

# Development Management Sub-Committee Report

**Wednesday 7 August 2024**

**Application for Planning Permission  
Land 53 Metres East Of 55 Tower Street, Edinburgh,**

**Proposal: Proposed residential development with associated public realm, access, landscaping, and infrastructure (as amended).**

**Item – Committee Decision  
Application Number – 24/01798/FUL  
Ward – B13 - Leith**

## **Reasons for Referral to Committee**

The application is a local development but requires developer contributions of over £250,000. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

### **Recommendation**

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

### **Summary**

The proposed residential flatted use is acceptable in land use terms. Subject to conditions, there is no significant adverse impact on neighbouring amenity and the future occupiers will be afforded adequate residential amenity. The development is acceptable in transportation terms including cycle parking. The development has no detrimental impact on significant archaeological remains. There is an infringement of the Edinburgh Design Guidance both in terms of the proportion of three bed units suitable for growing families (units with a minimum of 81 square metres) and there not being a proportionate split of family and non-family units between the private and affordable components. However, given that the proposed proportion of 3 bed units (of 91 square metres and below) across the wider site exceeds 20% and the fact that there is a mixture of sizes of units across the site and which all meet the minimum internal floor space set by the Guidance, the infringement to the Guidance is considered minor and acceptable in the particular circumstances of this case.

There is an infringement of the Edinburgh Design Guidance in terms of the flats suitable for growing families not having direct access to a private garden. However, this is acceptable in this case given that the proposal is a high-density development which is of a similar character to existing neighbouring developments and is an effective reuse of an urban site.

There is an infringement to the Edinburgh Design Guidance in terms of daylight to some of the proposed residences and sunlight to external open spaces. However, the infringement is minor and not significant and is therefore acceptable.

There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site is roughly triangular shaped and covers 0.81 hectares. The site was previously used by the City of Edinburgh Council as a car pound and has in the past been used to store grit.

The site forms part of a larger housing site (planning permission 20/01313/FUL) at Tower Street/Bath Road. The original planning permission was for 95 units and is currently under construction.

The site is bounded to the north by cleared land that forms part of Forth Ports Authority docks and basins. Bath Road, which is the access road to Forth Ports docks and basins, bounds the site to the east. The site the subject of planning permission ref.18/08206/FUL granted to the same applicant for a flatted development of 212 flats and ground floor commercial units and associated works bounds the site to the south, beyond which is Salamander Street (the A119).

The surrounding area is a mixture of industrial use and residential uses.

### **Description of the Proposal**

The application is a revised housing design and layout on the eastern part of the wider site. The application seeks to increase the total number of units by 10 units from 29 to 39 (increasing the total number of units on the wider Tower Street/Bath Road site from 95 to 105). Affordable housing is proposed to increase on this part of the site from 20 to 23 units.

The proposal would substitute a previously approved four-storey L shaped flatted block and a terrace of three-storey colony flats with an elongated L-shaped 4-storey flatted block.

The unit mix comprises 11 one bed units, 24 two bed units and 4 three bed units. It is proposed that 23 of the units on the site will be for affordable housing.

The L-shaped block has a dual frontage to the south and west.

The design of the flatted building is contemporary with a flat roof. External wall materials are a mixture of two colours of facing brick and render panels. The framing of windows and external doors are finished in grey.

The site will be accessed from an east-west orientated road that was consented as part of planning permission 20/01313/FUL. This road is accessed off both Tower Street and Bath Road. Communal car parking, which will serve the whole Tower Street/Bath Road development and consented as part of planning permission 20/01313/FUL, lies just out with the site to the south and north west.

Cycle parking is provided in two integral ground floor communal stores. This comprises 82 covered cycle spaces. The cycle provision breakdown is as follows: 60 2-tier racks, 12 single tier racks, 10 non-standard Sheffield stands spaces.

A rain garden is proposed to the rear of the flatted block, and it incorporates shrubs, hedgerows, and trees. A communal soft landscape community space and orchard is proposed on the eastern part of the site.

### *Revised scheme*

The original scheme was revised to modify the refuse storage arrangement to address matters raised by Waste Services.

### **Supporting Information**

- Planning Statement
- Design and Access Statement
- Transport Statement
- Biodiversity Enhancement Plan Report
- Noise Impact Assessment
- Daylight, sunlight, and Overshadowing Report
- Site Investigation
- Air Quality Report
- Odour Report
- Flood Risk Assessment
- Surface Water Management Report

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

### **Relevant Site History**

20/01313/FUL

57 Tower Street & 1 Bath Road

Edinburgh

EH6 7BB

Proposed residential development and associated landscaping, drainage, roads, and infrastructure.

Granted

22 September 2021

18/01154/PAN

1 Bath Road

Edinburgh

EH6 7BB

Proposed residential development with commercial units and associated landscape, drainage, roads, and infrastructure.

Pre-application Consultation approved.

29 March 2018

20/01313/SCR

57 Tower Street And 1 Bath Road

Edinburgh

EH6 7BB

EIA screening for residential development

EIA Not Required

15 April 2020

### **Other Relevant Site History**

25 September 2019 - Proposal of Application Notice submitted for a mixed-use development and associated drainage, roads, and infrastructure on the site. (application number 19/03870/PAN).

#### Neighbouring Sites:

5 August 2019 - Planning permission granted for a flatted development of 212 flats and ground floor commercial units and associated works on the neighbouring site to the immediate south at 1 Bath Road. (application number 18/08206/FUL).

