

Development Management Sub Committee

Wednesday 29 January 2014

**Application for Planning Permission 13/03444/FUL
At Land 87 Metres West Of 27, Johnston Terrace, Edinburgh
Removal of temporary rock trap barrier and erection of 3
metre high stone filled gabion walls to form new permanent
Rock Trap. Gabions to run 165 metres of Johnston Terrace,
located below the south facing rock face of Edinburgh
Castle. Provision of new asphalt footpath with whin/granite
kerbs to match existing.**

Item number	4.3
Report number	
Wards	A11 - City Centre

Links

Policies and guidance for this application	LPC, CITE3, CITE6, CITE8, CITE9, CITE14, NSG, NSMDV, OTH, CRPOLD,
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Executive summary

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kerbs to match existing.**

Summary

The proposals comply with development plan policies and non-statutory guidelines. They directly address issues of pedestrian and vehicular safety. The works are compatible with the character and appearance of the conservation area. No other considerations outweigh this conclusion.

Recommendations

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

Financial impact

The proposal has no further effect than the existing temporary solution: having an indirect effect on parking revenue due to displacement of coach parking bays.

Equalities impact

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

Pre-Application Process

Pre-application discussions took place on this application.

Publicity summary of representations and Community Council comments

The application was advertised on 13th September 2013. Three objections were received: two from Edinburgh residents; one from the Old Town Community Council. The representations raised the following issues:-

Material Objections

- impact on views of the Castle and Castle Rock;
- impact on Johnston Terrace visually;
- impact on loss of carriageway and parking.

Non-material Objections

- the cost of the project;
- alternative means of dealing with the rock fall problem should be sought;
- the effect of the Tattoo on rock stability.

Community Council

The Community Council objected on grounds of the aesthetics of the wall both in its own right and in its effect on Johnston Terrace and the Castle Rock. It suggested alternative solutions including extending the original railing.

Background reading / external references

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

Application for Planning Permission 13/03444/FUL At Land 87 Metres West Of 27, Johnston Terrace, Edinburgh Removal of temporary rock trap barrier and erection of 3 metre high stone filled gabion walls to form new permanent Rock Trap. Gabions to run 165 metres of Johnston Terrace, located below the south facing rock face of Edinburgh Castle. Provision of new asphalt footpath with whin/granite kerbs to match existing.

1. Background

1.1 Site description

The site is a section of public carriageway 165m long on Johnston Terrace standing below the Castle Rock. The north side of the site is delineated by a mid-20th century plain railing which prevents public access to the Castle Rock.

At this section the Castle Rock is steep and dramatically stark.

The rock adjacent to the site is a Site of Special Scientific Interest (SSSI). Edinburgh Castle, which stands high above, is both an Ancient Monument and also comprises a complex of listed buildings (all category A), all located within the World Heritage Site.

This property is located within the Old Town Conservation Area.

1.2 Site History

14 August 2013 - planning permission granted in retrospect for a temporary fence to serve the same purpose as the current proposal. This consent is for a period of two years (expiring August 2015) (Reference: 13/02036/FUL)

2. Main report

2.1 Description Of The Proposal

The application proposes erection of a permanent "rock-trap" wall/barrier in place of an existing temporary fence serving the same function.

The wall is constructed of loose stone held within a metal cage. It is 3m high and of tapered form, being 1.5m wide at its base but only 500mm wide at its apex. Each end (east and west) has an angled buttress of fully constructed walling with mortar joints.

A new pavement 1500mm wide is formed around the wall, in substitution for the pavement enclosed behind the wall. This pavement stands on an area of carriageway previously occupied by coach parking.

Supporting documents include an assessment of alternative options and Background and Design Statements. These are available to view on the Planning and Building Standards online services.

2.2 Determining Issues

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of consent.

