, Edinburgh.**

Proposal: A new opening has been created in the existing boundary stone wall to the north of the site, to form the approved ramped active travel route into Liberton Park. A new opening has been created in the existing boundary stone wall to the west of the site, to form the approved emergency access route. The existing gated access to the west of the site has been removed and the opening in the boundary stone wall has been infilled with stone (in retrospect as amended).

**Item –
Application Number – 23/02885/LBC
Ward – B16 - Liberton/Gilmerton**

Reasons for Referral to Committee

In accordance with the Council Scheme of Delegation, the application has been referred for determination by the Development Management Sub-committee as more than 20 objections have been received in letters of representations from third parties and the recommendation is to grant listed building consent in retrospect.

Recommendation

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

Summary

The works have not harmed the listing building or its setting and there are no compelling reasons for not granting listed building consent in retrospect. The works are acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material matters which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is three parts of a boundary wall historically associated with the Alnwickhill Reservoir Complex (ARC) which has since been redeveloped for residential purposes under 12/00046/PPP then 14/00577/AMC. The boundary wall is a Category B listed building (LB43246 / Date Added: 15 April 1996).

Description of the Works Undertaken

Listed building consent in retrospect is sought for three alterations to the boundary wall:

- 1) Conversion of a gated vehicular access into a wall to the rear of 38 and 40 Coulter Crescent.
- 2) Formation of an opening between the Alnwickhill Road / Stanedykehead junction and the northernmost entrance to the British Army Reserve Centre for emergency vehicle access and
- 3) Formation of a pedestrian link to Liberton Public Park (LPP) to the north of 27 and 29 Coulter Crescent.

The application was amended prior to this recommendation. Scheme 2 updated the drawings associated with Alteration 3).

The application was re-advertised prior to this recommendation. This was due to an alleged discrepancy with the land ownership certificate on the original application form. Certificate A, which is when the applicants contend themselves to be the sole owners of the land, had been signed. This has been replaced by a signed Certificate C, which is when the applicants contend that they are not the sole or shared owner of the land.

Supporting Information

Covering Letters were submitted in support.

Relevant Site History

12/00046/PPP
Land 50 Metres East of Alnwickhill Reservoir
Liberton Gardens
Edinburgh

Planning Permission in Principle for residential development with associated roads, parking, landscaping, and access.

Granted
7 April 2014

14/00577/AMC
Land 50 Metres East of Alnwickhill Reservoir
Liberton Gardens
Edinburgh

Residential development of 296 dwellings, including associated accesses, roads, and landscaping (as amended).

Approved
8 October 2014

14/00577/VARY
Land 50 Metres East of Alnwickhill Reservoir
Liberton Gardens
Edinburgh

Non-material variation for revising the position of the houses along the north east boundary; amending the parking arrangement to the flats in the northern part of the site, and; amending the position of the pedestrian access from the site into Liberton Park.

Granted
18 September 2015

Other Relevant Site History

02/01110/LBC
Liberton Gardens
Edinburgh
EH16 6NE

Replacement of existing metal fencing and gates to the entire boundary, of the WTWsite, replace with a new 3.00m high overall, barbican fence and gates over the boundary wall

Granted
14 June 2002

02/01110/FUL
Liberton Gardens
Edinburgh
EH16 6NE

Replacement of existing metal fencing and gates with 3.00m high overall, barbican fence and gates

Granted
7 June 2002

11/00019/LBC
Alnwickhill Reservoir
Liberton Gardens
Edinburgh

Remove and rebuild sections of boundary wall.
Granted
7 February 2011

12/01194/LBC
Land 50 Metres East of Alnwickhill Reservoir
Liberton Gardens
Edinburgh

Partially demolish structure.
Granted
17 September 2012

14/03139/LBC
Land 50 Metres East of Alnwickhill Reservoir
Liberton Gardens
Edinburgh

Take down Outlet House 2 and rebuild to relate to proposed ground levels.
Granted
11 November 2014

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Historic Environment Scotland

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

Publicity and Public Engagement

Date of Neighbour Notification: 14 December 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 22 December 2023 14 July 2023

Site Notices Date(s): 15 December 2023 11 July 2023

Number of Contributors: 83

Section B - Assessment

Determining Issues

This application for listed building consent in retrospect is required to be assessed against Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Having due regard to Historic Environment Scotland Policy and guidance, have the works harmed the listed building or its setting?
- If they comply with Historic Environment Scotland Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for not granting listed building consent in retrospect?
- If they do not comply with Historic Environment Scotland Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for granting listed building consent in retrospect?

Assessment

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

a) The works have harmed the listed building or its setting

The only relevant matters are whether the works have harmed the listed building or its setting and if any equalities and human rights impacts have been raised; these are considered under Section b). The Historic Environment Policy for Scotland and the following Historic Environment Scotland Managing Change Guidance are relevant to this application: Accessibility, Boundaries and Use and Adaption of Listed Buildings.

Alteration 1) Conversion of a gated vehicular access

These works are minor in scope and are suitable with respect to the character and appearance of a much-altered listed building by seeking to mirror the stonework of the boundary wall's more historic sections. The now removed vehicular access gates were relatively modern and not of any historical or architectural interest. Whilst the coping for this alteration is different when compared with what is evident on either side, the boundary wall is not uniform in that regard, which is likely a result of its frequent maintenance and modification. This difference has not harmed the character and appearance of the listed building when its interest is considered as a whole.

Alteration 2) Formation of an opening for an emergency vehicle access

These works are also minor in scope and have demonstrated suitable respect to the character and appearance of a much-altered listed building by again seeking to mirror the stonework of the boundary walls more historic sections.