28 October 2020 - The Planning Committee resolved to grant planning permission subject to conditions and the conclusion of a section 75 legal agreement for a proposed mixed use development comprising purpose built student accommodation affordable housing, affordable retail units, cafe and public digital co-working space with associated landscape, drainage and infrastructure (as amended ) at the site of the former Edinburgh and Leith Gasworks at 1-5 Baltic Street and 7-27 Constitution Street. (application number 20/00465/FUL).

28 October 2020 - The Planning Committee resolved to grant Listed building consent subject to conditions for Internal and external alterations to Category B- listed gas works buildings and conversion to residential use; removal of remnants of gasometer building and northern extension to retort house, removal of other 20th century extensions and formation of new openings with associated fabric repairs. Reinstatement and alteration to boundary walls at the site of the former Edinburgh and Leith Gasworks. (application number 20/00466/LBC).

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Roads Authority

SEPA

Environmental Protection

Archaeology Services

Communities and Families

Infrastructure, Structure and Flood Prevention

Waste Services

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

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 19 April 2024

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

**Press Publication Date(s):** 26 April 2024

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

**Number of Contributors:** 1

## **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?**

The development plan comprises the National Planning Framework 4 (NPF 4) and the 2016 Edinburgh Local Development Plan (LDP).

NPF 4 policies support 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 NPF 4.

The relevant NPF 4 and LDP policies to be considered are:

- NPF 4 Sustainable Places policies 1, 2, 3, 7, 9, 12, 13.
- NPF 4 Liveable Places policies 14, 15, 16, 18, 20, 21, 22, 23.
- LDP Housing Policies Hou 1, Hou 3, Hou 4.
- LDP Environment policies Env 16, Env 20, Env 21, Env 22.
- LDP Design Principles for New Development policies Des 1, Des 2, Des 4, Des 5, Des 7, Des 8.
- LDP Transport Policies Tra 2, Tra 3, Tra 4.
- LDP Employment Policy Emp 9.
- LDP Delivery Policy Del 1, Del 3.
- LDP Resources Policies RS 1, RS 6.

The Edinburgh Design Guidance is a material consideration that is relevant in the consideration of several LDP design and transport policies.

The Council's non-statutory Guidance: 'Affordable Housing' and 'Developer Contributions and Infrastructure Delivery', are material considerations relevant when considering the above policies. The Leith Docks Development Framework, approved by the Council as supplementary guidance on 10 February 2005 is also a material consideration.

Principle

NPF 4 Policy 16 supports proposals for new homes, including affordable homes, on land allocated for housing in the LDPs.

The site is part of the urban area and is within the Central Leith Waterfront Area and thereby Proposal EW1b applies. The site is part of a larger area identified in the Local Development Plan (LDP) as suitable for housing-led mixed-use development. One of the development principles of this area is that new housing should be designed to mitigate any significant adverse impacts on residential amenity from existing or new industrial development. LDP Policy Hou 1 supports housing as part of mixed-use regeneration proposals at Edinburgh Waterfront including Proposal EW1b. The proposal complies with Policy Hou 1 as it provides housing on a brownfield site.

The site is covered by the Leith Docks Development Framework, the aim of which is to create a mixed and balanced community which exemplifies the principles of sustainability in terms of use, mix, accessibility, and design.

LDP Policy Del 3 (Edinburgh Waterfront) states that planning permission will be granted for development which will contribute towards the creation of new urban quarters at Leith Waterfront and Granton Waterfront. The proposal complies with this policy as it delivers housing development in the Leith Waterfront Area.

The principle of redevelopment of the site for housing is established by the grant of the previous planning permission 20/01313/FUL.

#### Design and liveable places.

Policies 14, 15 and 16 of NPF 4 support development that delivers quality places, spaces and environments that can further contribute to achieving 20-minute neighbourhood principles. The delivery of good quality homes in the right location is also supported. LDP policy Des 1 also sets out requirements for new development in the City and requires proposals to be based on an overall design concept which takes influence from positive characteristics of the surrounding area to deliver high quality design.

The development principles for the Edinburgh Waterfront are set out in Table 11 in the LDP. The aim is to ensure that the regeneration of Edinburgh's Waterfront comes forward in a planned manner within the context of a long-term vision. The requirements in principle include comprehensively designed proposals which maximise the development potential of the area; provide a series of mixed use sustainable neighbourhoods that connect to the waterfront, with each other and with nearby neighbourhoods; provide for a mix of house types, sizes and affordability, and the provision of open space; and create local identity and a sense of place. These and other requirements are discussed in more detail below.

LDP policy Hou 4 (Housing Density) seeks appropriate densities on development sites, having regard to the surrounding area. The surrounding area is predominantly five storey flatted blocks of relatively high density. The proposed development site would have a density of 170 dwellings per hectare, which is also relatively high-density development. This is generally acceptable in this location as the site is approximately three miles from the city centre and is in close proximity to a good public transport network. The density is similar to neighbouring recently built developments and is acceptable. The currently proposed development is of a similar scale and height to recent surrounding residential development and is easily accessible to local facilities and public transport. A good quality amenity environment will be provided. The proposed density on this site is appropriate to its location. It is important to achieve suitable density on brownfield sites such as this and this proposed high-density development is compatible with the surrounding area.

LDP Policy Des 4 (Development Design - Impact on Setting) requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape, having regards to its height and form, scale and proportions, including the spaces between the buildings, position of buildings and other features on the site; and the materials and detailing.

