



Leith Harbour and Newhaven Community Council

LHNCC
144/9 Commercial Street
Edinburgh EH6 6LB

Mob: 07810735518
e-mail: secretary@lhncc.org.uk

3 March 2020

Karen Robertson
Case Officer,
PLACE,
Waverley Court,
4 East Market Street,
Edinburgh , EH8 8BG

Dear Ms. Robertson

Re: 20/00465/FUL: 1–5 Baltic Street and 7-27 Constitution St. Edinburgh EH6 7BR
Proposed mixed use development comprising purpose built student accommodation
affordable housing, affordable retail units, cafe and public digital co-working space with
associated landscape, drainage and infrastructure.

Developer: Sundial Properties Ltd.

Architect: MLA Michael Laird Architects

Grounds for support

Representatives from Leith Harbour and Newhaven Community Council (LHNCC) attended Public Exhibition for 19/04966/PAN application on Thursday 28 November 2019, this was followed by LHNCC planning group meeting where a response was completed and sent to the developer, it was also made available to our members prior to a presentation from the developer at our meeting on Tuesday 28 January 2020. This was very well received by those attending, comments made in our response were addressed, with one local resident expressing concerns. The developer has listened to our comments and has been very co-operative throughout this process.

The FUL Application was submitted and made available the following week. Our planning group met and prepared a report that was discussed our meeting on Tuesday 25 February 2020 where it was agreed to submit a response on behalf of LHNCC. There was unanimous support for this application but with the proviso that some issues be addressed.

Benefits:

- A high quality development that is imaginative and sympathetic to the heritage of the site using Hanseatic style frontage on Constitution Street and Tower Street with steeply pitched roofs also providing the opportunity to present an attractive roofscape. This approach reinforces the maritime history of the area and echos the The Shore and Leith's seafaring and industrial heritage. This is a very positive consideration in relation to this site within Leith Conservation area and the fact that all buildings will not be demolished enabling its historical significance to be assured. The steeply pitched roofs also provide the opportunity to present an attractive roofscape
- The cluster style design for student accommodation provides the opportunity to retain and renovate listed buildings that are not suitable for traditional apartments and would otherwise need to be demolished. HMO (66) status being sought extends the opportunity for varying future use of student accommodation. At present there is no student accommodation in Ward 13 and we have no objections to this and we have been assured that only postgraduate students will be in residence.
- The gable and frontage of proposed Affordable housing accommodation (18) and small affordable independent shops (4) includes historical features and have a prominent position on Constitution

Street and includes pocket garden and public and disabled parking spaces (4) to the rear. Residents will also have access to all public spaces and facilities, including a café and digital co-working space, across the site.

- The communal and landscaped areas are well designed and available to all residents and the public. There is central campus square with large formal lawn, with mown grass and semi-mature trees providing the central focus of the site as well as a mix of cottage and pocket style gardens. This creates an environmentally friendly aspect.
- Provides good transport links with only disabled parking on the site and appropriate cycle (656) storage and parking facilities.

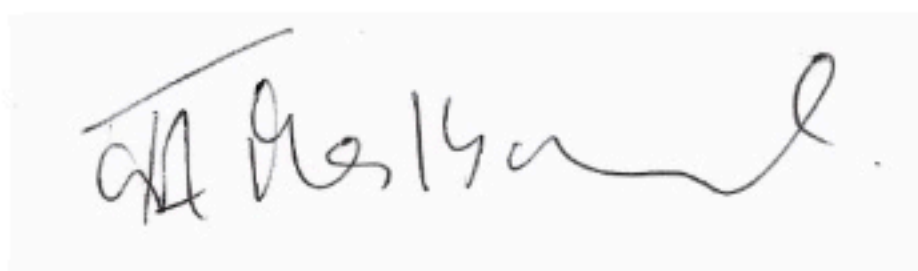
Conditions to be considered

The members identified the following areas of concern that need to be addressed:

- Assurance from educational establishment guarantees that student accommodation for holiday rental/sub-letting will not be permitted as this raises concern regarding Council Tax exemption for student accommodation.
- Debate about provision of affordable housing and student accommodation provision, the application does appear to have recorded argument addressing this but needs to be clarified.
- Does provision of large number of bicycle storage and parking facilities increase risk of theft and would appreciate police response to this query.
- Gated community: The developer intends to allow pedestrians and cyclists public access to the site during daylight hours only, controlling or preventing access during the hours of darkness, apparently for the security of residents. Concern expressed and the issue that this arrangement may contravene either or both of the 2003 Act and the Outdoor Access Code was investigated by letter, with relevant extract for planning application included, to Martin Duncan, Access Officer, Forestry & Natural Heritage, Hermitage of Braid, 69A Braid Road, Edinburgh EH10 6JF (Response Referenced)

We would like to reiterate that we give our support to this Development.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Marlborough', written on a light grey background.

