

Development Management Sub-Committee Report

Wednesday 2 October 2024

**Application for Planning Permission
4 Industry Lane, Edinburgh, EH6 4EZ**

Proposal: Demolish existing car garage and erect flatted development with associated external amenity (as amended).

**Item – Committee Decision
Application Number – 22/01620/FUL
Ward – B04 - Forth**

Reasons for Referral to Committee

The application is referred to the Development Management Sub- Committee as the revised scheme attracted 36 letters of objections. Consequently, 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 proposals will not impact on the special architectural or historic interest of the listed building and its setting. The proposal is acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposals comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals do not conflict with the objectives of preserving and enhancing the character and appearance of the conservation area.

The proposals comply with National Planning Framework 4 policies in relation to sustainable and liveable places. The proposals broadly comply with the policies in the Edinburgh Development Plan. The minor infringement relates to the mix of units which do not justify refusing the scheme in its entirety. The principle of housing development is acceptable as it will be supported by local living and 20-minutes neighbourhood. The proposed development design is for a modern intervention where it will not result in adverse harm to the setting of nearby listed buildings or to the character of the conservation area. Future occupiers will have reasonable levels of amenity within the development and neighbouring developments will not be adversely affected. Conditions are required in relation to materials, landscaping, biodiversity, and cycle parking. A legal agreement is required to secure developer contributions towards education, healthcare, and affordable housing. There are no material considerations that would outweigh this conclusion. It is recommended that this application be granted.

SECTION A – Application Background

Site Description

The site is a car dealership/workshop, measuring approximately 1048 sqm. It is located at the end of Industry Lane on the south side and is accessed from North Fort Street.

Constructed late 19th century, the building was the former coach house, stables and hay lofts linked to Baynefield Bakery to the south of the site. Fronting the lane, the building is one and half storey. The rearward section includes an extended one and two storey flat roofed addition. The building has a roughcast rendering and red brick finish. When the bakery use ceased in the later 20th century, the application site was converted to car dealership/workshop. Around this time, the adjoining stable block to the east of the site was demolished with the resultant hard standing used for customer parking.

The site is surrounded by mix of residential styles. To the west, the site is bounded by a brick/stone wall which faces onto the communal gardens of a four-storey stone tenement building, located on Dudley Avenue South. Across from the site to the north, is a three-storey flatted development with a brown brick finish. No.1-8 Industry Homes sited to the north, is a two-storey, rubble sandstone colony development, a good example of a worker's housing scheme (category C listed, date of listing: 17/10/1996, reference: LB43702). To the east of the lane is a three-storey stone tenement flat that extends to North Fort Street. Bordering the application to the south at 122 Ferry Road is Baynefield House, an early 19th century, two-storey, 3-bay rectangular-plan, symmetrical classical house, set back within former front garden area (projecting shops to left and right of this building on Ferry Road). Baynefield House is category B listed (date of listing: 19/12/1979, reference: LB28744).

The site is within a short distance to Ferry Road West local centre and nearby bus stops.

The sites within the Leith conservation area.

The site has a complicated planning history. The ownership of the site extends to No.120 Ferry Road. Redevelopment between 4 Industry Lane and 120 Ferry Road cannot proceed effectively without one and another.

Planning permission (20/01949/FUL) at No. 120 Ferry Road was granted on 28 April 2021 to demolish a garage and to create a Class 1 convenience store with two residential units above. Conservation area consent (20/01950/CON) was granted on 20 May 2021 to demolish a former car showroom with garage space to the rear. It should be noted that both planning permission and conservation area consent overlapped a section of the current application site at 4 Industry Lane. On 26 April 2024, a Section 42 application (24/02004/FUL) under the Town and Country Planning (Scotland) Act 1997 (as amended) was submitted to vary conditions No. 1 and 7 of planning permission 20/01949/FUL and is pending consideration. Should application 24/02004/FUL be consented, this would create a separate planning permission and would extend the planning permission at 120 Ferry Road site for another three years. In addition, a new application for conservation area consent (24/02377/CON) was validated on 17 May 2024 and is pending consideration.

Description of the Proposal

The proposal is to demolish the existing building and to erect No.17 flatted units over three floors with associated external amenity.

The mix of units include a studio (x1), one-bedroom (x4), two-bedrooms (x9 (including a duplex)) and three-bedrooms (x3).

The proposed development will mainly be three storeys high and comprises of a T-shape plan form.

The treatment finish includes stone cladding and off-white render. Windows will be aluminium framed with a bronzed finish. Some windows will have a decorative metal panel with bronzed finish. A mix of slate and seamed metal roof is proposed with solar panels positioned on the rear slopes.

Amenity space to the rear includes 128 sqm of communal space and 22 sqm drying area. Two units on the ground floor will have private amenity space, equating to 15sqm and 37 sqm.

Across the site within bike store A, B and C, a total of 29 cycle parking spaces are proposed, both internally and externally. This includes standard Sheffield stands (16 spaces), non-standard Sheffield stands (6 spaces), and wall mounted cycle stands (7 spaces).

Internal bin stores on the ground floor are proposed.

A commuted sum in lieu of on-site affordable housing provision is proposed.

Supporting Information

- Design and Access Statement
- Planning and Affordable Housing Statement
- Preliminary Ecology Assessment (PEA)/Updated Ecology Statement
- Heritage Statement
- Noise Impact Assessment
- Surface Water Management Plan
- Building Condition Statement
- Tree Survey

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

Scheme three

The original scheme was amended to address issues relating to development design and cycle parking, resulting in a slight reduction to the quantity of open space provision.

Relevant Site History

17/01838/CON

4 Industry Lane

Edinburgh

EH6 4EZ

Demolition of existing commercial garage buildings.

Refused

20 December 2017

17/01856/FUL

4 Industry Lane

Edinburgh

EH6 4EZ

Demolition of existing commercial garage and erection of new residential block 23 units with associated car parking and landscaping.

Refused

20 December 2017

18/01876/FUL

4 Industry Lane

Edinburgh

EH6 4EZ

Demolition of existing car garage and erection of new residential block, (19 units), with associated landscaping

Refused

9 August 2019

22/01621/CON

4 Industry Lane

Edinburgh

EH6 4EZ

Complete demolition in a Conservation Area.

Other Relevant Site History

120 Ferry Road

28 April 2021 -Planning permission granted to demolish existing garage and create Class 1 convenience store with 2 x residential units above (application number, 20/01949/FUL).

20 May 201 - Conservation area consent granted for complete demolition in a conservation area of a former car showroom with garage space to the rear (application number, 20/01950/CON).

26 April 2024 - Section 42 application submitted to vary conditions 1 and 7 of planning permission 20/01949/FUL - under consideration (application number, 24/02004/FUL).

17 May 2024 - Application for conservation area consent submitted for complete demolition in a conservation area - under consideration (application number, 24/02377/CON).

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Children and Families

Archaeology

Environmental Protection

Transport Planning

Flood Prevention

Affordable Housing

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

Publicity and Public Engagement

Date of Neighbour Notification: 24 October 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 3 November 2023/13 May 2022

Site Notices Date(s): 31 October 2023/10 May 2022

Number of Contributors: 93

Section B - Assessment

Determining Issues

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

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

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

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

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

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

Assessment

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

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

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

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

- Managing Change: Setting

Setting of Baynefield House, 122 Ferry Road

The setting of Baynefield house (category B listed) to the rear is already severely compromised through historic infill developments. The application site/building therefore does not contribute to its setting and therefore the proposed demolition and redevelopment of the site will not harm the setting of Baynefield House.

