

**Full Planning Application 05/02411/FUL
at
19 Promenade
Edinburgh
EH15 1HH**

**Development Quality Sub-Committee
of the Planning Committee**

1 February 2006

1 Purpose of report

To consider application 05/02411/FUL, submitted by L Strand. The application is for: **Development of six terraced houses**

It is recommended that this application be **GRANTED** subject to the conditions in Appendix B.

2 The Site and the Proposal

Site description

The site is currently wholly vacant and sits as waste ground.

It extends to 32m wide by up to 26m deep, and is broadly rectangular, but angled on its side adjoining the Promenade.

To the rear is a "Georgian survival" style terrace of small stone cottages at Bath Place. The northern section of the group still retain long front gardens reaching to the Promenade.

The south side of the site adjoins a large listed Victorian tenement with unusual corner turret features. This has several windows on the gable, hard on the site boundary.

The site faces eastwards over the Promenade to Portobello beach and the sea.

The site is only accessible by cars via Bath Place, a narrow but adopted section of Highway at the end of Bath Street.

The site lies in the Portobello Conservation Area.

Site history

Up until the mid 1980s the site was occupied by a small terrace of 3 Victorian houses (in front of 2 and 3 Bath Place). This occupied the same footprint as the current proposal. A fourth unit had been demolished some time before this. To the north stood single storey amusement facilities. The cleared area was used to accommodate a ghost train facility forming part of the "attractions" along the Promenade.

24.5.1988 - consent granted for extension of the amusement arcade over the area formerly occupied by the terraced houses.

11.10.1994 - application for mixed use development withdrawn

15.12.1994 - report to Committee requesting acquisition of the site for £130,000. This was based upon a Departmental assessment that the site could hold commercial uses at ground floor plus 6 residential units above. It was intended to acquire the site during the financial year 96/97.

The last remnants of an amusement arcade on the site were removed some time after 1994. These stood in front of 4 Bath Place.

Numerous enforcement actions relate to the use of the site and its poor condition.

In December 1997 the Council made an offer of £20,000 for the land in question, which was rejected. This figure was still being discussed up to April 2002.

Since 30.4.1998 the site has been formally identified in the local plan as a Site for Acquisition.

The Department has now abandoned its plans to obtain the site.

Description of the Proposal

The application proposes six terraced houses attaching to the north gable of a listed Victorian tenement on the Promenade in Portobello.

The proposed form is two and a half storeys high i.e. the upper storey is contained within an attic and served by dormer windows.

Each unit has an integral garage to the rear (served via a very narrow private lane) and a small enclosed garden to the sea side.

Each house has four bedrooms and is considered a family house.

A strip of landscape planting is added to the rear courtyard to partially screen views to the cottage windows, and provide some amenity planting.

Material are proposed as stone and render, with zinc panels around the second floor dormer windows. The roof is in natural slate. Windows and doors are in timber. The applicant has agreed to a condition requiring the principal elevations to be wholly built in stone.

The scheme was amended from its original form to slightly move the two central units further from Bath Place to allow more turning space to access the integral garages.

3 Officer's Assessment and Recommendations

In order to determine the application the following issues should be considered

- a) The effect of policy E34 on the application, i.e. is the Council likely to Compulsorarily Purchase this site for any other purpose?
- b) The acceptability of residential use on the site (subject to a) above)
- c) The effect of the scale form and design on the character and appearance of the conservation area
- d) Parking and access
- e) Effect on neighbouring amenity
- f) Amenity of the proposed units.

a) The Council no longer intends to pursue the acquisition of the site. Given this the surrounding use of Housing and Compatible Uses becomes the relevant land use.

b) Residential use accords with the local plan in terms of all surrounding uses, subject to other policy requirements being met. The development is too small to raise Affordable Housing issues, but Education do request a contribution to schools linked to the likely child product generated by these family houses.

c) Portobello Conservation Area Character Statement

Portobello Conservation area includes several distinct character zones. The High Street provides the focus for the Conservation Area, retaining many original two storey Regency buildings as well as a number of significant public buildings. The seaside character of The Promenade is still evident despite the loss of the pier and the construction of several modern buildings of poor quality. The remainder of the area includes an abundance of fine Georgian (and later) villas as well as a robust stock of Victorian tenements, public buildings and churches. In total there are some 179 listed buildings within the conservation area, including building groups of particular interest in Brighton Crescent and Brighton Place.

