

Development Management Sub Committee

Wednesday 14 January 2015

**Application for Planning Permission 14/03286/FUL
At Land 87 Metres West Of 27, Johnston Terrace, Edinburgh
Removal of temporary rock trap barrier and erection of 2.5m
fence and stone wall to form permanent rock containment
area. Fence and wall to run 165m of Johnston Terrace,
located below the south facing rock face of Edinburgh
Castle. Provision of new asphalt footpath terminations to
north footpath with whin/granite kerbs to match existing (as
amended to re-include a footpath on the north side).**

Item number	6.2
Report number	
Wards	A11 - City Centre

Summary

The proposals comply with development plan policies and non-statutory guidelines. They directly address issues of pedestrian and vehicular safety, and (as amended) do not give rise to other road safety issues. The works are compatible with the character and appearance of the conservation area. No other considerations outweigh this conclusion.

Links

Policies and guidance for this application	LPC, CITE1, CITE3, CITE6, CITE8, CITE9, CITE14, NSG, NSLBCA, NSMDV, OTH, CRPOLD,
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Report

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Recommendations

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

Background

2.1 Site description

The site was formerly an area of pavement and carriageway at the foot of the Castle Rock on its south side where it adjoins Johnston Terrace.

It currently holds a 160m long, high mesh fence, in place to catch falling rocks, set off the original railing by 5m.

In conjunction with the red and white barriers erected on the carriageway to create a temporary pavement zone on the carriageway, the temporary fencing forms a utilitarian solution to a serious public safety concern regarding falling rocks.

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 application site is located within the Old Town Conservation Area.

2.2 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).

12 February 2014 - Committee overturned a recommendation for approval and refused a more permanent solution, based on rock-filled gabions, on grounds of being aesthetically inappropriate to the conservation area (Reference: 13/03444/FUL).

Main report

3.1 Description Of The Proposal

The application proposes removal of the existing Herras fencing approved as a temporary solution to catch falling rocks, and replaces this with a permanent solution in the form of a low, natural sandstone wall and railing (based on the design of the original low wall and railing on the road edge). The wall is 1m high and the upper railing a further 1.5m high, totalling 2.5m. This adopts a new line curving into the carriageway for 165m, creating an "exclusion zone" to address public safety concerns in relation to falling rocks from the Castle Rock. Access gates for maintenance purposes are provided at each end of the enclosure.

The application was amended to re-introduce a pavement on the north side and dropped kerbs to facilitate pedestrian crossing points at each end.

A Background and Design Statement was submitted with the application.

3.2 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.

3.3 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) the works involve any archaeological impact;
- g) comments raised have been addressed; and
- h) 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 development preserves or enhances the special character and appearance of the conservation area.

The proposal effectively re-aligns the existing original wall and railing, bending it into the existing carriageway area to create an exclusion zone. This would replace the existing temporary utilitarian fence and improve the aesthetics in relation to the current status quo. The net visual effect would be very similar to the existing railing other than in its position.

The proposal falls within protected viewcones within which views to and from the castle should be considered, but would have no impact on views of Edinburgh Castle or the Castle Rock whatsoever, and would only obscure part of what is currently road carriageway.

The solution remains wholly in character with the area and there is no adverse effect upon the character or appearance of the conservation area.

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 would improve the setting of Edinburgh Castle in relation to the temporary solution and bring it back to a setting comparable with its original setting as seen from this side. The castle itself is not obscured in any way by the proposed railing.

The works have no adverse impact on the setting 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 railing, repeats the concept of the original railing and will fit the character of the World Heritage Site.

The railing is considered to be of high quality in terms of both design and materials and is appropriate to its World Heritage Site setting. The original railings (currently partly hidden behind the temporary fence) will still remain, behind the line of the new railing.

The Outstanding Universal Values of the World Heritage Site are unaffected 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.

The railing occupies a section of carriageway within which parking was already excluded some years ago. The section of roadway opposite the railing currently contains the displaced coach parking caused by the earlier works, and this parking will now be lost or further displaced. The loss of car/coach parking is noted but Transport do not oppose this. The movement of vehicles going up Johnston Terrace (only buses and taxis are permitted on this section of the carriageway) is unaffected and will continue.