Setting of 1 to 8 Industry Homes, Industry Lane

The setting of Industry Homes (category C listed) reads as a separate entity within the lane, bounded by one and a half storey terraced cottages on North Fort Street to the east and by the two and three storey flats at 10 Industry Lane and residential car parking area to the west. The four storey flats on Lapidice Place towers over and borders the northern section of Industry Homes. The lane separates Industry Homes from the south side of Industry Lane, which includes the application building and gap site and the two to three storey tenement flats.

The tightness/narrowness of Industry Lane allows the setting of Industry Homes to be appreciated and understood from shorter views.

The proposed redevelopment will be set back slightly from 1 Industry Lane and its positioning will provide a strong continuation within Industry Lane with its contrasting heights and detailing. Therefore, the proposed demolition and redevelopment of the site will not affect how the setting of Industry Homes is appreciated and understood from shorter views.

Conclusion in relation to the listed building

The proposed demolition and redevelopment of the site will not undermine the way that the setting of nearby listed buildings (Baynefield House and Industry Homes) are understood, appreciated, and experienced.

The proposals will not impact on the special architectural or historic interest of the listed building and its setting. The proposal is acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Demolition

The site lies within the Madeira sub area of Leith's conservation area. While the area has a unique and complex architectural character, the character appraisal states the following:

The Madeira area was conceived as a comprehensive design prompted by the success of James Craig's New Town in Edinburgh. Beginning in 1800 with land south of Leith Links it continued in 1807 with James Gillespie Graham's feuing scheme for a large area of north of Ferry Road. The grid pattern of streets was developed sporadically through the 19th century with Georgian buildings set back behind front gardens. By the turn of the century these basic rules were abandoned, and Victorian buildings were inserted in the gaps taking their building lines directly from the heel of the pavement...

Based on the historical development of Industry Lane and the visual amenity of the application site, the existing building is of little townscape value in that it does not make a positive or significant contribution to the character of the conservation area.

Redevelopment

As there is no single architectural style/development height that dominates Industry Lane, the character of the development design can afford to be different. Within Industry Lane and beyond, tenements/flatted buildings, the settled townscape character is dense/tight because of buildings proximity to each other.

The proposed development will have a positive impact on its surroundings and wider townscape. The redevelopment will provide a coherent and well-defined north facing street frontage to Industry Lane. The development design will provide a differential contrast where its contemporary scale, form and detailing will sit comfortably within the envelope of the site. The materials are drawn from its use on the existing building and nearby buildings. The proposals overall are distinctive, will contribute towards a sense of place and will enhance the character and appearance of Industry Lane.

Conclusion in relation to the conservation area

The proposals comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals do not conflict with the objectives of preserving and enhancing the character and appearance of the conservation area.

c) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Sustainable Places Policies 1, 2, 3, 4, 6, 7, 9, 12, 13.
- NPF4 Liveable Places Policies 14, 15, 16, 18, 22.
- NPF4 Productive Places Policy 25.
- LDP Design Policies DES 1, DES 2, DES 3, DES 4, DES 5, DES 7.
- LDP Environment Policies ENV 12, ENV 21, ENV 22.
- LDP Housing Policies HOU 1, HOU 2, HOU 3, HOU 4, HOU 6, HOU 7.
- LDP Employment Policy EMP 9.
- LDP Transport Policies TRA 2, TRA 3, TRA 4; and
- LDP Delivering the strategy Policy DEL 1.

The non-statutory Edinburgh Design Guidance and Affordable Housing Guidance is a material consideration that is relevant when considering the above policies.

Principle

NPF 4 Policy 16 f) (ii) states development proposals for new homes on land that is not allocated for housing in the LDP will only be supported in limited circumstances where the proposal is otherwise consistent with the plan spatial strategy and other relevant policies.

Policy HOU 1 (Housing Development) in the Edinburgh Local Development Plan (LDP) supports housing proposals on other sites within the urban area, provided proposals are compatible with other policies in the plan.

NPF Policy 15 requires new housing developments to demonstrate local living and 20-minutes neighbourhood.

The site is situated within an established settlement with nearby amenities. This includes Ferry Road West local centre and bus stops on Ferry Road (Lothian bus service No. 7, 14 and 21). Nearby education establishments includes Trinity Primary School and Trinity Academy. Public open space includes Victoria Park and Keddies Garden, which are both within five minutes walking/wheeling distance from the site. The location of the proposal would support localised spending in line with NPF 4 Policy 25 and the proposal is consistent with local living and 20-minutes neighbourhood principle and complies with NPF 4 Policy 15.

The planning history of the site show attempts to gain planning permission to redevelop the site for housing. The Planning Authority cannot control the number of applications submitted for any one site, and so the application was assessed as submitted and as amended, in accordance with the relevant policies and guidance.

The site is brownfield land in the urban area where redevelopment is supported by NPF 4 Policy 9.

Mix

Policy HOU 2 (Mixed Communities) of the LDP seeks the provision of a mix of house types where practical. The Edinburgh Design Guidance advises that in schemes with 12 units or more, 20% of the total number of homes should be designed for growing families. These types of homes should have three or more bedrooms, with access to private garden ground from ground or first floor level.

The introduction of flats is characteristic of the surrounding townscape. The proposed mix of units includes one-studio (5%), four one-bedrooms (24%), nine two-bedrooms (53%) and three three-bedrooms (18%). While the three-bedrooms units falls short of the 20% criteria by 2%, this is an acceptable minor infringement for this brownfield site as the proposal would still provide a mix of units.

Two out of three three-bedrooms units would be located on the ground and first floor. Only one three-bedroom unit will have access to private garden space on the ground floor while the rest of the three-bedroom units would benefit from communal garden space. While one three-bedroom unit would be located on the second floor, this is an acceptable minor infringement for the redevelopment of this brownfield site as future occupiers would still have reasonable levels of living amenity within the development as addressed in more detail below. In addition, the requirement to provide affordable housing is also addressed in more detail below.

The principle of housing on the site is supported as a policy compliant scheme can broadly be achieved.

The proposals comply with NPF 4 Policies 9, 15, 16 and 25 and Policies HOU 1 and HOU 2 of the LDP. The proposals broadly comply with Policy HOU 2 of the LDP.

Loss of employment site

NPF 4 has no policy safeguards towards existing employment sites.

Policy EMP 9 (Employment Sites and Premises) in the LDP sets out the permitted circumstances for proposals to redevelop employment sites or premises in the urban area for uses other than business, industry, or storage.

The 'Supplementary Planning Statement' submitted on behalf of the applicant advises that the established use of the premises is no longer operative and the ongoing use of the premises for car storage is sporadic and does not sustain employees based at the site. The application site is not a designated 'Business and Industry Area' in the LDP map. There are no other employment uses within Industry Lane. The proposals will not prejudice or inhibit the activities of any nearby employment uses. The introduction of housing would be more in-keeping with the surrounding residential uses in this area. As the site is less than one hectare, there is not a requirement to provide replacement commercial floorspace for a range of business users on this site.