In considering whether to grant consent, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. For the purposes of this issue, preserve, in relation to the building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

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 proposals maintain or improve the character and appearance of the conservation area;
- b) the proposals affect the setting of the adjacent listed buildings and ancient monument;
- c) the proposals affect the outstanding quality of the World Heritage Site;
- d) the proposals have any effect upon road safety;
- e) the proposals have any impact on the Site of Special Scientific Interest (SSSI);
- f) comments raised have been addressed; and
- g) the proposals raise any equalities or human rights issues.

a) Impact upon the Conservation Area

Old Town Conservation Area Character Appraisal states that:

The steep slopes of the Castle Rock wrap around the Rock and create a dramatic setting for the Castle. The area is also designated as part of a composite site Site of Special Scientific Interest (Arthur's Seat Volcano SSSI) which includes Arthur's Seat and Calton Hill. The areas are linked by their complex geology and this is reflected in the richness of the plant communities that are present.

Policy Env 6 (Conservation Areas - Development) requires that the development preserves or enhances the special character and appearance of the conservation area.

The wall will replace the existing temporary utilitarian fence and improve the aesthetics in relation to the current status quo. It will hide the lower section of the Castle Rock and railing at its base. From the adjacent re-aligned pavement, it will also affect upward views to the castle and Esplanade. It also falls within protected viewcones within which views to and from the castle should be considered.

The wall does have an adverse impact on views of the Castle Rock and on the wider conservation area and World Heritage Site. However, the need for the wall in terms of public safety outweighs the aesthetic issues raised and the aesthetic merit is greater than the existing temporary solution.

As a stone wall within an area typified by stone walls, a wall is in keeping with the special character of the conservation area and policy Env6 is met. Gabions are used in several areas within the Old Town Conservation Area and are acceptable.

The works involve digging into a historic road surface to create foundations and therefore an archaeological condition is recommended.

Whilst a solid stone wall along the whole 165m length has been investigated this would require a concrete barrier behind (or internally) to function correctly. This option is beyond the budget of the project.

b) Effect Upon the Setting of the Listed Building (Edinburgh Castle)

Policy Env 3 (Listed Buildings - Setting) requires that development should not have a detrimental effect upon the setting of any listed building.

The works do have an effect upon the setting of the castle as seen from the south, particularly as seen from Johnston Terrace itself. The castle itself is not obscured by the wall in any view and the only marginal effect is upon the overall scale of the Castle Rock. However, whilst this effect is adverse, it is very small in relation to the scale of the rock face, and is outweighed by other considerations.

In more distant views, the feature is also relatively small in comparison to the huge scale of the Castle Rock. In relation to protected viewcones, the impact from distant viewpoints is insignificant.

The works have no significant impact on views of Edinburgh Castle and policy Env 3 is met.

c) Effect on World Heritage Site

Policy Env 1 requires that any development which has an adverse impact on the World Heritage Site will not be permitted.

The proposed wall will form part of the character of the World Heritage Site. Stone walls are typical of the area so the wall is in character with the area.

The wall is considered to be of high quality in terms of both design and materials and is appropriate to its World Heritage Site setting.

The existing railings will remain, behind the proposed wall. The visual obstruction of the existing railing (which is plain and of no historic or architectural merit) is not critical.

The outstanding values of the World Heritage Site are met and Policy Env 1 is therefore met.

d) Effect Upon Road Safety

The purpose of the fence is to protect pedestrians and vehicles from falling rocks. Public safety is therefore the primary purpose of the application. The works should reduce or prevent ongoing damage to vehicles and potential injury to the public. This risk is considered to be quite considerable. The background report shows a number of vehicles badly damaged over past years and it is only an element of luck by which no one has ever been killed or injured. Only a solid structure completely addresses this risk as even small stones can cause great risk and pass through the existing railing.

The loss of car/coach parking is not significant and Transport do not opposes this. The loss also is already conceded in the earlier consent.

The wall sits wholly within the parking bay section and does not affect the movement of vehicles going up Johnston Terrace (only buses and taxis are permitted on this section of the carriageway).

The pavement is relocated on the outer side of the proposed wall and will serve the same function as previously but it a slightly altered form.

There is a positive effect on road safety due to the proposal and all operational requirements are still met.