The established urban grain is generally buildings hard on to the heel of the footpath. The consented development to the south and west comprises U-plan blocks enclosing a landscaped green space on three sides with an open aspect to the south. The architectural style proposed is contemporary, with design cues and materials selected to reflect the rich industrial heritage of the surrounding area. In terms of its scale, massing and form and external finishing materials, the currently proposed elongated L shaped block has a comfortable relationship with the neighbouring consented development. Therefore, on these counts it is well-suited to the character of this part of Leith and responds well to the wider setting. The mix of bricks and additional smooth render will create architectural variety. A condition is recommended requiring a sample of the external finishing materials to be made available for the prior inspection and approval of the planning authority.

Policy Des 7 (Layout Design) sets out that developments should have regard to the position of buildings on the site and should include a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths and open spaces.

Active frontage and surveillance over the adjacent active pedestrian and cycle movement routes is achieved by ground floor main door flats fronting onto them. Narrow front gardens provide defensible space between the adjacent foot way/cycleway and main doors. The position of the proposed building on the site follows the grid structure of the consented neighbouring development to the south and west, thereby maintaining permeability through the site. The proposed layout encourages the use of cycling and walking.

The proposed landscaping scheme includes trees and shrub planting within open spaces in the development, which is in principle acceptable. However, to ensure that the landscaping scheme is appropriate, including but not limited to, the species of plants and density of planting, a planning condition is included requiring a revised landscape scheme to be submitted for the prior written approval of the planning authority. Subject to this the proposed landscaping will enhance the development.

Overall, the design is high quality, contemporary architecture and the development will be a positive addition to the area. The proposal is broadly compliant with NPF 4 policies 14, 15 and 16, LDP policy Hou 4, Des 1, Des 4 and Des 7, and the development principles for the Edinburgh Waterfront set out in Table 11 in the LDP.

#### Climate mitigation and adaption

NPF 4 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. 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 housing within an existing community.

NPF 4 Policy 2 a) (climate mitigation and adaption) supports development proposals that are sited and designed to minimise life cycle greenhouse gas emissions as far as possible and in 2 b) those that are sited and designed to adapt to current and future risks from climate change.



The application site is a brownfield site within Edinburgh's urban area. Policy 9 of NPF 4 aims to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land, and to help reduce the need for greenfield development. Outcomes should maximise use of existing assets, minimise land take, contribute to nature recovery and productive green space, and regenerate to improve well-being and transform places.

The proposal complies with the overall policy objective to support sustainable re-use of brownfield, vacant and derelict land, and buildings and to help reduce the need for greenfield development.

The applicant has submitted a sustainability strategy statement in support of the application. As per the wider existing 20/01313/FUL consent, the use of MVHR (mechanical ventilation with heat recovery) will again be provided for at each property, removing the requirement for trickle ventilators to all windows. The heat recovery element will enhance the sustainability credentials of this development by reducing heating demand, and in turn emissions, through more efficient capture and reuse of heat which would normally be lost.

The proposal complies with the intentions of NPF 4 policies, 1, 2 and 9.

### Flooding and Drainage

Flood Planning was consulted on the proposals and has raised no objections to the proposals.

SEPA confirm that the proposed development does not meet the criteria requiring them to provide flood risk advice and thereby they do not provide any comments on the application.

If planning permission is granted the applicant can apply to Scottish Water for a formal waste water connection and Scottish water will advise the applicant accordingly. An informative is added advising the applicant/developer to obtain agreement from Scottish Water.

The proposal complies with NPF 4 Policy 22 and LDP Policy ENV 21.

### Ecology and Biodiversity

An ecological assessment was carried out to support the original application in March 2020. A further site walkover was carried out in March 2024 in order to inform the preparation of the Biodiversity Enhancement Plan, which had been submitted in support of the application. Both surveys found the site to be previously developed, with a City of Edinburgh Council (CEC) run car compound, with car parking bays, mobile offices and stored materials recorded in 2020 and a building site compound, housing site cabins, containers, car parking and the stored materials, in 2024. The surrounding land has either been developed in recent years, is undergoing development currently, or forms part of the wider developed land for the port and docks of Leith. The 2020 Ecological assessment of the site found no evidence of protected species such as badger, otter, or water vole and it was considered that there was no scope for Great Crested Newt. Presently, the site presently has no potential for the presence of protected species.

The Biodiversity Enhancement Plan recommends a number of proposed measures to enhance biodiversity on the site. If planning permission is granted a condition can be imposed requiring these measures to be carried out.

The proposal complies with NPF 4 Policy 3.

### Zero waste

NPF 4 policy 12 (Zero Waste) supports the reduction and reuse of materials in construction, with a view to supporting the circular economy. The proposal includes waste management facilities with integral ground floor refuse stores providing bins for future residents for mixed, food and glass recycling. The proposal is consistent with the waste hierarchy and complies with NPF 4 policy 12.

### Transport and road safety.

NPF 4 policy 13 (Sustainable Transport) supports proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs.

LDP Policy Tra 2 (Private Car Parking) states that planning permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels set out in Council guidance.

LDP Policy Tra 3 (Private Cycle Parking) states that planning permission will be granted for development where proposed cycle parking and storage provision complies with the standards set out in Council guidance.

LDP Policy Tra 4 (Design of Off-street car and cycle parking) sets out various design considerations.