The proposals comply with and Policy EMP 9 of the LDP.

Listed building setting.

NPF 4 Policy 7 (a) states that development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place.

NPF 4 Policy 7 (c) states that development proposals affecting the setting of a listed building should preserve its character and its special architectural or historic interest.

A heritage statement accompanied this application, and its cultural significance is summarised below.

The site was previously farmland, forming part of the Hillhouse Field Estate until the early 19th century. Between 1804 and 1817, a Mr. Bain built a classical two storey villa to the south of the site, known as Baynefield House at 122 Ferry Road (category B listed). Originally the villa had a small garden in front to Ferry Road (then Jamaica Street) and a spacious rear garden.

On the north side of Industry Lane stands Edinburgh and Leith's first colony development of workers' housing, Industry Homes (number 1 to 8), dating around 1850. These two storey houses are category C listed.

Ordnance Survey Town Plan, 1894 show that by this time there was further development of the site to the east of Baynefield House, but the Baynefield garden remained undeveloped. The four storey tenement buildings on Dudley Avenue South and the two and three storey buildings on North Fort Street appears on this map around this time.

Around 1898, the baker William Thomson built shops in front of Baynefield House and a large commercial bakery, along with stables, coach-house, and hay lofts, on the rear garden (the application site).

An ariel photograph of the site (1956) shows that the bakery premises had two industrial chimneys with walls of red brick and a flat roof. On Industry Lane, the stable, coach-house and hay loft block featured a pitched roof with slate where the eastern section of the building was previously attached to a two-storey building with 1 Industry Lane. The photograph shows buildings on the north side of Industry Lane and south side of Lapidice Place cleared of developments.

The bakery remained in use until it was converted to a car dealership in the later part of 20th century. At some point, the brick walls were covered in roughcast, possibly an attempt to improve the weatherproofing of the building. It is possible that the previous two-storey building that adjoined the eastern section of the application site was demolished around 1990s.

Across from the application site at 10 Industry Lane, the three-storey modern red bricked block of flats was constructed around the 1980's.

As discussed above, the setting of Baynefield house at 122 Ferry Road to the rear is already compromised through historic development infills. The proposed demolition and redevelopment of the site will not harm the setting of Baynefield House.

The tightness/narrowness of Industry Lane allows the setting of Industry Homes to be appreciated and understood from shorter views. The proposed demolition and redevelopment of the site will not affect how the setting of Industry Homes is appreciated and understood from shorter views.

Overall, the proposed demolition and redevelopment of the site will not undermine the way that the setting of nearby listed buildings (Baynefield House and Industry Homes) are understood, appreciated, and experienced.

The proposals comply with NPF 4 Policy 7 (a) and (c).

Conservation area impact

Demolition

NPF 4 Policy 7 (f) states that demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated that: i. reasonable efforts have been made to retain, repair and reuse the building; ii. the building is of little townscape value; iii. the structural condition of the building prevents its retention at a reasonable cost; or iv. the form or location of the building makes its reuse extremely difficult.

As highlighted above, the site lies within the Madeira sub area of Leith's conservation area where the architectural character is both unique and complex.

However, assessment of the proposals, it is concluded that the buildings are in an unsatisfactory structural condition and unfit for purpose.

It is therefore not necessary to retain the building to preserve any aspect of its character. Demolition of the building therefore is supported, subject to consideration of NPF 4 Policy 7 (g) which is addressed below.

Redevelopment

NPF 4 Policy 7 (g) states where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.

NPF 4 Policy 7 d) states development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the: i. architectural and historic character of the area; ii. existing density, built form and layout; and iii. context and siting, quality of design and suitable materials.

As there is no single architectural style/development height that dominates Industry Lane, the character of the development design can afford to be different. Within Industry Lane and beyond, tenements/flatted buildings, the settled townscape character is dense/tight because of buildings proximity to each other.

The proposed development will have a positive impact on its surroundings and wider townscape. The redevelopment will provide a coherent and well-defined north facing street frontage to Industry Lane. The development design will provide a differential contrast where its contemporary scale, form and detailing will sit comfortably within the envelope of the site. The materials are drawn from its use on the existing building and nearby buildings. The proposals overall are distinctive, will contribute towards a sense of place and will enhance the character and appearance of Industry Lane.

The proposal complies with NPF 4 Policy 7 (a), (f) and (g).

Development design

NPF4 Policy 14 supports development proposals designed to improve the quality of an area and are consistent with the six qualities of successful places (healthy, pleasant, connected, distinctive, sustainable, and adaptable).

The design policies of the LDP requires development proposals to create or contribute towards a vibrant, successful place (DES 1). The co-ordination of developments should lead to the creation of well-defined and cohesive networks of streets and spaces (DES 2). Proposals should be informed by detailed understanding of the site where features worthy of retention are incorporated and enhanced through its design (DES 3). The development design should demonstrate a positive impact on its surroundings, including the design quality and character of the wider townscape and landscape, and impact on existing views (DES 4). A comprehensive and integrated approach to the layout design of development that enhances community safety and urban vitality and provides direct and convenient connections on foot/wheel and by cycle (DES 7). The appropriate density of development should be characteristic the site and those of the surrounding townscape, and positively contributes to the character of the area (HOU 4).

The existing building is not deemed worthy of retention and is not required to be incorporated or enhanced through the proposals (DES 3).

The townscape character of the surrounding area varies between one and half storeys to four storeys, mainly tenements/flatted buildings. The proposed development site would have a density of 162 dwellings per hectare, which is relatively high but would be in-keeping with the urban grain.

The new building would be set back from the heel of the lane where the site would transition from a one and half storey building to a three-storey high development. As there is no single eaves or ridgeline height that dominates Industry Lane and beyond, the proposed height, form and roofscape pattern is suitable for this site. The development design adopts various degrees of massing with articulated detailing. This will allow the scale and positioning of the development to sit comfortably within the envelope of the site. The proposed development will not overwhelm or dominate nearby buildings.

The development layout comprises of a T-plan form with a south facing private/communal gardens where all ground floor units will have direct access. Circulation movements includes two gated side access to the rear of the building from Industry Lane. Subject to planning application 24/02004/FUL, there is potential for a footpath link to be created between the application site and to 120 Ferry Road. However, as this link is outside the control of this application, it will be necessary to condition further details of the layout/boundary treatment to the edge of this application site. This would allow defensible private space and the security of the proposed cycle parking within this application site to be addressed in more detail. Should the neighbouring development at 120 Ferry Road be developed, the application site/proposed development to the south will face onto the rearward elevation of the Class 1 store which will measure approximately 4 metres high.

In terms of community safety, bedrooms will front onto Industry Lane and living spaces (open plan kitchen, dining and living room) will be rearward facing to the communal gardens. The rear of the proposed building would be overlooked by existing tenements on North Fort Street and Ferry Road. While Industry Lane is narrow and may not experience high foot traffic, the lane is overlooked by nearby buildings, affording a degree of passive surveillance.

As the character of Industry Lane is loosely defined, the development design in terms of its materials and detailing can afford to be different, particularly as the proposal will not overly be visible from long public views.