The existing pavement has minimal pedestrian use by city centre standards but still requires to be a minimum of 2m wide to comply with standard requirements and a condition is added to address this.

e) Effect on the SSSI

Policy Env 14 (Sites of National Importance) looks at impact upon Sites of Special Scientific Interest (SSSI), such as the Castle Rock.

The works stand only on the modern carriageway and do not physically attach to the Castle Rock itself.

Scottish Natural Heritage have been involved in pre-application discussions and are content that this solution is acceptable in terms of minimising effects upon the SSSI.

Since the works do not physical attach to the rock and do not cover any area of interest, there is no effect upon the SSSI.

f) Public Comments

Material Objections

Material comments raised are:

- the design is ugly - the aesthetics are considered in section 2.3 a)
- the barrier would be a traffic hazard - considered in section 2.3 d)

Non Material Objections

Non material comments raised are:

The cost of the project - this is not a planning consideration

Alternative methods should be sought - whilst other options have been considered only this option is under consideration.

The effect of the Tattoo on the rock stability - this does not relate to the application.

Community Council Comments

The Old Town Community Council objected to the aesthetics of the wall, the effect on the Castle Rock, and the effect on road safety. They felt a more cost-effective solution should be sought.

Consideration of alternative solutions is not within the planning remit, but it is noted that only a solid wall will prevent all stones from penetrating onto the carriageway. The existing railing, whether taller or not, permits stones up to 100mm wide to pass through. The suggestion to plant trees and a hedge is also not practical as this would require to be dug into the Castle Rock (an SSSI) to be implemented.

g) Equalities and Human Rights

The works raise no equality or human rights concerns.

Conclusion

Other options were considered by the applicant and the proposal represents the optimum solution in terms of balancing the requirement to protect public safety against the preservation of the character of the area. These may be seen within the supporting documents. The proposal meets health and safety requirements whilst minimising interference with the Castle Rock itself, minimising alterations to the road layout and requirement for foundations within the road surface.

The works replace an already approved temporary fence of no aesthetic merit and will create a permanent solution to the ongoing safety concern of falling rocks. The proposed wall is of appropriate quality in terms of both design and materials and is appropriate to its location. All policy requirements are met. The wall is acceptable on this basis.

In summary, the proposals comply with development plan policies and non-statutory guidelines. They directly address issues of pedestrian and vehicular safety. The works

are compatible with the character and appearance of the conservation area. No other considerations outweigh this conclusion.

3. Recommendations

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

3.2 Conditions/reasons

1. Sample/s of the proposed selected stone and cage shall be submitted to and approved in writing by the Planning Authority before work commences on site.
2. Details of the cage construction and its detail in relation to the pavement shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
3. The pavement to a minimum width of 2m.
4. 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.

Reasons:-

1. In order to enable the Head of Planning Authority to consider this/these matter/s in detail.
2. In order to enable the Head of Planning Authority to consider this/these matter/s in detail.
3. In the interests of pedestrian use.
4. In order to safeguard the interests of archaeological heritage.

Informatives

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

Statutory Development Plan Provision

The site lies in the Old Town Conservation Area as shown in the City of Edinburgh Local Plan.

Date registered 28 August 2013

Drawing numbers/Scheme 1-11,

Scheme 1

David R. Leslie

Acting Head of Planning and Building Standards

Links - Policies

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

Policy Env 6 (Conservation Areas Development) sets out criteria for assessing development in conservation areas.

Policy Env 8 (Protection of Important Remains) establishes a presumption against development that would adversely affect the site or setting of a Scheduled Ancient Monument or archaeological remains of national importance.

Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

Policy Env 14 (Sites of National Importance) identifies the circumstances in which development likely to affect Sites of National Importance will be permitted.

Relevant Non-Statutory Guidelines

Non-statutory guidelines on 'MOVEMENT AND DEVELOPMENT' establish design criteria for road and parking layouts.