The transport strategy remains unchanged from the previously consented scheme and looks to connect the development to the existing infrastructure network with access taken from Tower Street and existing connections from Bath Road and Salamander Street. Roads within the site will accord with the principles of designing streets with pedestrian and cycle movement prioritised over vehicular movement. The proposed accesses to the site are acceptable in transportation terms. Adequate footpaths/cycleways have been provided within the development.

A Transport Assessment (TA) has been submitted in support of the application. This has been assessed by transport officers and is considered to be an acceptable reflection of the estimated traffic generated by the development. From the TA it can be concluded that the net impact of the proposed development on the surrounding road network will be negligible.

Car and motorcycle parking spaces was provided as part of the wider consented development. No changes to this are required to facilitate the current proposal.

In terms of the standards contained in the EDG, there is a requirement for 67 cycle spaces to be provided for the 39 units. The Council's C7 Cycle fact sheet, states that a maximum of 80% of all cycle parking spaces can be one type. At least 20% of cycle parking shall be suitable for use by non-standard bicycles.

The proposal includes 82 covered cycle spaces within the residential block. The proposal meets the minimum cycle parking requirement relating to numbers. However, because Sheffield stands are more user friendly, the Roads Authority advises that the number of 2-tier spaces is reduced and more standard Sheffield stand spaces are provided, even if the proposal will lead to reduction in cycle parking spaces. This control can be secured by a planning condition.

The proposal complies with NPF 4 Policy 13 and Policy Tra 2 of the LDP. A condition is required to ensure compliance with Policies Tra 3 and Tra 4 of the LDP.

#### Amenity of future occupiers and neighbours

NPF 4 Policy 23 (Health and Safety) supports development that will have positive effects on human health and protect people and places from environmental harm.

#### *Floorspace standards*

The proportion of family units suitable for growing families (three bed units with a minimal internal floor space of at least 81 square metres) proposed across the site is 10%. However, the proposal needs to be considered within the context of the wider consented scheme 20/01313/FUL. In this regard, the proposals would result in an increase of 3-bedroom properties overall (30 versus previously consented 26, i.e. 29% versus 27%). This proportion exceeds the minimum 20% set in the Edinburgh Design Guidance. The sizes of all of the proposed flats comply with the minimum standards set in the Edinburgh Design Guidance.

#### *Useable Open Space*

LDP Policy Hou 3 requires an appropriate level of greenspace provision in new housing developments. A standard provision of 10 square metres per flat is applied.

As only high quality, communal rain garden provision is proposed, none of the proposed units suitable for growing families have direct access to private gardens. This is in accordance with the previously approved development, whereby the Council concluded that "this infringement to the Guidance is justified given that the proposal is a high-density development which is of a similar character to existing neighbouring developments and is an effective reuse of an urban site".

There is a rain garden courtyard for the building with an area of some 326 square metres. The rain garden provides SUDS attenuation and owing to it being shallow it is also useable amenity space. It is planted with shrubs and formal hedgerows, specimen shrubs and trees. In addition, on the eastern part of the site there is a formal planted area and an also adjoining linear landscape strip planted as a community orchard with a combined area of some 394 square metres. The proposed layout meets the open space requirements and complies with LDP Policy Hou 3 and the Edinburgh Design Guidance.

Owing to its orientation to the north of the proposed L-plan flatted block and the height of that block, the rain garden would be overshadowed for most of the day. However, the layout of the development follows the established perimeter block layout pattern of neighbouring developments and there are good urban design reasons, including achieving active frontages and movement routes around the wider site, that justify the positioning of the building and the open spaces on the site. In this particular circumstance, the amount of sunlight received to the rain garden is justified and not a significant infringement to the Edinburgh Design Guidance.

#### *Daylight and Privacy of Future Occupants*

The distance from the proposed building to the consented buildings on the adjacent site to the immediate south is some 21 metres, which is adequate to achieve mutual privacy.

In order to assess the impact on daylight of the consented development to the immediate south to the proposal and vice versa, the simple 25-degree method is applied. The Edinburgh Design Guidance requires the vertical sky component (VSC) to be either a minimum of 27% or 0.8 of the former value. The relationship between the consented development to the south and the currently proposed development in places cannot fully meet a 27% VSC. This is not unusual for denser areas of Edinburgh, and the Average Daylight Factor test is applied in these cases.

Across the proposed development, 74% of the tested rooms are achieving Average Daylight Factors (ADF) in accordance with the BS 8206-2:2008 (BRE Guide 2nd Edition) when Living/Kitchen/Dining spaces are assessed against a 2% ADF target and bedrooms against a 1% ADF target. The number of rooms that fail the test are 14 and these are all combined living/kitchens/dining areas.

With regards to the permitted developments, 50% of the tested spaces in Block 1 at Tower Street, and 100% of the tested spaces in Block 2 at Bath road are achieving Average Daylight Factors (ADF) in accordance with the BS 8206-2:2008 (BRE Guide 2nd Edition) when living/kitchen/dining spaces are assessed against a 2% ADF target and Bedrooms against a 1% ADF target. The spaces in the permitted Block 1 (on the western part of the wider site) are performing similarly to the existing situation. Therefore, there is a very minimal and negligible effect from the proposed development to these permitted properties.

Owing to the spacing between the proposed and consented blocks the degree to which the situation fails the test is not significant. The spacing between the proposed building and neighbouring consented development is similar to that approved in application 20/01313/FUL and to the existing layout of buildings in the locality and there are many instances in the area where the parameters are not met. The infringement to the Edinburgh Design Guidance in the circumstance of this case is acceptable.