The pavement is maintained in the revised scheme and is considered adequate for the level of pedestrian movements in this area.

The works will also require a Traffic Regulation Order (TRO) and this is highlighted within an attached informative. A legal agreement is required between the Council and Historic Scotland regarding long-term mutual access to the area involved.

No road safety concerns arise from the proposal.

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.

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) Archaeological Impact

The works involve digging into a historic road surface to create foundations and therefore an archaeological condition is recommended (this is likely to be restricted simply to a watching brief as foundations are shallow).

g) Public Comments

Only one representation was received. This was supportive but queried whether two-way traffic would continue (this is an independent issue for Transport but this aspect is NOT intended to alter).

Material Objections

None

Non Material Objections

None

Community Council Comments

The Old Town Community Council were consulted but made no comments.

h) 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.

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 railing is of appropriate quality in terms of both design and materials and is appropriate to its location. All policy requirements are met. The railing 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, and (as amended) do not give rise to other road safety issues. The works are compatible with the character and appearance of the conservation area. No other considerations outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. 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 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.
2. It should be noted that a legal requirement will be required to be drawn up regarding the mutual access rights to the area in question, which shall remain part of the adopted carriageway under the category of verge.
3. It should be noted that the works require separate promotion of a Traffic Regulation Order (TRO) and other appropriate permits from the Council as Roads Authority. The applicant shall pay for all costs associated with these consents.

Financial impact

4.1 The financial impact has been assessed as follows:

Transport estimates the domino effect upon lost revenue in parking revenue at £95,000 per annum to the Council.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

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

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

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

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 29 August 2014.

The Royal Edinburgh Military Tattoo wrote, supporting the proposal, but asking that the carriageway remain two-way.

Background reading/external references

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

**Statutory Development
Plan Provision**

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

Date registered

14 August 2014

Drawing numbers/Scheme

1-4,5a,6a,7,8,9a,

Scheme 2

David R. Leslie

Acting Head of Planning and Building Standards

Contact: Stephen Dickson, Senior planning officer

E-mail:stephen.dickson@edinburgh.gov.uk Tel:0131 529 3529

Links - Policies

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its settings.

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 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

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

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north footpath with whin/granite kerbs to match existing (as
amended to re-include a footpath on the north side).**

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 2.5m fence and stone wall to form permanent rock containment area (The fence and wall to run 165m along Johnston Terrace, located below the south facing rock face of Edinburgh Castle) and for the provision of new asphalt footpath terminations to north footpath with whin/granite kerbs to match

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 CEC's 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 two 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 of the new wall and fence I have concluded that overall it is low-moderate and significantly reduced from that of the 2013 scheme. Physically the impact of constructing the proposed new wall is also reduced though still 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.

Transport

There are no objections to this application but a suspensive condition is required (informative 4). The other points in the informatives listed below should be noted and the applicant advised appropriately

Informatives;

1) *This amended application (130W082014-PL003A dated 05/12/14) proposes the retention of a 1.5 metre wide footway on the castle side of the road. Whilst this width is below that recommended in the council's Movement and Development guidelines it is considered, given the relatively low use of this footway, to be an acceptable departure from standards in this instance. However as two wheelchairs or buggies will be unable to pass each other on a footway of this width the applicant was advised that uncontrolled crossing points on either side of the narrowing were required. It is noted that these are indicated on this amended drawing .*