The form of the proposed development, in both envelope and proposed position in terms of footprint, closely echoes that of the demolished terrace previously on site.

The existing site is in poor condition, and, although affording a view to and from the cottages behind, is otherwise an underused area of no current value to the surrounding area. Redevelopment would establish an improvement to the site, and is not opposed in principle.

The exact form has been largely dictated by the former building position of the Victorian terrace (i.e. prior to the amusement arcades which covered the entire site). This recessed position allows the building to sit fully behind the gable windows on the adjacent tenement, and also allows each property to have a small enclosed private garden facing the sea. This concept not only repeats that previously found at this location, but also echoes that still existing further to the north. There is no objection to the principle of gardens adjacent to the Promenade.

d) Access is from an adopted road, albeit restricted in width. However, the overall scale of the proposal is limited.

The existing houses on the lane in theory can generate as much traffic as that now being suggested, so demand on the lane is likely to roughly double. The dimensions of the lane are such as to automatically restrict speed and movement, and no great safety issues are thought to arise. Transport has no objections to the proposal on road safety grounds.

The proposal contains integral garaging, plus other potential parking area within the rear courtyard. One parking space is specifically formed for visitor use. The garages are also capable of secure cycle storage.

A financial contribution is requested towards local infrastructure costs.

e) The rear of the proposed building exceeds nine metre from its rear boundary but is only 13m from the existing windows of the cottages on Bath Street. Although this complies in relation to its own boundary, this separation is some 5m below the minimum policy requirement in terms of window to window separation. The proposal complies with privacy guidelines in relation

to its own boundary. The windows of the cottages face directly onto the adopted street, and have reduced levels of privacy as a result. In these circumstances the cottages are seen as "bad neighbours" in relation to property boundaries.

The layout of the rear area does afford the opportunity to add landscape screening near the boundary. Policy normally accepts ground floor windows (such as found in the cottages) less than nine metre from a boundary even when newly proposed as long as they can be screened. It is therefore considered that privacy standards are met by the proposal, subject to screening on the rear boundary.

Due to its relatively low scale the proposal does not give rise to any overshadowing in terms of policy guidelines.

It is appreciated that outlook from the houses behind will be drastically altered, but there is no right to these views. It is also noted that these views have only recently been created through full and final clearance of the site.

f) Each house has dual aspect, a private garden, and open outlook to the sea. All are considered to have adequate amenity.

In conclusion the proposal is acceptable subject to conditions on material specification, site decontamination, and designation of visitor parking. A legal agreement is required relating to education and transport contributions prior to consent being issued.

It is recommended that the Committee approves this application subject to the conditions stated.

ADDENDUM

The Committee considered the application on 26th October 2005. The application was continued for a site visit plus:

- a) Further information on the abandonment of the site acquisition by the Council.
- b) Further information on vehicle access
- c) Further comment on the setting of the adjacent listed building

Committee also expressed a view that the Master Plan Study of North West Portobello be extended in scope. This aspect relates only indirectly to the current application.

In response to these issues:

a) The Department's estate function advise that the site acquisition is no longer being pursued. The offer for the site at open space value does not reflect even the minimum site value, and as such no agreement can be made with the owner regarding the sale of the land.

In these circumstances, the only procedure would be for the Council to pursue a Compulsory Purchase Order. There is currently no authorisation for this. Since the land was previously developed, it may be difficult to determine that the site only has open space value, and clearly the owner would challenge such an assessment.