## *Noise*

A noise impact assessment (NIA) has been provided in support of the application which considers noise from the port, surrounding commercial operations, plant, and road traffic noise (both day and night). The NIA advises that typically, ambient noise levels are commensurate with the urban environment and are not excessive. The dominant environmental noise source across the proposed development site is road traffic noise from Baltic Street / Salamander Street and the wider urban environment. There are also occasional contributions of commercial and industrial noise from the various sources described above, as well as natural sounds of the marine environment, bird calls etc.

The NIA recommends a glazing specification and mechanical ventilation solution to mitigate noise, and this negates the requirement for open windows or trickle vents to provide background ventilation, although windows will be able to be opened for rapid ventilation purposes. The NIA has assessed the noise and implemented mitigation based on closed windows situation. In granting application 20/01313/FUL, it was previously accepted that the same closed window standard and the mitigation was adequate. The neighbouring development to the south when built would also provide a significant level of acoustic protection from the road noise.

The Council's Environmental Protection Service highlight that the neighbouring land to the north occupied by Forth Ports is authorised for industrial use and they raise concern about the potential for industrial operations on that neighbouring land to give rise to noise nuisance. Environmental Protection confirm that they do not support mechanical ventilation because they consider occupants should be able to open their windows to purge ventilate without being affected by noise. Consequently, similar to their position on the previous application, they advise that the current application should be refused on noise impact grounds.

However, it is considered that the proposed acoustic glazing and mechanical ventilation proposed are the best options to minimise noise impacts on this site. They are the same solutions put forward in the previously consented scheme for the site and also in the neighbouring consented development to both the south and south west. Subject to these measures being implemented prior to the first occupation of the flats, the amenity of their occupiers would not be significantly adversely impacted in terms of noise and thereby the proposal complies with Policy Des 5. Subject to the noise mitigation being implemented, the proposal would not prejudice or inhibit the activities of neighbouring industrial uses and thereby would not conflict with part e) of NPF 4 policy 23 or part a) of LDP Policy Emp 9.

## *Air Quality*

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) states that planning permission will only be granted where there will be no significant adverse effect on air quality.

The site is located within the Salamander Street Air Quality Management Area (AQMA). The AQMA was designated in January 2017 due to elevated levels of Particulate Matter 10 (PM10) being detected over a number of years. The applicant proposes mechanical ventilation and filtration as a form of mitigation against the PM 10 levels at the application site, which is the same mitigation consented for the previous application for the site and also consented for the neighbouring development to the south. The use of MVHR (mechanical ventilation with heat recovery) would also provide additional noise mitigation with the MVHR system removing the requirement for trickle ventilators to all windows. The heat recovery element would enhance the sustainability credentials of the development by reducing heat demand, and in turn emissions, through more efficient capture and re-use of heat which would normally be lost. The applicant has provided drawings and details of the proposed filtration system. The filters would have to be changed regularly and properly maintained. The Environmental Protection Service are not supportive of this as they cannot enforce this, and they raise a concern that the application site could be affected by sporadic dust incidents from operations at the port and fumes from vessels within the docks.

All matters relating to air quality and this current proposal have been considered by the planning authority, including the previous planning permission for the site and planning permissions granted for residential development on neighbouring sites. On balance, it is considered that the proposed mitigation measures in the form of the proposed mechanical ventilation is adequate air quality mitigation. Subject to the proposed mitigation measures being implemented the proposal would not conflict with part d) of NPF 4 policy 23 or part a) of LDP Policy Emp 9.

### *Odours*

The site is located approximately 800m from the Seafield Waste Water Treatment Work (WWTW) and therefore there is the potential for odour nuisance. The Council's Environmental Protection Service highlight that complaints to the Council continue to occur from Seafield WWTW at properties further away than this application site. They advise against siting residential properties within an area already affected by odours. A qualitative odour assessment was undertaken to consider the potential for impacts to occur at proposed residential dwellings as a result of sources of Seafield Wastewater Treatment Works (WWTW) odour. The report advises that the impact of odours from Seafield WWTW was considered not significant after 3 sniff tests on different days and which were undertaken in May 2024. Therefore, no mitigation measures are recommended. Based on this assessment, the planning authority considers that the degree of nuisance would not be significantly detrimental to the amenity of the future occupants of the proposed residences.

### *Amenity of neighbours*

LDP Policy Des 5 (Development Design - Amenity) states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy, or immediate outlook.

The Edinburgh Design Guidance (EDG) states - The pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances.

The daylight, sunlight and overshadowing study shows that owing to its positioning, orientation and height, the proposed flatted block would not have a significantly detrimental impact on daylight of neighbouring consented developments to the south and west.

In respect of impact on neighbours the proposal does not conflict with LDP policy Des 5 or the Edinburgh Design Guidance (EDG).

### **Conclusion on Amenity**

The proposal broadly complies with NPF 4 Policy 23 and LDP Policy Des 5. There is an infringement of the Edinburgh Design Guidance in terms of the flats suitable for growing families not having direct access to a private garden. However, this is acceptable in this case given that the proposal is a high-density development which is of a similar character to existing neighbouring developments and is an effective reuse of an urban site. There is also an infringement to the Edinburgh Design Guidance in terms of daylight to some of the proposed residences. However, the infringement is minor and not significant and is therefore acceptable.

