

5 Directorate for Local Government and  
Communities  
Planning and Architecture Division :  
Planning Decisions



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[REDACTED]  
Scott Hobbs Planning

Sent by e-mail only to [REDACTED]

Our ref: NA-EDB-051  
Planning Authority ref: 20/00619/FUL

17 September 2021

Dear [REDACTED]

**NOTICE OF INTENTION**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)  
(SCOTLAND) DIRECTION 2009  
ERECTION OF MIXED-USE DEVELOPMENT COMPRISING RESIDENTIAL  
FLATS, PURPOSE-BUILT STUDENT ACCOMMODATION, ASSOCIATED CAR  
PARKING, CYCLE PARKING, LANDSCAPING AND INFRASTRUCTURE;  
CHANGE OF USE OF EXISTING CAR SHOWROOM TO CLASS 1 AND CLASS 2  
USES, at 553-555 GORGIE ROAD, EDINBURGH EH11 2QX ('the Proposed  
Development')**

1. This letter contains Scottish Ministers' proposed decision on the above application submitted to The City of Edinburgh Council on behalf of the applicant Kiltane Developments Limited.
2. The application was called in for Scottish Ministers' determination on 13 November 2020. The application was considered by means of written submissions and the consideration of a video recording of the site and surrounding area (prepared by the applicant) by a Reporter appointed for that purpose. A copy of the Reporter's report ('the report') is enclosed. Scottish Ministers have carefully considered all the evidence presented in the report.

3. The Reporter's overall conclusions and recommendations are set out in Chapter 5 of the report. The Reporter recommends that planning permission be granted, subject to conditions and a planning obligation.

4. The Reporter finds the main issues to be flooding; the effect on heritage assets; and the effect on the development potential of adjacent land.

#### Flood risk

5. With regard to flood risk, taking all of the evidence including SEPA's revised position into account, the Reporter finds the development to be in accordance with relevant LDP policy. He considers that the development would not increase flood risk or be at risk of flooding itself and would not impede the flow of flood water or deprive a river system of flood water. He does however recognise that the basement level would have the potential to flood, and recommends conditions to ensure the basement is not used for a flood risk sensitive use and is allowed to flood so as not to displace flood water elsewhere. Condition 8 recommended by the Reporter would prohibit, within the basement areas, any use that is not categorised by SEPA as a 'least vulnerable' or 'water compatible' use. However, Ministers note that this condition does not refer to any specific flood risk vulnerability guidance from SEPA, and any such guidance could change. The current SEPA Flood Risk and Land Use Vulnerability Guidance does not specifically mention parking or refuse storage – those uses are not specifically categorised by SEPA as 'least vulnerable' or 'water compatible'. Ministers also note that a revised floor plan of the basement area, with student amenity uses omitted, has not been submitted. Ministers therefore propose an alternative Condition 8 to address this matter, as detailed in the attached annex. Whilst recognising that the basement level would have the potential to flood, Ministers consider that the development would not be at unacceptable risk of flooding, and overall would be in accordance with relevant LDP policy and Scottish Planning Policy principles in relation to flood risk.

#### Heritage assets

6. With regard to heritage assets, the Reporter notes that the Category A-listed Stenhouse Mills is approximately 30 metres from the site, and there are other listed buildings in the locality. However, the Reporter is content, and Ministers agree, that the proposal would have no unacceptable effects on the historic environment and would comply with the associated relevant requirements of the development plan.

#### Development potential of adjacent land

7. The Reporter agrees with the council and the applicant that the design of the current proposal has had sufficient regard to the redevelopment potential of the adjacent land and accords with LDP policies related to that matter. Ministers concur with this conclusion.

#### Other matters

8. In relation to other matters, the Reporter finds the proposal to be compatible with its surroundings and its relatively high development density to be appropriate to

the highly accessible location. He agrees with the council that the mix of student and non-student housing is acceptable given the nature of the site and adjacent uses, and that it is unlikely the proposal would have any adverse impact on the vitality and viability of a nearby local retail centre. He considers the level of financial contributions sought by the council towards additional educational infrastructure to be appropriate. Ministers agree with the Reporter on all of these points.

### Conclusions

9. The Reporter's overall conclusion is that, with the exception of the retail element of the proposal not having been justified to the extent that is expected by LDP policy, the proposal satisfies all relevant policy requirements. Overall, he is satisfied that the proposal is in accordance with the development plan and he has identified no material considerations to persuade him that, despite this, planning permission should be refused. Ministers agree with and share this conclusion.

10. Ministers agree with the Reporter that a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, should secure eight of the residential units as affordable accommodation (all to be social rented tenure unless the Council agrees otherwise) and the payment of developer financial contributions of £2,000 towards an order restricting waiting and loading in Stenhouse Mill Wynd and £19,566 towards additional educational infrastructure in the area.