Jennifer Marlborough

References:

Edinburgh Local Development Plan (November 2016)

Part 2 Policies:

- A. 1 Delivering Strategy
 - Del 3 – Edinburgh Waterfront a) b) c) d) & e)
- B. 2 Design Principles for New Developments
 - Objectives a) & c)
 - Des: 1); Des 3-153); Des 4) Des 5, b); Des 7); Des 8, a) b) c) d); Des 11
- C. 3 Caring for the Environment
 - Historic Environment 171
 - Env 6: a) b) & c)
- D. 5 Housing & Community Facilities
 - Hou 1: c); Hou 2 a); Hou 4 a) b) c); Hou 6 – 231; Hou 8 a) b)
- E. 7 Transport
 - Tra 2; Tra 3; Tra 4
- F. 8 Resources & Services
 - 294
 - Sustainable energy RS1 a) b)
- G. Martin Duncan, Forestry & Natural Heritage, Hermitage of Braid, 69A Braid Road, Edinburgh EH10 6JF

Response received:

- 'Under the Land Reform (Scotland) Act 2003, access rights are exercisable on all land except that specified in or under Section 6 of the Act (land over which access rights are not exercisable). Section 6 includes a couple of subsections which may be relevant when considering the open spaces within the proposed development;
- 6 (1) (b) (iv) comprises, in relation to a house or any of the places mentioned in paragraph (a)(ii) above, sufficient adjacent land to enable persons living there to have reasonable measures of privacy in that house or place and to ensure that their enjoyment of that house or place is not unreasonably disturbed;
- 6 (1) (c) land to which, not being land within paragraph (b)(iv) above, two or more persons have rights in common and which is used by those persons as a private garden;
- Access rights, if they apply, can be exercised at any time of day or night provided they are exercised responsibly; ultimately a Section 28 Judicial Determination could be sought to clarify if access rights applied to the area in question.'
- From my reading of the documents associated with the planning application it appears that the intention is for public access to be available to all garden/courtyard areas of the development during the day but that access *may* be restricted during the overnight period, and that all access points would feature gates which would allow this restriction to be implemented. I am not a planner but my understanding is that permeability and connectivity are the qualities often sought in new developments and gating the access points would obviously prevent this.
- I am aware of similar situations in other local authorities where access points are locked overnight as a result of antisocial behaviour. There is little case law on this matter but I am aware of one example, Forbes v Fife Council, where the Sheriff concluded that gates restricting access could remain locked overnight following concerns about antisocial behaviour, a summary of the case can be found at the following location
<https://www.scotways.com/images/pdf/ScotwaysCaseLawPublication03-03-2011.pdf>



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Jennifer Marlborough

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2 A Plan to Protect and Enhance the Environment

A. 2 A Plan to Protect and Enhance the Environment

Conservation Areas

- **Listed Buildings:** 26 Listed Buildings are buildings of special architectural or historic interest. Edinburgh has the greatest concentration of listed buildings in Scotland - around 5,000 listed items comprising 31,500 individual buildings. 75% of buildings in the World Heritage Site are listed

Conservation Areas

- **28 Across Edinburgh** there are a number of designated conservation areas. These are areas of special architectural or historic interest, the character or appearance of which should be conserved or enhanced. A quarter of Edinburgh's urban area lies within a conservation area. Each conservation area has its own unique character and appearance that is identified in a character appraisal. The underlying principle behind the designation of the conservation areas is to maintain the variety of character that illustrates the history of Edinburgh.

Part 2 Policies

B. 1 Delivering Strategy

- Del 3 – Edinburgh Waterfront a) b) c) d) & e)

C. 2 Design Principles for New Developments

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- Des: 1); Des 3-153); Des 4) Des 5, b); Des 7); Des 8, a) b) c) d); Des 11

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