While stone and slate are used on older buildings in this locality, the use of brick and rendering (harled/smooth) are also evident on buildings within Industry Lane and beyond. Red brick is evident on the rearward section of the existing building. The application site sits at the end of Industry Lane and the edge of Leith's conservation area boundary. The main elevation fronting onto Industry Lane and side elevations will have a restraint palette of red brown brick and buff brick finish. The rear elevation will mostly be visible from private views where the treatment finish includes an off-white render finish with sections of brown brick and buff brick, and this is acceptable. The use of zinc for the roof and cladding is not a material characteristic of buildings in this area. However, its use is appropriate for this contemporary designed development in this location as it will not result in adverse harm to the character of the wider townscape. A condition requiring details of the external materials to be provided is required. This is to consider this matter in more detail and to ensure that the proposed development design is finished to a high standard of design.

Compared to the existing situation, the proposal constitutes as a modern and coherent intervention that will enhance the diversity of building styles within Industry Lane and wider townscape. The proposed architectural style is distinctive and will contribute towards a sense of place.

The proposal complies with NPF 4 Policy 14 and Policies DES 1, DES 2, DES 3, DES 7 and HOU 4 of the LDP.

Residential amenity of Future Occupiers

NPF 4 Policy 14 (d) states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

NPF 4 Policy 23 seeks to promote, encourage and facilitate development that improves health and well-being.

Policy DES 5 (Development Design - Amenity) of the LDP requires the amenity of occupiers of neighbouring developments not to be adversely affected.

Floorspace

Out of the 17 units proposed, one two-bedroom unit falls below the minimum floorspace standard contained in the EDG by 1m². This infringement is so small that it does not merit a refusal of the development overall. The remaining units meet or comfortably exceed the minimum floorspace standard and this is acceptable.

Daylight

The Average Daylight Factor (ADF) was used to assess rooms fronting onto Industry Lane in four sections. It should be noted that only bedrooms front onto Industry Lane, while open plan living/kitchen rooms are rearward facing. The results concluded that the minimum ADF for the bedrooms (1%) are met.

Out of the 17 units proposed, two units will have a single aspect. These relates to one-bedroom units with a south facing aspect and this is acceptable.

Future occupiers will have reasonable levels of daylight within the proposed development.

Privacy

The EDG advises that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances.

Privacy for the ground floor bedrooms fronting onto Industry Lane will be compromised as pedestrians can walk close to the windows. However, this arrangement is characteristic of neighbouring windows facing onto Industry Lane and this is acceptable.

Living spaces (open plan kitchen, dining and living room) will be rearward facing to the south and future occupiers will have reasonable levels of privacy with the development.

Noise

A Noise Impact Assessment (NIA) was submitted, and Environmental Protection was consulted on the proposals. The NIA concludes that noise emanating from external plants are expected to comply with the NR 25 criteria for residential properties. An informative is recommended to ensure that the design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.

The NIA is reliant on the neighbouring site at 120 Ferry Road being implemented which overlaps this application site. Following a recent court judgement (Hillside Parks Ltd V Snowdonia National Park Authority), it will be necessary to make it clear that planning permission will only be valid if both sites commence at the same time. An informative is therefore recommended.

Open space and sunlight

Policy HOU 3 in the LDP sets out the standard for usable communal open space and private gardens in housing development.

The proposal is for 17 flats. Two of the ground floor units will private gardens (15 m² and 32m²).

The requirement for communal provision is 10m² per flat (excluding units provided with private gardens). A communal provision of 150 m² is therefore required. The proposal includes 128 m² of south facing amenity space to the rear and the area around the proposed drying area is approximately 22 m². The proposal meets the requirement for communal provision, and this is acceptable.

In terms of useable open space and/or private gardens, 20% of the total site area equates to 209.6 m². The proposal exceeds this minimum requirement. The hour-by-hour shadow plans show that the private and communal spaces will receive more than two hours of sunlight.

It should be noted that implementation of the neighbouring site is dependent on this application share of the communal space where there would be a deficit/shortfall of 20 m² for the two upper residential units at 120 Ferry Road. While this is not an infringement of this application, it does not significantly outweigh the redevelopment of both sites as future occupiers would still have reasonable levels of living amenity within the development and benefit from the amenities nearby.

The proposals comply with NPF 4 Policies 14 and 23 and Policies DES 5 and HOU 3 of the LDP.

Neighbouring amenity

NPF 4 policy 14 (C) seeks to safeguard the amenity of neighbouring developments.

Policy DES 5 (Development Design - Amenity) of the LDP requires the amenity of future occupiers are not adversely affected by ensuring acceptable levels of amenity.

Privacy

EDG advises that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances.

The proposed development will have the following approximate window to window distance with neighbouring developments:

- 10 metres to 10 Industry Lane to the north.
- 41 metres to the rear of North Fort Street to the east.
- 17 metres to the rear of Dudley Avenue South to the west; and
- 20 metres to 30 metres to the rear of Ferry Road to the south.

Neighbouring residents at 10 Industry Lane would experience a change to their internal privacy levels. A total of 9 windows over three floors would be affected by the proximity of the proposed development. Given the high density of development in this area and the close arrangement of buildings within Industry Lane, the proposed privacy distance would be in-keeping with the townscape character of the area.

The proposal will result in overlooking into the private gardens of Industry Homes. However, compared to the existing situation with overlooking from the flats at 10 Industry Lane and 10 Lapidice Place, the degree of overlooking will not be so adverse. The proposal will result in a degree overlooking into the gardens of neighbouring tenements, but the degree of overlooking will not be so adverse.

Daylight

The site will transition from one and half storey building to a three-storey high residential development with a degree of change expected.

The EDG sets out how impact on daylight is assessed in terms of understanding the difference between the levels of daylight before and after the proposed development is in place. The EDG states that daylight to gables and side windows is generally not protected.

The Vertical Sky Component (VSC) study for 8 Dudley Avenue South shows the existing and proposed conditions. With a total of 61 unobstructed VSC's in the existing condition, the VSC reference point is 30.25% where 0.8 times its former value equates to 24.4%. The proposed development would result in 51 unobstructed VSC's and the proposed VSC reference point is 25.5%. As the proposed development would result in more than 0.8 times its former value, it will not result in adverse loss of daylight to the ground floor windows at 8 Dudley Avenue South and this is acceptable.

The Vertical Sky Component (VSC) study for 10 Industry Lane also shows the existing and proposed conditions. With a total of 51.5 unobstructed VSC's in the existing condition, the VSC reference point is 25.75% where 0.8 times its former value equates to 20.6%. The proposed development would result in 44 unobstructed VSC's and the proposed VSC reference point is 22.0%. As the proposed development would result in more than 0.8 times its former value, it will not result in adverse loss of daylight to the ground floor windows at 10 Industry Lane.

Sunlight

A sun path analysis was provided to show pre and post residential development during the Spring Equinox (21st March). The hour-by-hour shadow plans show little change. Neighbouring gardens will not experience adverse loss of sunlight.

Noise

The proposed residential use is compatible with the surrounding area and will not raise new noise issues.

The proposals comply with NPF 4 Policy 14 and Policy DES 5 of the LDP.

Parking

Car

NPF 4 Policy 13 (e) welcomes development proposals that are ambitious in terms of low/no car parking, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people.

Policy TRA 2 (Private Car Parking) of the LDP supports developments where car parking provision complies with and does not exceed the parking levels set out in Council guidance. Lower provision will be pursued subject to the local circumstances of the site.