Other Relevant policy guidance

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community

Appendix 1

Consultations

City Archaeologist

Further to your consultation request I would like to make the following comments and recommendations in respect to this application for the removal of temporary rock trap barrier and erection of a 3m high stone filled gabion wall to form permanent rock trap and provision for new footpath

The proposed new wall will run for 165m along the southern face of Edinburgh Castle's Castle Rock. Archaeological work at the upper(eastern) end of Johnston Terrace has demonstrated that archaeological remains have survived below the construction levels of the road inserted in the late 1820's/30's. Although the area in question occurs immediately out with the presumed line of the medieval town wall (laterally known as the Flodden Wall) the area is still of archaeological interest especially given the discovery of prehistoric and Dark Age remains across the Grassmarket, which attest to wider occupation in the area out with the traditional medieval town.

This application must be considered under terms the Scottish Government Historic Environment Policy (SHEP), Scottish Planning Policy (SPP), PAN 02/2011 and also Edinburgh City Local Plan Policies ENV8 & ENV9. The aim should be to preserve archaeological remains in situ as a first option, but alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be an acceptable alternative.

The proposed development will have tow main potential impacts both in terms of visually on the adjacent Scheduled Ancient monument and physically upon potential buried remains. Having assessed the visual impact I have concluded that proposal to encase the wall using natural stone in a dry-stone visual manor, will in part offset the impact of the new wall and is acceptable. Physically the impact of constructing the proposed new wall is considered to have a localised low-moderate impact with construction having the potential for disturbing archaeological remains associated with the pre-Johnston Terrace use of Castle Rock. Accordingly it is recommended that a programme of archaeological work is undertaken prior to/during development in order to fully record, excavate and report upon any significant remains uncovered during these works.

These recommended works have as yet to be undertaken and accordingly it is recommended that that the following condition is attached to this consent to ensure that a programme of archaeological works is undertaken prior to construction.

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

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Scottish Natural Heritage

The proposal is for the removal of the temporary rockfall fence barrier at the base of Castle Rock, which forms part of Arthur's Seat Volcano Site of Special Scientific Interest (SSSI), and the placement of a new permanent stone gabion rockfall barrier.

Background

Castle Rock contains nationally important geological features which form part of the SSSI. We have had some initial discussions with Historic Scotland over the types of solutions to address the rockfalls from Castle Rock, including issues around the design and placement of a more permanent rockfall barrier at this location.

Appraisal

The proposed barrier will prevent any direct impacts on the SSSI geological interests as it will not directly obscure any important rock features (in the way that a mesh might). Construction of the barrier is also unlikely to result in any direct impacts to the SSSI.

The detailed appearance of the proposed gabion structure will be key to the successful integration of it within its landscape and townscape context, and to help minimise effects on localised views and appreciation of the rock from Johnstone Terrace. The relative merits of the other approaches, including those of more traditional appearance such as a reinforced stone wall, could usefully have been described in further detail in the background and design statement, to better understand how the final design was reached. That aside, we would advise that further detailed design and a construction method statement for the gabion structure is sought, to ensure appropriate standards of construction (for the rock placement and metal work etc), finish and outward appearance of the structure.

The opportunity for interpretation in the end piers is welcome and we would be happy to discuss appropriate wording for any such panels in due course.

Transport

No objections to the application subject to the following condition being applied.

The footway be maintained at a minimum of 2 metres in width over the diverted route (Reason to ensure pedestrian safety through the diversion)

INFORMATIVE

It is recognised that the proposals serves an important role in protecting both pedestrians and vehicles from potential danger from falling rock and as such directly addresses road safety issues

Any alteration to the public lighting apparatus must be advised and approved by the departments lighting engineer to ensure the publically adoptable area lighting is not compromised. All costs to be met by the developer should any alteration be deemed as necessary.

Old Town Community Council

The OTCC wishes to lodge an objection to the proposed construction of a permanent rock containment barrier wall at the base of the Castle Rock along Johnston Terrace on the following grounds:-

- A three metre high wall will have a detrimental effect on this most iconic of locations. Though the wall is proposed to be constructed from stone it is to be retained in a welded mesh gabion which will further undermine the aesthetic.*
- The wall will considerably encroach upon the street detracting from the wide sweeping nature of the existing road. As Johnston Terrace is often used by tourist coaches narrowing of the street would present a potential safety hazard.*