11. For the reasons set out in the Reporter's report and as summarised above, Scottish Ministers are minded to grant planning permission for the Proposed Development, subject to conditions set out in draft in the attached annex, and to a planning obligation or other suitable alternative arrangement as discussed above.

12. Accordingly, Scottish Ministers hereby defer their formal decision on the planning application, in the first instance for a period of 4 months, to enable the relevant obligation, or other suitable arrangement, to be completed and registered or recorded to Ministers' satisfaction.

13. A copy of this letter and the report has been sent to the City of Edinburgh Council and interested parties.

Yours sincerely



## **ANNEX: List of draft conditions**

1. Prior to the commencement of work, a detailed specification, including trade names and/or sample panels where appropriate, of all proposed external materials shall be submitted to and approved in writing by the Planning Authority. No other external materials than those so approved shall be used within the development hereby approved.

Reason: to ensure the development has an appropriate appearance.

2. Prior to the commencement of construction works on site:
  - (a) a site survey (including intrusive investigation where necessary) shall be carried out to establish 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, shall be submitted to and approved in writing by the Planning Authority.
  - (c) 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 for the approval of the Planning Authority.

Reason: In order to ensure that the level of risk posed to human health and the wider environment by contaminants is acceptable.

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

Reason: in order to safeguard the interests of archaeological heritage.

4. Prior to occupation, the mitigation measures specified in Section 5 (Proposed Mitigation Measures) of the ITP Energised Noise Impact Assessment (Technical Report No. 2970) and dated 05/06/2020 shall be implemented. Those being:
  - (a) the living rooms and bedrooms overlooking Stenhouse Mill Wynd will require an acoustically equivalent glazing with noise reduction of at least 33 dB and trickle ventilation specification should provide at least 28 dB+Ctr noise attenuation. Trickle ventilation should achieve Building Standards levels of ventilation and details of the ventilation should be provided and agreed with the Planning Authority in advance of the development build commencing.
  - (b) noise from the proposed commercial activities (internal) will meet NR15 in existing noise sensitive receptors (NSRs).
  - (c) noise from the proposed fixed items of plant will include attenuation which will meet NR25 in existing and proposed NSRs when derived assuming open window attenuation. Details of any plant attenuation (if required) should be provided and agreed with the Planning Authority prior to the plant becoming operational.
  - (d) the plant room walls will be made of concrete providing at least 43 dBRw. The plant room ceiling will be made of concrete providing at least 52 dBRw. The door to the plant room will provide at least 20 dBRw.

Reason: in order to protect the amenity of the occupiers of the development.

5. Prior to commencement of development, the developer must submit a maintenance schedule for the SUDS infrastructure for the approval of the Planning Authority. The approved schedule shall thereafter be implemented.

Reason: in order to enable the Planning Authority to consider this matter in detail.

6. Prior to commencement of development, a Landscape and Biodiversity Enhancement Plan detailing safeguarding and enhancement measures for biodiversity is required to be submitted in writing for approval by the Planning Authority. The Plan shall be implemented in accordance with the approved scheduling.

Reason: in order to enable the Planning Authority to consider this matter in detail.

7. Prior to the commencement of development, a tree protection plan showing accurate locations of all trees situated adjacent to the eastern boundary of the application site, including canopies, shall be submitted and approved in writing by the Planning Authority. The tree protection plan shall be implemented prior to construction work starting.

Reason: in order to protect any existing trees.

8. The basement area of the development hereby approved shall be used only for parking and refuse storage. The student amenity uses shown on drawing number PL (23) 20 RevB are not authorised by this planning permission, and prior to the commencement of development a revised version of that drawing with those uses deleted shall be submitted to, and approved in writing by, the planning authority.

Reason: this level of the development has the potential to flood.

9. Prior to occupation of any part of the approved development, 28 (7Kw, Type 2, Mode 2) electric vehicle charging points, as shown on drawing no. PL (23) 01 (Rev B) 10/07/2020 shall be installed and be fully operational. These charging points shall not be removed without the prior written approval of the Planning Authority.

Reason: to ensure that adequate ev charging points are provided in the interests of local air quality and the minimisation of CO<sub>2</sub> emissions.

10. There shall be no obstruction to flood water entering the basement level of the development and, if a flood event occurs, the basement shall be allowed to flood naturally.

Reason: in order to retain flood plain capacity.

11. The lowest floor level of any residential accommodation shall be a minimum of 53.1 metres AOD.

Reason: to protect future residents from flooding.

12. Delivery operations to the three commercial premises shall not take place outwith the hours of 0700 to 1900 Monday to Saturday and 0800 to 1800 on Sunday.

Reason: to protect residential amenity.

13. The fretted metal screens shown in drawing pl (20) 22 revision A on some of the windows facing the adjacent land to the south east shall be installed in accordance with the approved drawings prior to first occupation of the approved student accommodation. These screens shall not be altered or removed without the prior written approval of the Planning Authority.

Reason: in order to avoid the impression of overlooking to the adjacent land.