The proposal is for a car parking free scheme and the site lies with a controlled parking zone. The site is located in a high public transport accessibility zone with Lothian bus services (No. 7, 14 and 21) operating on Ferry Road. A car free scheme in this location is therefore supported.

The EDG does not provide accessible car parking standards for schemes that are car parking free, and this has the potential to create a barrier to access by disabled people. An informative is recommended to encourage the applicant to include information on obtaining Blue Badge permits in welcoming packs for future occupants. It should be noted that achieving a disabled parking bay within the lane and close to the proposed development may be limited due to the narrowness of Industry Lane.

Cycle

NPF 4 Policy 13 (b)(v) supports development that supply safe, secure, and convenient cycle parking to meet the needs of users and is more conveniently located than car parking.

Policy TRA 3 (Private Cycle Parking) of the LDP supports development where cycle parking and storage provision complies with the standards set out in Council guidance (Edinburgh Design Guidance and C7 Cycle Factsheet).

The standards in the EDG requires 29 cycle spaces to be provided for the 17 units. The standards does not include cycle spaces for visitors. The Council's C7 Cycle Factsheet 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 proposed Sheffield stands (55%), non-standard Sheffield stands (20%), and wall mounted cycle stands (25%) in numbers and types comply with the cycle standards contained in the EDG and the Council's C7 Cycle Factsheet. Bike stores B and C are internal stores (4 spaces). Bike store A (16 spaces) and Bike store D (3 spaces) will be externally accessed. The layout provides multiple access to store A and store D, and this includes through the building and two gated entrances on opposite sides of the proposed building. As the site is linked to a separate site to the south, there is an option for the cycle stores to be accessed from Ferry Road. As this option is outside the control of this application, it will be necessary to condition further details of the boundary treatment. Not only this would ensure that a private defensible space is delivered but it would also ensure that residents' cycle parking is securely provided within the site.

A condition is required to ensure that cycle parking is delivered prior to the first occupation of the flats. This is to ensure that the aims of the LDP are delivered and to ensure compliance with Policy TRA 3 (Cycle Parking) of the LDP.

The proposal complies with NPF 4 Policy 13 and Policies TRA 2, TRA 3 and TRA 4 of the LDP.

Other Matters

Traffic and road safety impacts

Transport Planning were consulted on the proposals and raised no issues in terms of traffic impact or road safety. Given the scale of the proposed development, a transport impact assessment is not required.

Trees

Policy ENV 12 of the LDP does not permit development if likely to have a damaging impact on a tree protected by a Tree Preservation Order or on any other tree or woodland worthy of retention unless necessary for good arboriculture reasons. The EDG advises that a tree survey for all trees with a stem diameter of 75mm or more, 1.5 metres above ground on the site or within 12 metres of its boundary.

There are trees within 12metres of the application site to the west, within the rear gardens of the tenement flats at Dudley Avenue South. A tree survey was provided where a total of one individual tree and one hedge was recorded. These comprise a single horse chestnut tree (category b) and a cypress hedge (category c). These trees stand within the private gardens of 6 and 10 Dudley Avenue South. No trees will be required to be removed to facilitate the proposed development. It is recommended that prior to demolition and construction works, an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) is provided. This is to accord with Policy ENV 12 of the LDP.

Flood impact

SEPA flood map do not show the site to be at risk of flooding (coastal, rivers or surface water).

The 'Drainage Strategy & Surface Water Management Plan' concludes that the surface water volume generated from the proposed development will be less than the existing arrangement due to the inclusion of green roof for the bike stores and landscaped areas. SuDS measures for this development will be provided through filter drains plus the inclusion of green roofs for the bike stores. Attenuation will be provided via cellular storage and a flow control device to limit discharge to a maximum of 1.0 l/s for the 1 in 200-year event plus a 40% allowance for climate change. Surface water runoff will discharge to the Scottish Water combined sewer network as per the existing arrangement. A letter from Scottish Water indicates there is capacity to serve the proposed development.

Flood Planning were consulted on the application and have advised no objections to the proposals.

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

Protection of biodiversity

NPF 4 Policy 4 (f) states that development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence.

Representation received states that birds use the buildings for nesting and bats flying have been sighted.

A Preliminary Ecological Appraisal (PEA) dated 23rd May 2022 was provided. It concluded that bats are not a constrain to development. As the PEA report is more than two years old, an updated Ecology Statement was provided to review any change to the site. An assessment of the building was undertaken in July 2024 and concluded that the site is assessed as providing low suitability to support protected species and no evidence of protected species were detected during the survey. Should protected species be encountered during the demolition, an informative is recommended to make the applicant aware of their legal obligations to obtain the relevant permit/licence.

The proposal complies with NPF 4 Policy 4.

Designing for biodiversity

NPF 4 Policy 3 seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

Section 5.2 of the Preliminary Ecological Appraisal outlines biodiversity enhancements measures. This includes bird and bat boxes placed within the site or built into the structure of the proposal.

A landscape plan was provided. It should be noted that the 'Design and Access' statement was updated to remove references to the proposed planting of invasive species. References to bee bricks was also removed. In addition, the 'Design and Access' statement is not a numbered drawing that forms part of a planning permission. For this reason, a condition is recommended to ensure that the landscape scheme includes an amount of diverse low-level planting and shrubs to allow for increased flora and fauna and biodiversity on the site. This is to address NPF 4 Policy 3 in more detail and to ensure that biodiversity enhancement benefits are delivered and to ensure that the site is landscaped to a high standard of design.

Subject to a condition, the proposals comply with NPF 4 Policy 3.

Archaeology

NPF 4 Policy 7 (o) seeks to protect and preserve non-designated historic environment assets, places, and their setting in situ wherever feasible.

The site lies on the edge of historic medieval port and town of Leith. Recent excavations within Leith on sites of the town's fortifications, have led to a re-examination of the Petworth Map a contemporary depiction of the 1559-60 Siege. This work, published in the 2015 volume of Post-medieval Archaeology, has produced a more accurate geo-referenced plan of the siege works which indicates that this application site lies in the middle of a range of fortifications on the Northern side of the Water of Leith.

Based on the historical and archaeological evidence the site has been identified as occurring within an area of archaeological potential.

The proposals will see significant groundbreaking works associated with demolition and construction which could reveal potentially nationally significant archaeological evidence associated with the 16th century Siege of Leith. In terms of impacts, it has been concluded that although potentially significant, the modern development of the site has likely had a significant impact. However, given the potential presence for significant remains, a condition is recommended to ensure a programme of archaeological excavation is undertaken during demolition and prior to development in order to fully excavate and record any significant remains which may be impacted upon. This is to address the requirements of NPF 4 Policy 7(o).

Waste services

The waste strategy has yet to be agreed with Waste Services. The bin stores are internally located on the ground floor with less than the minimum 10 metres pull distance from Industry Lane. Refuse vehicle tracking was provided to demonstrate manoeuvre within Industry Lane but will not form part of the approved drawings. Waste Services have advised that any swept path that involve leaving the road in multiple places would not be accepted. An informative is required to ensure that the applicant liaise with Waste Services to address their waste and recycling requirements. The absence of an agreed waste strategy does not preclude assessment of the proposal.