### Archaeology

NPF4 policy 7 (Historic Assets and Places) part o), states that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts.

The Council's Archaeology Officer informs that the site occurs within an area of potentially national archaeological significance forming part of the marshalling yards for the North British Railways Leith Station constructed in the 1840s. Prior to this, the site overlay the low tide expanse of Leith's beach. This area formed part of the racecourse for Leith Races, the precursor for Musselburgh Racecourse. The site also occurs adjacent to the Leith glass works constructed by the Edinburgh Glasshouse Company in the 1760s. Given this the site was evaluated by AOC Archaeology in November 2021 (AOC 25121: OASIS report 1-433679). Although some significant deposits and remains were uncovered these were limited in scale and scope with the evaluation suggested that majority of this site (except for a 19th century culvert) was made up from relatively sterile made ground. Based upon these evaluation results it has been concluded that there are no, known, archaeological concerns regarding this application. The proposal does not conflict with NPF4 policy 7-part o).

### Infrastructure

#### *Affordable Housing*

LDP Policy Hou 6 states the residential developments, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. The applicant is proposing to provide 23 affordable units as this site is providing affordable housing provision for the larger site.

The market (private) units comprises: 4 one bed units (25.0%) and 12 two bed units (75.0%). The affordable unit split is: (i) 7 one bed units (30.4%), 12 two bed units (52.2%) and 4 three bed unit (17.4%). All 23 affordable units would be delivered in partnership with the Wheatley Group to deliver the plots for social or mid-market rent depending on funding availability. There are three Golden Share plots that form part of block 1 consent 20/01313/FUL that would be retained with the remaining 23 plots sited within the current application boundary.

The provision of the affordable units will be required to be secured on site through a Section 75 legal agreement.

### *Transport Proposals*

LDP Policy Del 1 sets out the developer contributions required towards transport interventions necessary to mitigate the effects of development or meet sustainable travel targets.

The Roads Authority was consulted and raised no objections, subject to the following developer contributions for the following infrastructure works which are identified in the LDP Action Programme. The contribution is based on the proposed 39 unit and is in proportion to the transport contributions of the consented development of the site:

Tram - £97,294

Bernard Street/ Salamander Street - £33,072

Leith Links to Bath Road - £9,555

Ocean Drive Eastward Extension - £68,484

Salamander Street to Foot of Leith Walk - £4,095

Henderson St-The Shore-Commercial Street (Bus Priority) - £1,833

Bernard St/The Shore Junction - £1,170

The most recent iteration of the LDP Action Programme, considered by Planning Committee for adoption on 19 April 2023, included amongst other matters the removal of financial contributions towards a scheme for the eastward extension of Ocean Drive towards Salamander Drive, although safeguarding its route for provision through future development. Given that the Council has removed this requirement from its Action Programme then there is no further requirement for a legal obligation contribute to be taken towards its provision, or for such contribution to be included in any future legal obligations under section 75 of the Act.

The new development of 39 units can be dealt with in a new Section 75 legal agreement. However, given that only 10 additional units would be delivered across the wider site, in the case of the tram and transportation contribution, the original legal agreement contributions for 20/01313/FUL will not be fully taken.

### *Education*

LDP Policy Del 1 (Developer Contributions) also requires contributions to the provision of education infrastructure to mitigate the impact of development. The Action Programme and Developer Contributions and Infrastructure Delivery Supplementary Guidance sets out contributions required towards the provision of infrastructure.



In the previous application 20/01313/FUL the Council assessed the impact of growth set out in the LDP through an Education Appraisal (January 2018) taking account of school roll projections. The assessment identified where additional infrastructure would be requested to accommodate the cumulative number of additional pupils from developments coming forward in this area. In application 20/01313/FUL Communities and Families provided a consultation response which set out the level of developer contributions required for that previous proposal which falls within Leith Trinity Education Contribution Zone. Based on these original values, for the currently proposed 28 units (11 one-bedroom flats excluded) using the established 'per flat' rates for that zone the total infrastructure contribution required for the current application is £27,440 (Index from Quarter 4 2017 to the date of payment). A S75 legal agreement is recommended as the suitable method of securing this contribution and ensuring the scheme complies with policy Del 1. Given that only 10 additional units would be delivered across the wider site, in the case of education contribution the original legal agreement contributions for 20/01313/FUL will not be fully taken.

### *Healthcare*

The site is within the Leith Waterfront developer contribution zone as identified in the Council's finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance. The Edinburgh LDP action programme identifies the need for a new medical practice to mitigate the impact of new residential development in Leith Waterfront. The guidance requires a developer contribution of £945 per dwelling for proposals within the zone which equates to £36,855 for the 39 flats proposed. The applicant will be required to enter into a Section 75 legal agreement to secure the delivery of this contribution. Given that only 10 additional unit would be delivered across the wider site, in the case of the health care contribution the original legal agreement contributions for 20/01313/FUL will not be fully taken.

### **Conclusion in relation to the Development Plan**

The proposed development broadly complies with the provisions of NPF 4, the Edinburgh Local development Plan and associated guidance, and there is not considered to be any significant issues of conflict.

### **There are any other material considerations which must be addressed?**

The following matters have been identified for consideration:

#### *Contamination/ground remediation*

A condition would be imposed on a grant of planning permission requiring that land contamination on the site is appropriately addressed prior to construction works commencing on site in the interests of safeguarding future occupants of the flats.