Should the Council be minded to refuse the application, the circumstances would permit the owner to serve a Blight Notice on the Council (this has already been investigated but the owner was told that a planning permission must be sought and refused before such could be served). A Blight Notice allows an owner compensation reflecting any devaluation in their property value resulting from a planning decision such as the local plan definition.

b) The existing lane is restricted to three metres in width for its first eighteen metres, then widens to five metres before tapering down to four metres for the next fourteen metres, where the site then enters. Only one car may traverse this zone at any one time. However, the existing status quo of the lane is unchanged. The site allows room for vehicles to turn around and enter and leave in forward gear with no difficulty. Although pedestrians share the same access, the volume of traffic and likely speed of vehicles using the lane is not likely to give rise to safety issues. In the eventuality of vehicles parking within the narrowest section of the lane and blocking the route, the introduction of waiting restrictions on the lane may be appropriate.

Transport agrees that the width is substandard, therefore the number of properties served from such a road is restricted to a maximum of eight. Only two of the properties currently existing on the lane are **solely** served from this side, therefore there remains scope for six additional units. Since the lane is adopted, access can be guaranteed. If necessary, double yellow lines could be placed on the lane.

c) The relationship to the listed building is identical to the historic relationship held by the previous Victorian houses on the site (see History) as can be seen in the silhouette of the previous form, currently visible on the gable of the tenement. The main facades of the listed tenement face Bath Street and the Promenade. The elevation facing the site is only an end gable, and although containing some design features, was not designed as a primary public frontage. It is not considered that the setting of this building is compromised adversely.

The Department continues to consider the application as acceptable and it is recommended that the Committee approves the application subject to conditions on materials, contribution to infrastructure costs, contamination and parking restrictions.

FURTHER ADDENDUM

On the 1st February 2006 Committee reconsidered the application and were Minded to Refuse based upon

- a) The principle in relation to the local plan allocation
- b) The poor quality of the design materials massing, subject to clarification of appropriate wording of reasons from the Department.

In response to this the Department would recommend the following as appropriate wording in respect of these objectives:

1. The proposal is contrary to the development plan in that the site is allocated for Acquisition by the Council for Open Space Purposes in the North East Edinburgh Local Plan.
2. The form, design and materials do not preserve or enhance the character or appearance of the conservation area, contrary to policies E21 and E22 of the North East Edinburgh Local Plan.

However, it should be noted that the first reason is outwith the applicant's control, and is dependent upon Council action. Refusal for this reason leaves the Council open to a Blight Notice being served, and this has already been discussed in relation to the site. In order to avoid this, the Council could consider Compulsory Purchase of the site to meet its local plan objectives.

The Department continues to consider the proposal as acceptable, and recommends that the Committee approves the application subject to the conditions as outlined above.

Alan Henderson

Alan Henderson
Head of Planning and Strategy

Contact/tel	Stephen Dickson on 0131 529 3901 (FAX 529 3706)
Ward affected	39 - Portobello
Local Plan	North East Edinburgh Local Plan
Statutory Development Plan Provision	Housing and Compatible Uses
Date registered	27 July 2005
Drawing numbers/ Scheme	7-12 Scheme 2

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Control Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Graham Dixon on 0131 529 3519. Email: graham.dixon@edinburgh.gov.uk

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail gavin.king@edinburgh.gov.uk or sarah.bogunovic@edinburgh.gov.uk

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Consultations, Representations and Planning Policy

Consultations

Environmental Health

No objections to this proposed development subject to the following condition:

1. Prior to the commencement of construction works on site:

a) A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, 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 remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning.

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 to the satisfaction of the head of Planning.

Transport

Consent should not be issued until the developer enters into a legal agreement to contribute the sum of £3,000 towards cycling and public transport improvement in the Portobello High Street area.

No objections to the application subject to the following conditions being applied:

Conditions

1. One additional car park space to be reserved within the courtyard for visitor parking.

Children Families

School Capacities

This site is located within the catchment areas of Towerbank Primary School, St John's RC Primary School, Portobello High School and Holy Rood RC High School.