Contaminated land and air quality

The site is not within an Air Quality Management Area (AQMA). Industry Lane is a low traffic area, and the proposal is for a car free scheme. The proposals do not raise significant air quality issues.

A condition is required to ensure that a programme of intrusive ground investigation works is carried out and where necessary, a detailed schedule of any required remedial and/or protective measures is submitted to and approved by the Planning Authority. This is to ensure that the land is made safe for the proposed end uses and to address NPF 4 Policy 9 and Policy ENV 22 of the LDP.

Developer contributions

Affordable housing

NPF4 Policy 16 (e) states that 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.

Policy HOU 5 of the LDP requires housing proposals consisting of 12 or more units should normally provide affordable housing amounting to 25% of the total number of units proposed. The provision should normally be on site and the tenure should be consistent with local housing need. The proposal is for 17 units and the affordable housing policies apply.

The applicant contacted several Registered Social Landlords (RSLs) on affordable housing delivery, but the small number of affordable homes limits the interest from RSLs and their ability to take on the site. The current uncertainty around affordable housing grant funding, and the increases in construction costs and inflation, mean RSLs are less likely to make new commitments, especially for developments with smaller number of affordable homes, such as this one.

The costs of the development have been independently verified at an average of around £230,000 per home. The market values of the properties are estimated to be within the range that would enable forms of Low-Cost Home Ownership (LCHO), such as Golden Share, where homes are sold at 80% of market value. However, market values can vary between the time of consent and the units being brought to market. If the homes market values meant they would exceed the Golden Share Maximum Price of £214,796 then a commuted is recommended.

The Council's published Affordable Housing Guidance sets out that payment of a commuted sum in lieu of on-site affordable housing provision will only be acceptable where the total number of dwellings is below 20 or where there are exceptional circumstances. This development is less than 20 units. Onsite RSL delivery is not practical.

In line with both local and national Affordable Housing Policy guidance, the District Valuer was asked to calculate an affordable housing commuted sum. The costs have been checked and verified independently. The District Valuer has followed nationally accepted principles to determine land value and the value of the commuted sum.

The District Valuer recommends that a commuted sum of £12,647.00 per unit based on a requirement for 4.25 affordable homes (25% affordable housing contribution), which equates to a total sum of £53,750.00.

In summary, due to the RSLs not being able to deliver the relatively small number of affordable homes, and that the onsite delivery of Golden Share homes would make the development unviable, Housing Management and Development recommends that the affordable housing contribution be a commuted sum of £53,750.00 in lieu of on-site affordable housing. This would be secured by a legal agreement.

The applicant has confirmed acceptance of the 25% affordable housing provision, and this would be secured via a legal agreement.

Healthcare

The site lies within 'Leith Waterfront' healthcare zone. The LDP Action Programme (updated April 2023) identifies a requirement for a new practice to mitigate residential development in Leith Waterfront. The cost estimated for delivering this action is £6-7million.

Supplementary Guidance 'Developer Contributions and Infrastructure Delivery' (August 2018) sets out the contribution rates based on £4.5 million to deliver a new practice for 10,000 patients. The breakdown of delivering this action is £4.5m/10,000 = £450 per patient = £945 per dwelling.

While the costs of delivering this action have increased, there is no justification at this stage to change the per patient assumptions from LDP development from what is in the 2018 supplementary guidance. The application therefore is required to contribute £16,065 (£945 x 17) towards Leith Waterfront healthcare zone.

Education

Impact on education infrastructure was assessed based on twelve flats (five one bed/studio flats have been excluded from the assessment).

The proposed development is expected to generate a primary school pupil requirement and is required to contribute to the following:

- New 14 Class Primary School
- 4 PS Classes (Broughton Primary School)
- 4 PS Classes (Leith Primary School)
- 16% of 2 PS Classes (Holy Cross RC Primary School)

The proposed development is not expected to generate a secondary school pupil requirement.

To mitigate the cumulative impact of development that would be anticipated if this proposal and other urban area sites progressed, the proposed development is therefore required to make a contribution towards the delivery of the following actions based on the established 'per house' and 'per flat' rates set out below.

Per unit infrastructure contribution requirement towards primary school infrastructure:
£5,372 per flat

Based on twelve flats, the application is required to contribute £64,464 towards Primary Infrastructure. A legal agreement will be required to secure this provision.

Overall, contributions are required towards healthcare, affordable housing, and education. A legal agreement will be required to secure this provision in line with NPF4 Policy 18 and DEL 1 of the LDP.

Climate mitigation and adaptation

NPF4 policy 1 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 seeks to facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

A sustainable statement was provided in the 'Design and Access' statement.

The proposal is for the sustainable redevelopment of brownfield land, reducing the need for greenfield housing and supporting compact urban growth and local living which will be aided by the provision of cycle stores (NPF 4 Policies 1, 9, 13 and 15). Flood risks and water management have accounted for the 1 in 200-year event plus a 40% allowance for climate change (NPF 4 Policies 1 and 22). The proposal is for a car parking free scheme which will help to create more sustainable, attractive place to live and helps to address congestion, air pollution and noise (NPF 4 Policies 1, 13 and 14). Energy demand will be met through PV panels which is a low carbon technology. A number of passive, mechanical and electrical specifications will help to reduce the development's carbon footprint, such as building fabric - BRE Green guide A & A+, super insulated, LED lighting throughout, aerated shower heads and dual flush WC's to reduce and incorporation of sedum green roof to cycle stores to slow down surface water run off (NPF 4 Policy 1 and 2). Provision is made for facilities for the separate collection of dry recyclable waste and food waste (NPF 4 Policies 1 and 12). In terms of addressing the nature crisis, a condition is recommended to secure a biodiversity enhancement plan (NPF 4 Policies 1 and 3).

Overall, the proposal is linked to the spatial principles of 'conserving and recycling assets', 'local living' and 'compact urban growth'. The proposal complies with NPF 4 Policies 1 and 2.

Conclusion in relation to the Development Plan

The proposals comply with National Planning Framework 4 policies in relation to sustainable and liveable places. The proposals broadly comply with the policies in the Edinburgh Local Development Plan. The minor infringement relates to the mix of units which do not justify refusing the scheme in its entirety. The principle of housing development is acceptable as it will be supported by local living and 20-minutes neighbourhood. The proposed development design is for a modern intervention where it will not result in adverse harm to the setting of nearby listed buildings or to the character of the conservation area. Future occupiers will have reasonable levels of amenity within the development and neighbouring developments will not be adversely affected. Conditions are required in relation to materials, landscaping, biodiversity, and cycle parking. A legal agreement is required to secure developer contributions towards education, healthcare, and affordable housing.

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

The following material planning considerations have been identified:

Emerging policy context

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.

On 10 September 2024 Scottish Ministers issued a Direction under section 20(5) of the Town and Country Planning Scotland Act 1997 that City of Edinburgh Council consider modifying the proposed City of Edinburgh Local Development Plan 2, City Plan 2030 as detailed within the annex to the direction. The required modifications are being reviewed and will be considered at a further meeting of the Planning Committee and then further Full Council.

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

Representations received raised concerns that the Sustainability Statement only applies to abled bodied people, therefore discriminates against those who may have a disability and are unable to walk 20 minutes or cycle. NPF 4 Policy 15 sets out the aspiration for new developments to contribute to local living, including 20 minutes neighbourhood. The site lies within an established settlement pattern with good levels of interconnectivity to nearby amenities.