## City Plan 2030

On 5 April 2024, the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. On 27 June 2024, the Council accepted the recommendations and modifications required to the Proposed City Plan 2030. The Proposed City Plan 2030 has now been submitted to Scottish Ministers for their final consideration. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the adoption of the plan.

### *Equalities and Human Rights*

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

### *Public representations*

One representation was received, which is a neutral comment.

### **Material Comments:**

- No vehicular drop off spaces or accessible parking is proposed within the site boundary. *Response:* The car parking and manoeuvring space for the proposed development and the wider Tower Street/Bath Road housing development was consented as part of planning permission 20/01313/FUL.
- The statement by the applicant that the ground floor housing will be suitable for older people has not been demonstrated on the application drawings. - Main door ground floor flats are generally more appealing to people who are disabled, have limited mobility and/or are elderly. *Response:* *There is a proportion of main door flats within the development, which will help provide a range of accommodation types.*

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

Identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

### **Overall conclusion**

The proposed residential flatted use is acceptable in land use terms. Subject to conditions, there is no significant adverse impact on neighbouring amenity and the future occupiers will be afforded adequate residential amenity. The development is acceptable in transportation terms including cycle parking. The development has no detrimental impact on significant archaeological remains. There is an infringement of the Edinburgh Design Guidance both in terms of the proportion of three bed units suitable for growing families (units with a minimum of 81 square metres) and there not being a proportionate split of family and non-family units between the private and affordable components. However, given that the proposed proportion of 3 bed units (of 91 square metres and below) across the wider site exceeds 20% and the fact that there is a mixture of sizes of units across the site and which all meet the minimum internal

floor space set by the Guidance, the infringement to the Guidance is considered minor and acceptable in the particular circumstances of this case.

There is an infringement of the Edinburgh Design Guidance in terms of the flats suitable for growing families not having direct access to a private garden. However, this is acceptable in this case given that the proposal is a high-density development which is of a similar character to existing neighbouring developments and is an effective reuse of an urban site.

There is an infringement to the Edinburgh Design Guidance in terms of daylight to some of the proposed residences and sunlight to external open spaces. However, the infringement is minor and not significant and is therefore acceptable.

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. Development shall not begin until a phasing plan has been submitted to and approved in writing by the Planning Authority. The phasing schedule shall include the construction of each residential phase of development, the provision of affordable housing, the provision of open space, SUDS, landscaping and biodiversity enhancements and transportation infrastructure including cycle parking. The cycle parking shall be formed and made available for use prior to the first occupation of the building. Development shall be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

4. Prior to the use of any external finishing materials a sample panel(s) of them no less than 1.5m x 1.5m shall be produced and made available for the prior written approval of the Planning Authority.
5. Prior to the first occupation of any of the proposed residential units hereby approved, glazing units with a minimum insulation value of (Rw, Ctr 26dB) shall be installed for the external doors and windows of the bedrooms and living rooms within the facades highlighted in the indicative mitigation mark-up provided by KSG Acoustics on 5/7/23 and specified within KSG Acoustics Noise Impact Assessment report dated 1 April 2024 (rev 1). Thereafter the acoustic glazing units shall be retained unless otherwise agreed in writing with the Planning Authority.
6. Prior to the first occupation of any of the proposed residential units hereby approved the mechanical ventilation system including ISO coarse glass G3 filters all as specified/delineated on docketed drawing Nos. CAS 15233 \_01, dated 26/04/24 and CAS 15233 \_02, dated 26/04/24 shall be installed within the residences and made operational. Thereafter the mechanical ventilation system shall be retained in each property.
7. Notwithstanding that delineated on application drawing the development shall not begin until details of a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i other than existing and finished ground levels and floor levels for all buildings, open space, and roads in relation to a fixed datum.
  - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored.
  - iii proposed new planting in communal areas, road verges and open space, including trees, shrubs, hedging, wild flowers, and grassed areas.
  - iv location and design of any proposed walls, fences, and gates, including those surrounding bin stores or any other ancillary structures.
  - v schedule of plants to comprise species, plant sizes and proposed numbers/density.
  - vi programme for completion and subsequent maintenance of all soft and hard landscaping.
  - vii a woodland management plan for existing and proposed areas of woodland.
  - iii a biodiversity action plan and maintenance plan to enhance the biodiversity value of the existing suds pond located nearby to the north east of the nursery area.
  - ix drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water run-off.
  - x proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and,
  - xii details of existing and proposed services; water, gas, electric and telephone.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi).

Any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

8. Notwithstanding the approved drawings, the layout and design of the integral cycle stores shall be revised in order to achieve a greater number of Sheffield stand cycle spaces than is currently proposed, in accordance with a detailed floor plan(s) and design details to be submitted for the prior written approval of the planning authority.
9. The cycle parking approved in accordance with condition 8 shall be formed and made available for use prior to the first occupation of any flat within the development unless otherwise approved in writing by the Planning Authority.
10. The biodiversity enhancement actions recommended in section 4.0 of the Biodiversity Enhancement Plan by BDW Trading Ltd, dated March 2024, shall be implemented in full prior to the first occupation of the first flat within the development hereby approved unless otherwise agreed in writing with the planning authority.

