

# Development Management Sub Committee

**Wednesday 30 January 2013**

**Application for Planning Obligation 12/04335/OBL  
At Fountain Brewery, Gilmore Park, Edinburgh  
Application for the modification or discharge of Planning  
Obligations.**

**Item number**

**Report number**

**Wards**

A09 - Fountainbridge/Craiglockhart

## Links

[Policies and guidance for this application](#)

LPC, CITD4, CITD5, CITOS3, CITCA1, NSG, NSQULA, NSGD01, OTH, DBFOUN,

**David R. Leslie**

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# Executive summary

## **Application for Planning Obligation 12/04335/OBL At Fountain Brewery, Gilmore Park, Edinburgh Application for the modification or discharge of Planning Obligations.**

### **Summary**

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The application seeks to modify an existing legal agreement to reflect a change of ownership of part of the site. This change has resulted in a different delivery schedule being required for an area of public open space.

### **Recommendations**

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It is recommended that this application be Granted subject to the details below (in section 3 of the main report).

### **Financial impact**

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This application relates to a legal agreement covering a site for which the Council is part owner. The change does not place any additional financial burden on development costs.

### **Equalities impact**

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This application has no impact in terms of equalities or human rights.

### **Sustainability impact**

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This application meets the requirements of the Edinburgh Standards for Sustainable Building

### **Consultation and engagement**

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#### **Pre-Application Process**

There is no pre-application process history.

#### **Publicity summary of representations and Community Council comments**

No representations have been received.

## Background reading / external references

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- To view details of the application go to
- [Planning and Building Standards online services](#)

## **Application for Planning Obligation 12/04335/OBL At Fountain Brewery, Gilmore Park, Edinburgh Application for the modification or discharge of Planning Obligations.**

### **1. Background**

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#### **1.1 Site description**

The application site relates to the former Scottish and Newcastle Brewery site within the Fountainbridge area of the city. The site covers approximately 5.26 hectares and is bounded by the Union Canal (a scheduled ancient monument) to the south; Fountainbridge and Dundee Street to the north; Gibson Terrace, a residential tenemental street to the west; and a vacant site (which benefits from planning permission for a residential and mixed use development) known as Freer Street immediately lying to the east. Edinburgh Quay lies beyond this. The site lies immediately south and west of the city's business district - the Exchange, Haymarket and Tollcross.

#### **1.2 Site History**

November 2004 - Fountainbridge Development Brief approved which includes this site.

December 2005 - an amendment to the Fountainbridge Development Brief was approved.

June 2010 - Proposal of Application Notice approved for a mixed use development including offices, residential, retail, hotel, care home and student housing (10/01687/PAN).

September 2011 - application granted for the erection of student residence (117 flats) with student centre and associated ancillary facilities, access, infrastructure and landscaping, a retail unit (Class 1), a community facility (Class 10 with ancillary cafe) and a public park (application ref. no. 11/00123/FUL).

September 2011 - Planning Permission in Principle granted for a mixed use development including offices (class 4), residential (class 9), retail (class 1), financial, professional and other services (class 2), food + drink (class 3), assembly + leisure (class 11), non-residential institutions (class 10), hotel (class 7), care home (class 8), student housing, servicing, access arrangements + provision of urban realm. Approval of siting of the principal development blocks, maximum massing + heights of the principal development blocks; points of pedestrian, vehicular + service vehicle access and egress; location of pedestrian/cycle routes through the site; and location of urban spaces including park, central amenity space, commercial amenity space + canal zone (as amended). (10/02955/PPP)

November 2011 - application withdrawn for the demolition of Category C(S) listed office and factory building, former North British Rubber Company Limited building (10/02955/LBC).

June 2012 - Proposal of Application Notice for proposed new secondary school and associated facilities and ancillary development (12/02066/PAN).

January 2013 - Proposed new secondary school and associated facilities and ancillary development (13/00073/PPP) - pending decision.

## **2. Main report**

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### **2.1 Description Of The Proposal**

The application seeks to modify an existing legal agreement under section 75 of the Town and Country Planning (Scotland) Act 1997 in relation to planning permission granted for a mixed use development including offices, residential, retail, financial, professional and other services, food and drink, assembly and leisure, non-residential institutions, hotel, care home, student housing, servicing, access arrangements and provision of urban realm.

Clause 7.3 of the legal agreement currently requires "By earlier of (i) the occupation of 70% of the Potential Development Footprint of Development Plot D and (ii) seven years from the Commencement Date for Development Plot D, the Proprietors shall provide Amenity Space C".

The application seeks to modify this clause to read "By seven years from the Commencement Date for Development Plot D, the Proprietors shall provide Amenity Space C".

The application refers to the land at the western end of the Fountain Brewery site. Development Plot D refers to the new student housing development that commenced in January 2012 and is currently being built on site. Amenity Space C is the area of public open space to be provided between the student housing and the site for the proposed new Boroughmuir High School.