Due regard has been given to section 149 of the Equalities Act 2010.

Representations received comment that the proposal has potential Human Right implications for neighbours in terms of interference with privacy, home or family life and peaceful enjoyment of their possessions. Impacts on neighbouring amenity is addressed in the above section of the report.

Consideration has been given to human rights. No impacts have been identified through the assessment.

Public representations

Neighbours were first notified of the application on 29 April 2022 and the application was advertised on 13 May 2022. The original scheme attracted a total of 46 comments; 40 objected, 5 supported the proposals and one raised neutral comment. Neighbours were re-notified on 24 October 2023 and the application was re-advertised on 3 November 2023. The revised scheme attracted a total of 52 comments; 36 objections and 16 support. The material comments raised are addressed in the assessment section of the report.

A summary of the representations is provided below:

material considerations - original scheme - objection

- Planning history - Addressed in Section B.
- Contrary to Edinburgh Design Guidance - Addressed in Section B.
- Demolition of an historically significant building- Addressed in Section B.
- Impact on setting of listed buildings - Addressed in Section B.
- Impact on conservation area - Addressed in Section B.
- Site would be better used for industrial or workshop use- Addressed in Section B.
- Development design, height, materials, and density - Addressed in Section B.
- Development layout/accessibility - Addressed in Section B.
- Mix of units - Addressed in Section B.
- Residential amenity - Addressed in Section B.
- Impact of car free scheme - Addressed in Section B.
- Traffic and road safety impacts - Addressed in Section B.
- Protected species - Addressed in Section B.
- Insufficient car, cycle, and bin storage - Addressed in Section B.
- Infrastructure pressure (schools, nurseries, and healthcare) - Addressed in Section B.
- Affordable housing provision - Addressed in Section B.
- Sustainability Statement discriminates against those who may have a disability and are unable to walk 20 minutes or cycle - Addressed in Section B.
- Environmental impact (pollution, destruction of wildlife, trees, and habitat) - Addressed in Section B.
- Drains for the houses in the lane are old and narrow. Increasing the usage by adding more housing will cause problems with water, waste, and drainage services - Addressed in Section B.

material considerations - original scheme - support

- Current building is an eyesore and has no architectural merit - Addressed in Section B.
- Will provide housing and the site is well placed for amenities - Addressed in Section B.
- Will suit a variety of buyers - Addressed in Section B.

material considerations - original scheme - neutral

- Incorporate swift nest bricks - Addressed in Section B.

non-material considerations- original scheme - objection

- Number of consulted are different from previous number consulted - the red boundary line on the location plan is different from previous planning applications.
- Drawings not available for viewing during period for comment.
- Public comments not visible to view on the portal - comments are made available to view prior to Development Management Sub Committee consideration or once an application has been determined.
- No community consultation/engagement - Not a statutory requirement for this local planning application.
- Post coronavirus, documents are not available to view on mobile devices, meaning that users without a computer/laptop are unable to view the documentation. No plans have been put on public display - The emergency Coronavirus ended on 31 March 2022 and the application was validated on 27 April 2022. The scheme was amended, and the application was re-advertised on 03 November 2023 and neighbours were re-notified on 24 October 2023. Under regulation 23 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, the weekly list of applications (not plans) was sent to community councils and libraries. Planning application documents can be viewed on computers in public libraries.
- Repeated submissions/community fatigue - there are no controls in place to limit the number of planning applications submitted for a site.
- Local Councillors have been focused on recent council elections and more time is needed to engage with them - The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 sets out the statutory period for public consultation.
- Demolition of listed building - the proposals do not involve the demolition of a listed building.
- Demolition/construction impact, particularly when more residents now work from home (noise, traffic, and dust) - does not preclude assessment of the proposal.
- Developer's profit - not material to the assessment.
- Design and Access statement incorrectly refers to South Fort Street when it should be North Fort Street- The submitted location plan and proposed site plan makes it clear where the site is located. This does not preclude assessment of the proposals.
- Development is not needed - does not preclude assessment.
- Will result loss of view - while loss of view is unfortunate, planning does not protect the private interests towards a particular view.

- Reasons for purchasing property - planning does not protect the private interests of individuals.
- Will devalue property - planning does not control market fluctuations.
- Overshadowing study was not independently commissioned - there is no requirement for supporting documents to be independently commissioned.

material considerations - revised scheme

- Contrary to NPF 4 Policies 1, 3, 7 and 14 - Addressed in Section B.
- Contrary to LDP policy DES 1 (Design Quality and Context), DES 4 (Development Design - Impact on Setting), DES 5 (Development Design - Amenity), ENV 6 (Conservation Areas - Development) and HOU 4 (Housing density) - Addressed in Section B.
- Planning history - Addressed in Section B.
- Demolition of an historically significant building- Addressed in Section B.
- Impact on setting of listed buildings - Addressed in Section B.
- Impact on conservation area - Addressed in Section B.
- Loss of employment site/ inappropriate location for flats - Addressed in Section B.
- Development design, height, materials, and density - Addressed in Section B.
- Housing mix, larger family housing would be more appropriate- Addressed in Section B.
- Residential amenity (daylight, sunlight privacy, noise, open space, and air quality) - Addressed in Section B.
- Neighbouring amenity (daylight, sunlight privacy, noise, and air quality) - Addressed in Section B.
- Traffic and road safety impacts - Addressed in Section B.
- No car parking provision and this discriminates against elderly and disabled people with mobility problems- Addressed in Section B.
- Cycle parking provision (quantity and quality) - Addressed in Section B.
- Infrastructure impact (healthcare and education) - Addressed in Section B.
- Impact on trees - Addressed in Section B.
- Biodiversity impacts- Addressed in Section B.
- Archaeological impacts - Addressed in Section B.

material considerations - revised scheme - support

- Will improve the area - Addressed in Section B.
- Building is an eyesore with no architectural merit or relevance - Addressed in Section B.
- Nearby public transport links can support a car free scheme - Addressed in Section B.
- Housing/starter homes needed - Addressed in Section B.

non-material considerations- revised scheme

- Demolition/construction impact, particularly when more residents now work from home (noise, traffic, safety, and dust) - not material to the assessment.
- No need for housing - does not preclude assessment of the proposal.
- Construction damage/Structural/foundation issues - not a planning matter.

- Cost of living and heating expenses if daylight is reduced - daylighting impacts is addressed in Section B. Planning does not control the pricing of energy providers.
- Requirement for permission for the waste disposal lorry to reverse onto private property - not material to the assessment.
- Streets incorrectly labelled in the 'Design and Access' statement - the submitted location plan and proposed site plan makes it clear where the site is located. This does not preclude assessment of the proposals.
- Repeated submissions/community fatigue - there are no controls in place to limit the number of planning applications submitted for a site.
- No public consultation - under The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, the proposal is a local development. There is no statutory requirement for the applicants/developer to undertake public consultations. The requirement to undertake statutory neighbour notification is not based on sightlines to the development. In accordance with regulation 18 (2)(a) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, neighbours within 20 metres of the application site were notified. The application was advertised in accordance with the Regulations.
- Do not want a retail establishment that is not in keeping with the small independent businesses - not material to this planning application.
- Developer's profit - not material to the assessment.
- Validation requirements not met.

