

# Development Management Sub Committee

10.00am, Wednesday 8 March 2017

**Application for Planning Obligation 17/00118/OBL  
At Former, 1 Moredunvale Place, Edinburgh  
Discharge the section 75 agreement tied to the 08/01611/FUL  
planning permission.**

<b>Item number</b>	4.1
<b>Report number</b>	
<b>Wards</b>	A16 - Liberton/Gilmerton

## Summary

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The obligation to make payment of the financial contribution to the city car club is no longer appropriate. There are no other obligations to be met by the proprietors in the agreement. Accordingly, the discharge request is considered acceptable and is compliant with the provisions of the development plan, the relevant non-statutory guidance and the provisions of the planning circular.

## Links

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[Policies and guidance for this application](#) LDEL01, LTRA02, NSDCAH,

# Report

## **Application for Planning Obligation 17/00118/OBL At Former, 1 Moredunvale Place, Edinburgh Discharge the section 75 agreement tied to the 08/01611/FUL planning permission.**

### **Recommendations**

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- 1.1 It is recommended that the planning obligation to which this application refers is discharged.

### **Background**

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#### **2.1 Site description**

The site is situated to the west side of Moredunvale Place and to the north of Moredun Park Road. The existing on-site car parking is found to the rear of the completed block of flats and accessed from Moredunvale Place.

#### **2.2 Site History**

The relevant site history is:

9 June 2009 - planning permission granted for the erection of six residential flats and the demolition of a single storey dwelling house, (application number 08/01611/FUL). A legal agreement was attached to this permission, which required the payment of a contribution towards the city car club. The development has been completed and is occupied.

### **Main report**

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#### **3.1 Description Of The Proposal**

The applicant has requested the discharge of the legal agreement regarding the requirement to pay a £6,500 city car club contribution. This contribution is the only obligation required of the proprietors in the agreement.

#### **Supporting Statement**

The applicant has provided a supporting statement to justify the reasoning behind the application for the requested discharge. This is available to view on the Planning and Building Standards Online Services.

### 3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

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?

### 3.3 Assessment

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

- a) the discharge of the obligation is acceptable
- b) there are any equalities and human rights impacts; and
- c) there are any representations.

#### a) The Discharge of the Obligation is Acceptable

The original proprietors who concluded the agreement with the Council were private developers. Under the parking standards they were required to provide six parking spaces but only four could be provided on-site. The city car club contribution was therefore required to remedy this shortfall and to make the planning application acceptable.

The tests set out in Circular 3/2012 (Planning Agreements and Good Neighbour Agreements) have to be considered. If just one of the tests is not met, then in terms of the circular the planning obligation should not be applied.

The first test which is particularly relevant is the 'necessity test'; whether the contribution is necessary to make the proposed development acceptable in planning terms. The financial contribution was considered necessary because the new development was for general open market housing and there was insufficient on-site parking to meet the required parking standards for this type of development.

The six completed flats have been let by Castle Rock Edinvar Housing Association at social rents and are expected to continue to be affordable units in the long term. The parking standards for this type of housing are met by the four existing on-site parking spaces. There is consequently no need to require a financial contribution to make the development acceptable in planning terms. This test is therefore not met.

The second relevant test is the 'reasonableness test'; whether it is reasonable in all respects to require this financial obligation to be paid. As the justification for the obligation, in terms of the parking standards, is no longer considered necessary, it cannot be thought reasonable to still require the contribution to be paid. This test has also not been met. It is noted that there is additional parking capacity on the adjoining streets.

As both of these tests are not met, the obligation to make payment of the financial contribution to the city car club is no longer appropriate. There are no other obligations to be met by the proprietors in the agreement.

Accordingly, the discharge request is considered acceptable and is compliant with the provisions of the development plan, the relevant non-statutory guidance and the provisions of the planning circular.

#### b) Equalities and Human Rights Impacts

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

#### c) Public Comments

No representations were received concerning this proposal.

#### Conclusion

In conclusion, the applicants' discharge request is considered acceptable. A discharge agreement will need to be concluded and sent for registration. The contribution sum has not been received by the Council and no refund is therefore applicable.