Under the terms of the existing legal agreement covering the site, the delivery of the public open space is linked to the occupation of the adjacent student housing block. However, since the conclusion of the agreement the Council have purchased part of the land, referred to in the agreement as Development Plot C, for the proposed new school.

The application seeks to modify the agreement by removing the link between the occupation of the student housing and the public open space. The reason for the modification is to reflect the change in circumstances, whereby the Council will now deliver the area of public open space alongside the new school development.

### **2.2 Determining Issues**

Do the proposals comply with the development plan?

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

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

### **2.3 Assessment**

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

(a) The modification of the agreement as proposed results in the loss of any necessary mitigation that gives rise to any unacceptable impacts;

(a) The application seeks to revise the agreement by removing the link between the delivery of the public open space and the occupation of the student housing. The purpose of the modification is to reflect different delivery programmes for the site and that Amenity Space C will now be delivered alongside the new school development.

The area of public open space will still be delivered within the timescale specified in the agreement. However, it will no longer be linked to an occupancy threshold relating to the student accommodation.

The proposal raises no significant issues. The modification will enable the agreement to be updated to ensure that the works to create the amenity space align with development of the new Boroughmuir High School.

It is recommended that Committee approves this application to modify the legal agreement, as requested.

## **3. Recommendations**

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

### **3.2 Conditions/reasons**

#### **Informatives**

It should be noted that:

1. Please submit an engrossed Discharge or Minute of Variation (as appropriate) in accordance with the terms of this Decision Notice for execution and registration by the City of Edinburgh Council along with the required registration forms and registration fee. Submissions should be sent to The City of Edinburgh Council, Legal Services, 4 East Market Street, Edinburgh, EH8 8BG.

**Statutory Development  
Plan Provision**

The Edinburgh City Local Plan identifies the site as an area of City Centre Regeneration.

The application site lies within the area of the Fountainbridge Development Brief, which has been approved as supplementary planning guidance (approved 3rd November 2004). An amendment to the Brief was approved by the Planning Committee on 1 December 2005.

**Date registered**

4 December 2012

**Drawing numbers/Scheme**

01-02

Scheme 1

**David R. Leslie**

Acting Head of Planning and Building Standards

## Links - Policies

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### **Relevant Policies:**

#### **Relevant policies of the Edinburgh City Local Plan.**

Policy Des 4 (Layout Design) sets criteria for assessing layout design.

Policy Des 5 (External Spaces) sets criteria for assessing landscape design and external space elements of development.

Policy Os 3 (Open Space in New Development) sets out requirements for the provision of open space in new development.

Policy Ca 1 (Central Area) sets criteria for assessing development in the Central Area.

#### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** on 'QUALITY OF LANDSCAPES IN DEVELOPMENT' sets detailed design principles for hard and soft landscaping, including the retention of existing features, and relates these principles to different types of development.

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

#### **Other Relevant policy guidance**

The Fountainbridge Development Brief sets out planning and design principles intended to establish a comprehensive townscape and infrastructure framework for the Fountainbridge area.



# Appendix 1

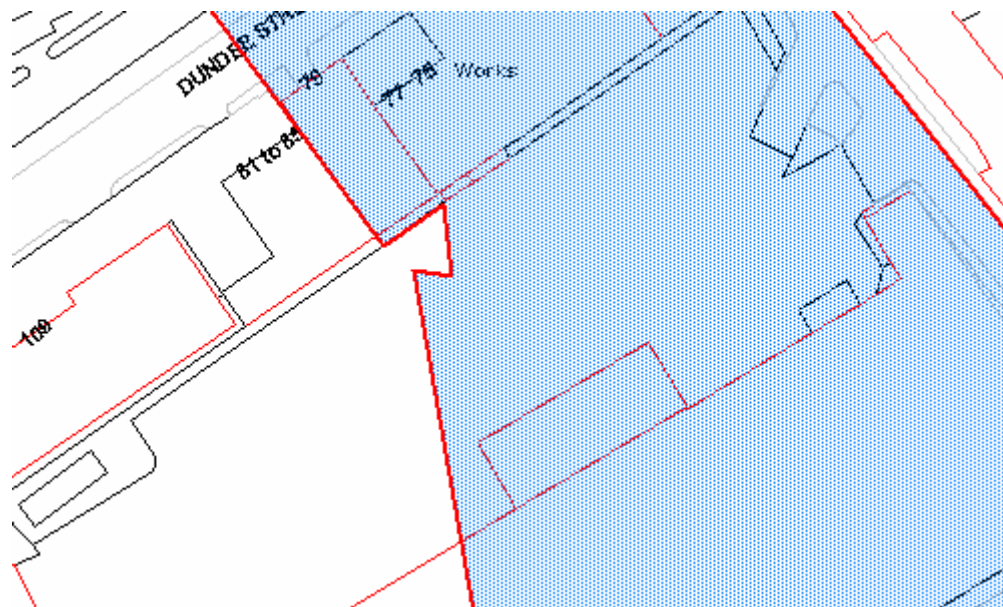
## Consultations

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No Consultations received.

## Location Plan

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