A detailed representation from 'Planning Objection Scotland' was submitted on the behalf of a resident at Dudley Avenue South. A number of assertions that the application contained errors, omissions and lacking information was made. This related to the submitted location plan, site plan(s)/block plan(s), elevations, sections and level plans and requirement for protected species Survey(s). This assertion was based on a review of the application against Heads of Planning Scotland (HOPS) 'Validation Guidance Note' and Annex D of Planning Circular 3/2013: Development management procedures. References was made to Scottish Public Services Ombudsman (SPSO) decisions on the requirement for accurate dimensions on plans. It states that comprehensive assessment of the application cannot be undertaken, and that Planning Authority should either refuse or seek the withdrawal of the application. Regulation 9, part 3 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended) sets out the form and content of an application for planning permission. This sets out the minimum amount of information to validate an application.

Annex D 'Plans and Drawings' in Planning Circular 3/2013: Development management procedures states that the requirements are not statutory but what planning authorities can reasonably expect by way of a minimum of information on plans. Planning authorities may also publish their own guidance in this regard.

HOPS 'Validation Guidance Note' (page 8) states that there is a minimum amount of information required before an application is validated.

- The location plan clearly identifies the application site in red and the situation of the land in relation to the locality and its relationship to neighbouring land. The surrounding land owned or controlled by the applicant is outlined in blue. There is not a requirement for the red/blue outline to be replicated in other plans provided.
- A scale bar was provided on the plans submitted and the 'do not scale' disclaimer - this was removed from the drawings.
- No existing building or site sections provided, and existing elevation plans do not detail existing finishes. There are no written dimensions noting height to eaves and roof ridge and the overall length and breadth of the building - scale bar provided, and written dimensions are not a statutory requirement to validate plans. Photographs of the site are available to view in the Design Statement.
- No proposed site level plans - levels shown on elevation drawings.
- Protected species survey(s)- Addressed in Section B.

The application has met the minimum validation requirements and from the information provided, it is clear what the proposal involves.

Conclusion in relation to identified material considerations.

The material considerations have been identified and addressed. There are no unresolved material considerations to address.

Overall conclusion

The proposals will not impact on the special architectural or historic interest of the listed building and its setting. The proposal is acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposals comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals do not conflict with the objectives of preserving and enhancing the character and appearance of the conservation area.

The proposals comply with National Planning Framework 4 policies in relation to sustainable and liveable places. The proposals broadly comply with the policies in the Edinburgh Development Plan. The minor infringement relates to the mix of units which do not justify refusing the scheme in its entirety. The principle of housing development is acceptable as it will be supported by local living and 20-minutes neighbourhood. The proposed development design is for a modern intervention where it will not result in adverse harm to the setting of nearby listed buildings or to the character of the conservation area. Future occupiers will have reasonable levels of amenity within the development and neighbouring developments will not be adversely affected. Conditions are required in relation to materials, landscaping, biodiversity, and cycle parking. A legal agreement is required to secure developer contributions towards education, healthcare, and affordable housing. There are no material considerations that would outweigh this conclusion. It is recommended that this application be granted.

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. No development shall take place until the applicant has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Planning Authority, having first been agreed by the City Archaeologist.
3. Notwithstanding the approved drawings, 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 will be required.
4. i) Prior to the commencement of demolition or 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.
5. Notwithstanding the approved drawings, cycle parking as shown on Drawing 28B shall be implemented prior to the first occupation of the flats.
6. Notwithstanding the approved drawings, a fully detailed landscape plan, including details of all hard and soft surface and boundary treatments and all planting, shall be submitted to, and approved in writing by the Planning Authority before work is commenced on site. The landscape scheme shall include an amount of diverse low-level planting and shrubs to allow for increased flora and fauna and biodiversity on the site.
7. Notwithstanding the approved drawings, landscaping scheme shall be fully implemented within six months of the completion of the development.

8. Notwithstanding the approved drawings, no works or development shall take place until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) specific to this scheme, has been submitted to and approved in writing by the Planning Authority. The TPP and AMS shall be written in accordance with, and address sections 5.5, 6.1, 6.2, 6.3 and 7 of, British Standard 5837:2012. or any other details therein which are specific to the scheme. Once approved, all protection measures (inclusive of demolition and preparatory work) shall be erected prior to any equipment, machinery or materials are brought on to the site and thereafter maintained until all construction work, equipment, machinery, and surplus materials have been permanently removed. Nothing shall be stored or placed in any area which is shown as excluded, nor will ground levels within those areas be altered, nor any excavation made, nor will the area be used for access, of any kind.

Once approved, the development shall be undertaken in accordance with the approved plans and particulars until the full completion of the development. Any proposed deviation must be 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 safeguard the interests of archaeological heritage.
3. In order to enable the planning authority to consider this/these matter/s in detail.
4. In order to ensure that the site is suitable for redevelopment.
5. To ensure that cycle parking is delivered in accordance with Policy TRA 3 of the Edinburgh Local Development Plan.
6. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
7. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
8. To safeguard trees from the impact of development works.

Informatives

It should be noted that:

1. It should be noted that:

Consent shall not be issued until a suitable legal agreement, including those requiring a financial contribution payable to the City of Edinburgh Council, has been concluded in relation all of those matters identified in the proposed Heads of Terms.

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.

This matter relates to:

Education - Primary School Infrastructure - rate of £5,372 per flat. Based on twelve flats, the application is required to contribute £64,464 towards Primary Infrastructure.

Affordable housing -

- Commuted sum

Commuted sum of £12,647.00 per unit based on a requirement for 4.25 affordable homes (LDP 25% affordable housing contribution), which equates to a total sum of £53,750.00.

Healthcare - £16,065 (£945 x 17) towards Leith Waterfront contribution zone.

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 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.
5. The applicant should consider developing a Travel Plan including provision of public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport. This should include information for Blue Badge users.
6. The applicant is required to liaise with Waste and Cleaning Services to discuss their waste strategy.
7. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.
8. The applicant should be aware that planning permission is only valid if the sites at 4 Industry Lane and a neighbouring site at 120 Ferry Road commences at the same time.

9. If any protected species is discovered during construction, works should cease immediately, and a suitably qualified ecologist contacted for advice.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 27 April 2022

Drawing Numbers/Scheme

01B-04B, 05C-11C, 12B, 13C, 14B-15B, 16C, 17B-21B, 22C, 23B, 24C, 25-27, 28C, 29 and 31B.

Scheme 4

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer
E-mail: laura.marshall@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Children and Families

COMMENT: No objection, subject to contributions towards education infrastructure.

DATE: 23 May 2023

NAME: Archaeology

COMMENT: No objection. Programme of archaeological works required.

DATE: 4 May 2022

NAME: Environmental Protection

COMMENT: Submitted Noise Impact Assessment is reliant on another planning permission (20/01949/FUL) being implemented. Condition recommended.

DATE: 21 June 2022

NAME: Transport Planning

COMMENT: No objections. Informative recommended.

DATE: 5 August 2022

NAME: Flood Prevention

COMMENT: No objections.

DATE: 16 December 2022

NAME: Affordable Housing

COMMENT: Affordable housing contributions required.

DATE: 5 May 2024

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

Location Plan