It is recommended that the planning obligation to which this application refers is discharged.

### **3.4 Conditions/reasons/informatives**

#### **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.

### **Financial impact**

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#### **4.1 The financial impact has been assessed as follows:**

There are no financial implications for the Council. The financial contribution is no longer required.

## **Risk, Policy, compliance and governance impact**

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

## **Equalities impact**

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**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**

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**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**

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

Discussions and correspondence was exchanged with the previous owners and the applicants about making this application. Confirmation was sought from colleagues as to the current need for the contribution following the sale of the land and the new development to a Registered Social Landlord prior to the application being made.

### **8.2 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](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development  
Plan Provision**

**Edinburgh Local Development Plan / LDP - Within  
the defined urban area.**

**Date registered**

13 January 2017

**Drawing numbers/Scheme**

**David R. Leslie**

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PLACE  
The City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:**

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

**Non-statutory guidelines** on Developer Contributions and Affordable Housing gives guidance on the situations where developers will be required to provide affordable housing and/or will be required to make financial or other contributions towards the cost of, providing new facilities for schools, transport improvements, the tram project, public realm improvements and open space.

# Appendix 1

## **Application for Planning Obligation 17/00118/OBL At Former, 1 Moredunvale Place, Edinburgh Discharge the section 75 agreement tied to the 08/01611/FUL planning permission.**

### **Consultations**

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#### **Affordable Housing**

*I can confirm that the 6 units at Moredunvale Place have been provided as affordable housing - 6 units for social rent. Castle Rock Edinvar own and manage these homes. They were awarded grant funding in 2014 for the homes, which means that these must remain as social rent for a period of at least 30 years. Should the applicant wish to sell the properties or change their tenure, consent from both the Scottish Housing Regulator and the Council (as grant provider) would be required.*

#### **Transportation**

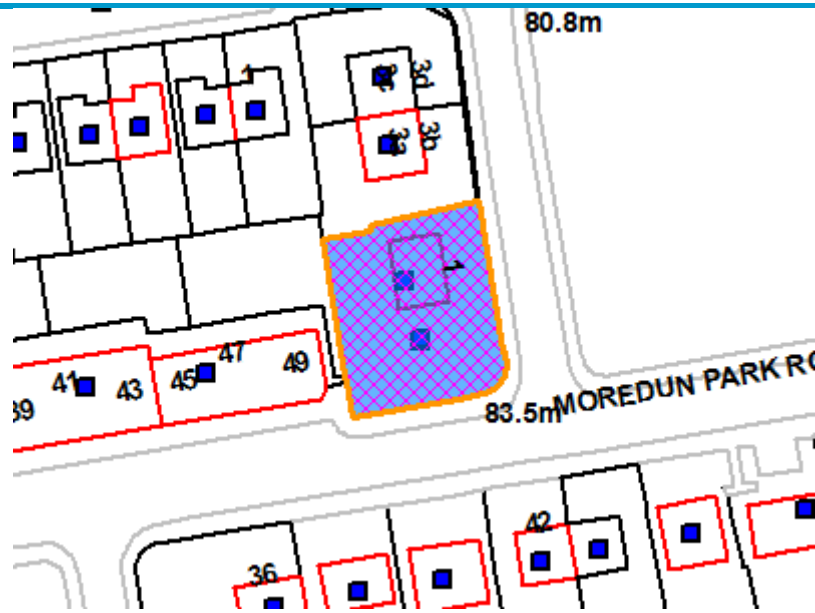
*For a development of six two bedroom flats in this locality, which have been provided for social rent by a Registered Social Landlord, the on-site parking provision necessary would be 3 spaces. This necessary provision has been made available within the development site.*

*Previously the 6 units were to be built and sold on the open market. The number of spaces to be made available under the planning application was insufficient to meet the parking standard for open market units. To remedy this lack of provision the city car club contribution was required to make the planning application acceptable.*

*As there is now no deficiency in the number of parking spaces with the new flats being affordable units, the previous requirement for a city car club contribution is no longer necessary.*

## Location Plan

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