Portobello High School is operating above capacity at present and is forecast to remain in this position for the foreseeable future. Accordingly a developer contribution towards alleviating accommodation pressures at this school should be sought. Based on the development of six terraced houses, a contribution of £9,600 would be required.

There should be spare capacity at the other catchment schools to accommodate this development.

The forecasts are based on 2004 Start of Session School Rolls and housing completions identified in the Housing Land Audit 2004. Revised child to house ratios have been applied.

Summary

There is no spare capacity available at Portobello High School to serve this development. Accordingly a total contribution of £9,600 should be sought. If no contributions are secured towards alleviating accommodation pressures at this school, then I would have no object to this application.

Archaeology

There are no known archaeological constraints.

Representations

The application was advertised on 5th August 2005.

One hundred and seventy-three representations were received, largely in pro-forma format. This includes objection from Mark Ballard MSP, Robin Harper MSP, Gavin Strang MP, Susan Deacon MSP, The Cockburn Association, AHSS and Portobello Community Council.

Reasons for objection were.

1. Loss of open space
2. Site should not be developed
3. Loss of views to and from cottages behind
4. Loss of privacy
5. Loss of daylight/sunlight
6. Access inadequate/road safety concerns
7. Car parking proposed inadequate and not operational
8. Out of character with the area.

Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.

Planning Policy

The site lies within an area of Housing and Compatible Uses within the Portobello Conservation Area as shown in the NEELP. It is specifically identified as a site for acquisition by the Council to create "amenity open space" under policy E34, the only site so identified in the local plan.

Relevant Policies:

Policy E34 (SITE ACQUISITION - PROMENADE): states the Council intention to acquire land at Portobello Promenade to improve amenity and open space provision

Policy H1 (HOUSING DEVELOPMENT) encourages the provision of new housing development on identified sites.

Policy H4 (DESIGN OF NEW HOUSING DEVELOPMENT) sets out general design considerations for new housing development.

Policy E21 (CONSERVATION AREAS - GENERAL): requires proposed development within a conservation area to retain all features which contribute to the character and appearance of the area.

Policy E22 (CONSERVATION AREAS - REDEVELOPMENT): sets out criteria against which new development in conservation areas will be assessed.

Policy E25 (DESIGN OF NEW DEVELOPMENT - OBJECTIVE): encourages new development of the highest possible standard.

Policy E26 (QUALITY OF NEW DEVELOPMENT): sets out general design requirements for new development, and requires particular attention to be paid to main approach roads to the city centre and seafront and waterfront locations.

Policy E7 (OPEN SPACE PROVISION): specifies minimum standards of open space provision in new housing developments to meet both recreational and amenity needs.

Policy T7 (CYCLE PARKING) requires new development to provide secure cycle parking in conformity with approved standards and in appropriate public locations where it contributes to greater cycle use.

Policy T10 (PRIVATE CAR PARKING) requires all new development to comply with approved car parking standards as set out in the Development Control Handbook

Non-statutory guidelines 'DAYLIGHTING, PRIVACY AND SUNLIGHT' set criteria for assessing proposals in relation to these issues.

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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **GRANTED** subject to the conditions below.

Conditions

1. Prior to the issue of a decision on this application the applicant shall enter into an appropriately worded legal agreement with the Council to ensure a contribution of £12600 towards local infrastructure costs.
2. The development hereby permitted shall be commenced no later than five years from the date of this consent.
3. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Head of Planning & Strategy before work is commenced on site; Note: samples of the materials may be required.
4. i) Prior to the commencement of construction works on site:
 - a) A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning and Strategy, 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 Head of Planning and Strategy.
- 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 to the satisfaction of the Head of Planning and Strategy.

5. The space shown on the approved plans as visitor parking shall be reserved for this purpose only.
6. The north west elevation, and the elevation and boundary wall facing the Promenade shall be in natural stone.

Reasons

1. In order to ensure that the Council is not placed under any financial burden due to the development.
2. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
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, given the nature of previous uses/processes on the site.
5. In order to ensure that the level of off-street parking is adequate.
6. In order to safeguard the character of the conservation area.

End