The coping also contrasts but this is deemed acceptable for the same reasons as alteration 1) in that a continuous single treatment for the full length of the boundary wall is not evident. It is noted that the works are currently quite conspicuous but over time, it is considered that the effects of weathering will dull its appearance to a point where it better harmonises with the boundary wall's more historic sections.

Alteration 3) Formation of pedestrian link

The principle of a pedestrian link to LPP has been established by the granting of 12/00046/PPP and 14/00577/AMC. Significant weight has been given to the fact that the residential redevelopment of the ARC has materially changed the original purpose of the boundary wall which was to 'keep people out'. It is accepted that to not have sought and then secured a direct pedestrian link in order to give residents more convenient access to LPP would have been an undesirable and irregular situation.

Notwithstanding the above, and much like alteration 1) and 2), the works have demonstrated suitable respect to the character and appearance to a much-altered listed building. It is once again noted that the stonework and coping (in this case) which has been used to reinstate the boundary wall has sought to match the adjoining more historic sections. The modern stone used to form the walls of the pedestrian link are of similar 'colour' to what would have been the original 'colour' of the boundary wall's more historic sections if not for the effects of weathering. It is deemed an appropriate material to have used considering it is evident throughout the residential redevelopment, promoting consistency between the old and new. It will also dull in appearance over time to better harmonise with the boundary wall's more historic sections. The railings are metal and black which suitably reflects those atop a significant length of the boundary wall and the pedestrian link is generally considered to constitute a relatively small scale and justifiable intervention that has sought to minimise the loss of historic fabric whilst balancing the need to promote inclusive movement.

As the pedestrian link is located within the residential redevelopment, the interpretation of the boundary wall's original line is still readily identifiable although LPP falling outwith the site of 12/00046/PPP and 14/00577/AMC and being Council owned land has probably had some influence on this. Regardless, the fact that the relatively small scale works protrude into the residential redevelopment rather than into LPP has minimised any detrimental impact on the listed buildings' setting and it has also allowed the boundary wall, from certain more acute views, to still appear continuous.

Conclusion in relation to the listed building

The works have not harmed the listing building or its setting and there are no compelling reasons for not granting listed building consent in retrospect. The works are acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material matters which outweigh this conclusion.

b) there are any other matters to consider

The following matters have been identified for consideration:

Equalities and human rights

Section 149 of the Equality Act 2010 places a duty on public authorities to eliminate unlawful discrimination, advance equality of opportunity and foster good relations in respect of nine protected characteristics. It replaced legislation such as the Disability Discrimination Act 2005.

The works have raised no material concerns with regard to the protected characteristics of gender reassignment, race, religion or belief, sex or sexual orientation. Since alteration 3) involves the provision of pedestrian infrastructure, regard has been given to whether it has raised material inclusivity of movement concerns with respect to the protected characteristics of age, disability and pregnancy and maternity. The Department for Transport (DfT) 'Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure' is considered the most relevant guidance for the assessment of these works.

The width of the alteration 3) footpath is 1.7m which is below the 'normal circumstances' minimum of 2m. It is, however, above the 'physical constraints' minimum of 1.5m which is deemed to apply in this case owing to the change in levels between the site and LPP. No gradient exceeds 1 in 60 and landings and handrails to either side have been provided. Alteration 3) is considered acceptable when assessed against the relevant sections of the DfT's Inclusive Mobility Guidance and has raised no material inclusivity of movement concerns. With regard to alteration 2), only the formation of the opening requires listed building consent and the route into the site is outwith the considerations of this application.

Due regard has been given to Section 149 of the Equality Act 2010 and human rights; no material concerns have been identified.

Public representations

70 letters of representation were received. 67 are in objection, three are in support and one from the Liberton and District Community Council (LDCC) maintains a neutral position.

22 letters of representation were received during the second advertisement period. 18 are in objection and four are in support.

Those in support generally relate to the ability to access LPP and Alnwickhill Road. The LDCC note that it would *"not be constructive to object to the specific proposals in the planning application, proposals with which we agree in principle. We also note that at recent LDCC meetings Liberton Grange Residents Association have raised general concerns about the structural integrity of the walls and in recent correspondence expressed concern about whether or not the access points are compliant with disability access requirements. These concerns have been and will be communicated to CEC councillors at LDCC meetings"*. Considerations raised by those in objection are summarised below with any material matters being addressed under Section a) or b).

Material matters

- Works not in keeping with the character and appearance of the listed building or its setting.
- Works not inclusive.

Non-material matters

- Ownership of the wall.
- Retrospective nature of the application.
- Structural integrity of the wall.
- Works falling outwith the site.
- Any other matter which does not specifically relate to whether the works have harmed the listed building or its setting and equalities and human rights impacts.

For the avoidance of doubt, an application for listed building consent, whether in retrospect or not, has a relatively narrow focus and it is not a mechanism through which the identified non-material matters can be resolved. This recommendation of grant should not be taken as the Council conferring an opinion on any of the identified non-material matters.

Conclusion in relation to other matters considered.

The works do not raise any issues in relation to these identified matters.

c) Overall conclusion

The works have not harmed the listing building or its setting and there are no compelling reasons for not granting listed building consent in retrospect. The works are acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material matters which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

Conditions

1. No conditions are attached to this consent.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 4 July 2023

Drawing Numbers/Scheme

01A, 02A, 04, 05, 06, 07

Scheme 2

David Givan
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PLACE
The City of Edinburgh Council

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Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: No comment

DATE: 17 July 2023

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

Location Plan



Liberton Public Park



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