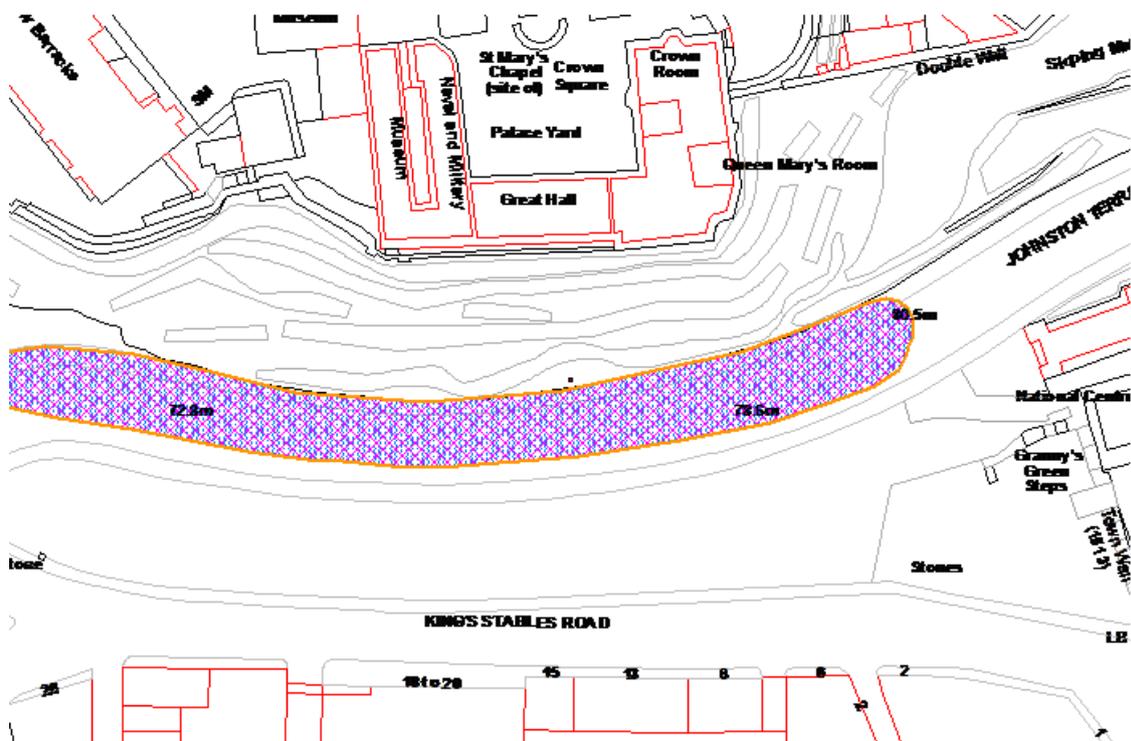
2) *It is proposed to relocate the coach parking bays at this narrowing to where the remaining pay and display bays are currently situated in Johnston Terrace. Whilst loss of revenue is not a valid reason for a recommendation of refusal it should be noted that the loss of these parking bays may negatively impact on the commercial businesses in the area (including the castle). Colleagues in the local roads management team have confirmed that it is not possible to relocate the coach spaces elsewhere in the central core. It is also the case that this street is used for performer and ancillary operation parking during the Edinburgh Military Tattoo. This will partially require to be relocated-with the obvious knock on effect to other streets in the area.*

3) *The direct financial loss to the Council revenue budget will be approx £95K per annum as indicated on the attached spreadsheet.*

4) It should be noted that the full section of road which is required for these protection works will require to be re-determined as verge and footway as appropriate. In addition a Traffic Regulation Order (TRO) to amend the relevant sections of the central Edinburgh parking order will be required (to relocate the coach bays and allow a double yellow line to be put in its place at the narrowing) It is possible that there may be objections to the promotion to either, or both, of these orders. If this is the case then referral to the Transport and Environment committee may be required. As the works cannot be started until both these orders have been completed a suspensive condition will be required to be placed on any planning approval. The statutory process for these orders can be initiated by including in the planning report an appropriate paragraph or note. The applicant will require to produce the plans for the orders and meet, in full, the council's costs for their promotion and installation (Approx £5000). This will require to be included in a section 75, or other, legal agreement.

5) All the road works as indicated on the drawing will require to be completed under the authority of appropriate Roads (Scotland) Act 1984 permits issued by the local area roads manager. All as detailed in the attached link on the council's website- http://www.edinburgh.gov.uk/downloads/download/339/road_occupation_permits

Location Plan



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