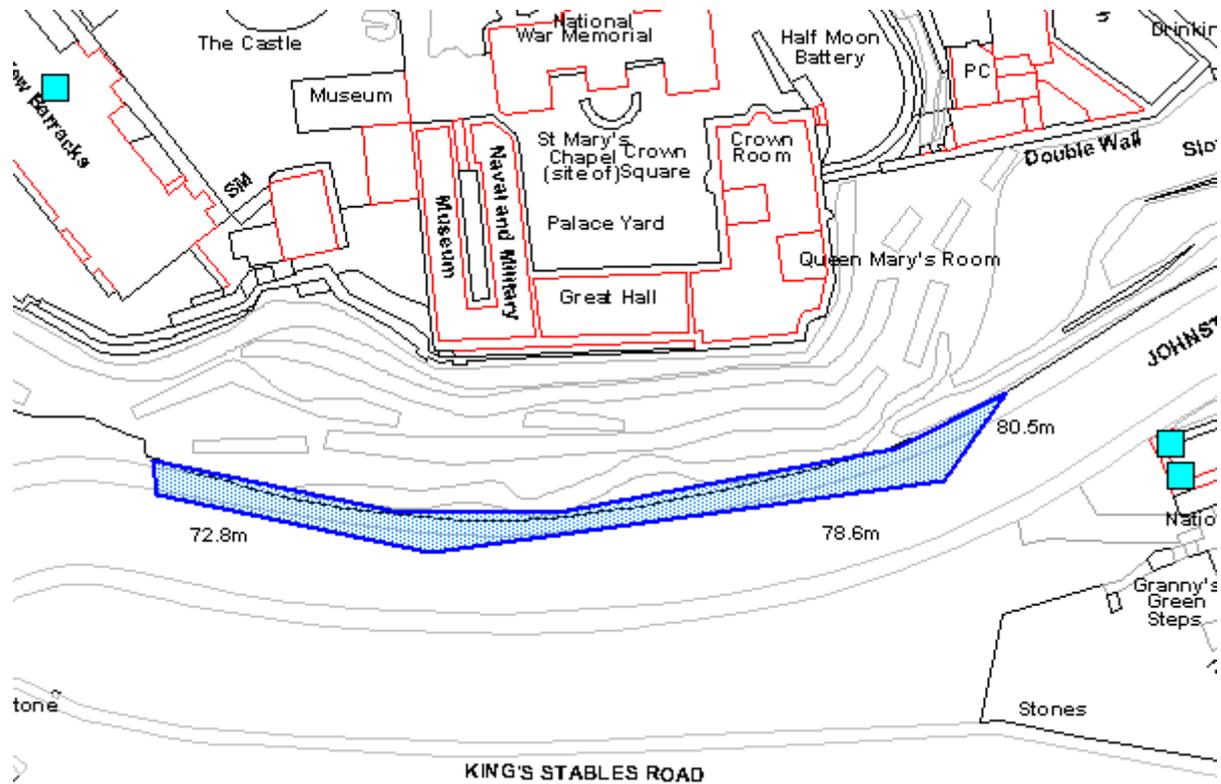
Given the existing railings and signage in addition to regular inspections of the rock face have been sufficient in avoiding fatalities and any serious injuries from falling rocks in the past, the proposal is considered quite unnecessary when according to the "Background and Design Statement, August 2013" issued by Historic Scotland, the inspection of the rock face is "time consuming and expensive", yet the estimated cost to the public of constructing a wall (31 million) along with associated disruption must surely overshadow these costs and considerations.

It is felt this considerable proposal is a zealous response to the growing litigation culture encouraged by the private insurance industry rather than the age old values of personal responsibility and common sense. Given these ideals Historic Scotland might be able to mitigate the issue of loosening rock simply by withdrawing consent to the use of low flying jets, as featured in the Edinburgh Tattoo, which the public have tried in vain to challenge.

As an alternative to this proposal the height of the existing railings could be extended. Combined with the planting of trees and a hedge along the base this would be considerably more cost effective, less disruptive and more aesthetically pleasing.

In consideration of the above we strongly recommend that the proposed planning consent is REFUSED.

Location Plan



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