## **Reasons**

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. To ensure that the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.
4. In order to enable the planning authority to consider this/these matter/s in detail in the interests of safeguarding the character and visual amenity of the area.
5. In the interests of safeguarding the amenity of the future occupants of the dwellings hereby approved.
6. To ensure that the road/cycleways/footways within the site can in the future be extended over the verges and link to future roads/cycleways/footway connections within the adjoining land, thereby ensuring co-ordinated development in compliance with adopted Edinburgh Local Development Plan Policy Des 2 (Co-ordinated Development).
7. To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

8. The mix of type of cycle parking within the cycle stores is not compliant with the Council's approved Cycle Parking fact sheet C7 and requires modification to ensure the provision of an increased amount of more user friendly cycle parking spaces in the interests of active travel and the amenity of the future occupants of the flats within the building hereby approved.
9. In the interests of active travel and the amenity of the future occupants of the flats within the building hereby approved.
10. In the interests of biodiversity.

## **Informatives**

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement relating to education, healthcare and affordable housing has been concluded and signed. The legal agreement shall include the following:
  - a. Education - £27,440.
  - b. Healthcare - £36,855.
  - c. 25% of the total number of residential units proposed should be affordable housing in accordance with Council policy.
  - d. Tram - £97,294.
  - e. Bernard Street/ Salamander Street - £33,072.
  - f. Leith Links to Bath Road - £9,555.
  - g. Salamander Street to Foot of Leith Walk - £4,095.
  - h. Henderson St-The Shore-Commercial Street (Bus Priority) - £1,833.
  - i. Bernard St/The Shore Junction - £1,170.

The legal agreement should be concluded within 3 months of the date of this notice. If not concluded within that 6-month period, a report will be put to committee with a likely recommendation that the application be refused.

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4. 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>.

5. The applicant should note that the Council will not accept maintenance responsibility for underground water storage/attenuation.
6. The applicant should consider developing a Travel Plan including provision of Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport.
7. All accessed must be open for use to the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. The extent of adoptable road, including footways, footpaths, accesses, cycle tracks verges and service strips to be agreed. The applicant should note that this will include details of lighting, drainage, Sustainable Urban Drainage, materials, structures, layout, and cycle parking numbers including location, design, and specification. Particular attention must be paid to ensure the refuse collection vehicles are able to serve the site. The applicant is advised to contact the Council's Waste Management Team to agree details.
8. The incorporation of swift nesting sites/swift bricks into the scheme is recommended. Further details on swift bricks can be found at [www.edinburgh.gov.uk/biodiversity](http://www.edinburgh.gov.uk/biodiversity).
9. It should be noted that when designing the exhaust ducting, Heating, ventilation, and Air Conditioning (HVAC) good duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance.
10. The applicant should obtain agreement from Scottish Water to connect to the combined sewer system.

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

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

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

**Date Registered: 19 April 2024**

### **Drawing Numbers/Scheme**

01, 02B, 03, 04E, 5C, 06C, 07C, 08, 9B, 10B, 12, 1314, 15, 16B, 18C, 23-29

Scheme 2

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Adam Thomson, Planning Officer  
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Appendix 1

### **Summary of Consultation Responses**

NAME: Roads Authority  
COMMENT: No objection. A legal planning agreement to secure developer contributions and planning conditions/informatives are recommended.  
DATE: 26 June 2024

NAME: SEPA  
COMMENT: No comment on the application.  
DATE: 13 June 2024

NAME: Environmental Protection  
COMMENT: Concerns raised and recommended that planning permission be refused. If planning permission is to be granted, conditions are recommended.  
DATE: 8 July 2024

NAME: Archaeology Services  
COMMENT: No objection.  
DATE: 23 April 2024

NAME: Communities and Families  
COMMENT: No comments received.  
DATE:

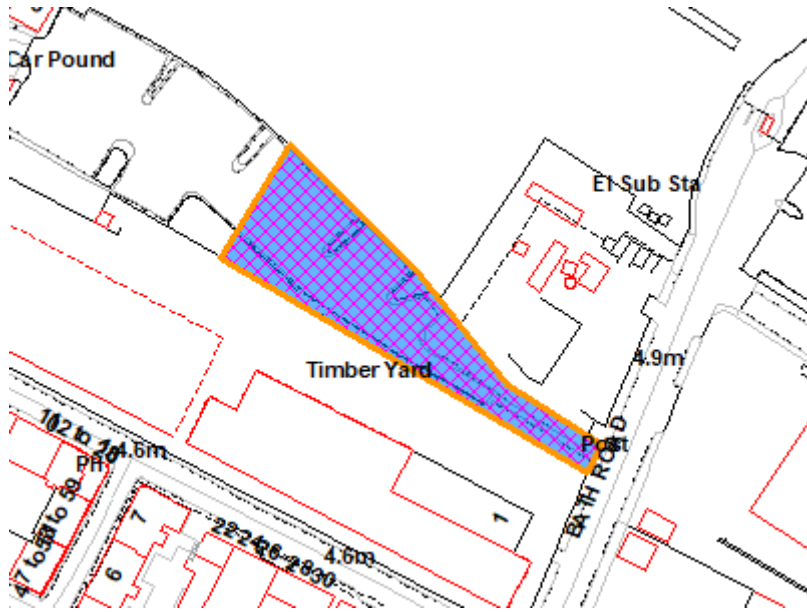
NAME: Infrastructure, Structure and Flood Prevention  
COMMENT: No objection.  
DATE: 19 June 2024

NAME: Waste Services  
COMMENT: No objection.  
DATE: 17 June 2024

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



# Location Plan



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