

Development Management Sub Committee

Wednesday 9 January 2019

**Application for Planning Permission 18/09103/FUL
At 2 - 3 Montgomery Street Lane, Edinburgh, EH7 5JT
Change of use from two existing lock ups and a
meditation/yoga centre to form annex hotel
accommodation to 10-18 Windsor St. The accommodation
will comprise a one bed and a two bed unit both with self-
catering facilities.**

Item number	4.7
Report number	
Wards	B12 - Leith Walk

Summary

The conversion of the premises as a separate planning unit to self-catering accommodation (Class 7) is acceptable in principle and will not prejudice nearby employment uses. The proposal will have no more of an impact than the existing Class 11 use and will not be materially detrimental to the living conditions of nearby residents. The proposed external alterations relate to non-original features and will not be harmful to the special interests of the listed building and will not further detract from the character and appearance of the conservation area.

Links

Policies and guidance for this application	LDPP, LDES12, LEN04, LEN06, LEMP10, LHOU07, LTRA02, NSG, NSLBCA, NSBUS, NSGD02, OTH, CRPNEW,
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Report

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to 10-18 Windsor St. The accommodation will comprise a
one bed and a two bed unit both with self-catering facilities.**

Recommendations

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

Background

2.1 Site description

The application site is a one and half storey mews building, located within Montgomery Street Lane and is a Class 11 spiritual centre, incorporating meditation and yoga classes. The lane is accessed off Montgomery Street. Some of the units in the lane service commercial businesses both on Windsor Street and Elm Row. A motorcycle workshop is located at the far end of the lane.

Properties 1-18 (inclusive numbers) Montgomery Street Lane are category C listed (date of listing: 23/04/2004, reference: LB49764).

This application site is located within the New Town Conservation Area.

2.2 Site History

Applications relating to 2-3 Montgomery Street Lane

22 April 2008 - Listed building consent granted for alterations to form two flatted dwellings with introduction of roof-lights and window alterations (Application reference 08/00358/LBC).

18 April 2008 - Planning permission refused for change of use from offices to form two flatted dwellings with introduction of roof-lights and window alterations (Application reference 08/00358/FUL).

9 December 2008 - DPEA appeal dismissed (permission refused) for change of use from offices to form two flatted dwellings with introduction of roof-lights and window alterations (DPEA reference PPA/230/1036).

25 August 2009 - Planning permission granted for change of use to spiritual centre (Ashram) for meditation, yoga classes and meetings, programs and workshops (Application reference 08/04330/FUL).

9 October 2018 - Listed building consent granted for alterations including new rooflights and window/screen alterations (Application reference 18/03354/LBC).

11 October 2018 - Planning application for change of use and alterations to two existing lock ups and a meditation/yoga centre to form two residential mews flats withdrawn (Application reference 18/04020/FUL).

Applications relating to 10-18 Windsor Street

7 April 2017 - Planning permission granted for alterations to hotel annex accommodation to provide additional 2 bedrooms and self-catering facility at 10-18 Windsor Street (Application reference 17/00228/FUL).

Applications relating to 20 - 24 Windsor Street

30 January 2004 - Planning permission granted for a change of use, subdivision to form 3 original townhouses (as amended to omit the 2 mews flats to rear and reduce parking provision) (Application reference 03/04116/FUL).

9 February 2004 - Listed building consent granted for alterations to re-instate to three town houses (as amended to omit the proposed 2 mews flats to rear and reduce parking provision) (Application reference 03/04116/LBC).

2 February 2006 - Planning permission refused for change of use from office to a bed and breakfast hotel (with internal alterations) (Application reference 05/03145/FUL).

9 February 2006 - Mixed decision issued for Listed building consent for the conversion of former offices to bed and breakfast hotel (internal alterations only). The refusal related to the window vents (Application reference 05/03145/LBC).

10 September 2010 - Planning permission granted for the subdivision of town house to form basement flat and two storey house (works only apply to No.24) (Application reference 10/01092/FUL).

17 August 2010 - Listed building consent granted for alterations to form lower ground floor flat and two storey house (No. 24) (Application reference 10/01092/LBC).

13 May 2011 - Planning permission granted to sub divide dwelling to form a lower ground floor flat and a two storey townhouse (no.20) (as amended) (Application reference 11/00953/FUL).

30 May 2011 - Listed building consent granted for alterations to sub divide dwelling to form a lower ground floor flat and a 2 storey townhouse (no.20) (as amended) (Application reference 11/00954/LBC).

13 May 2011 - Planning permission granted for the sub-division of residential property to form lower ground floor flat and a two storey townhouse (No.22) (as amended) (Application reference 11/00956/FUL).

3 June 2011 - Listed building consent granted for alterations to sub-divide residential property to form lower ground floor flat and a two storey townhouse (No.22) (as amended) (Application reference 11/00957/LBC).

16 July 2018 - Enforcement enquiry into an alleged unauthorised change of use - short term commercial visitor accommodation closed (Enforcement reference 12/00306/ECOU).

9 April 2018 - Listed building consent refused for internal alterations to link the three properties of 20, 22 and 24 Windsor Street to the adjoining main hotel by forming a new door opening at ground floor level in the party wall between number 18 and 20 Windsor Street (Application reference 17/04738/LBC).

15 November 2018 - Application for listed building consent submitted to link the 3 properties of 20, 22 and 24 Windsor Street to the adjoining hotel. The application is pending (Application reference 18/09901/LBC).

Main report

3.1 Description Of The Proposal

Proposal

The application seeks planning permission for a proposed change of use from existing lock ups and meditation/ yoga centre (Class 11) to form a hotel annex (Class 7) to the existing hotel premises at 10-18 Windsor Street. The new accommodation will comprise two self-catering units, one with one bedroom and the other with two bedrooms.

Externally, the proposal seeks to replace the existing non-original entrance door and screen with new glazed screens with timber panels at low level and to install four additional conservation rooflights.

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 harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of consent.

In considering whether to grant consent, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. For the purposes of this issue, preserve, in relation to the building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

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 principle change of use in this location is acceptable;
- b) the proposal will have an detrimental impact on neighbouring amenity;
- c) the proposal will harm the character of the listed building;
- d) the proposal will harm detract from the character or appearance of the conservation area;
- e) the proposal address issues of parking and road safety; and
- f) any matters raised in representations have been addressed.

a) Principle of Change of Use

Policy Emp 10 Hotel Development in the Edinburgh Local Development Plan (LDP) permits hotel developments in locations within the urban area with good public transport access to the City Centre.

The existing premises are used as a spiritual centre, incorporating meditation and yoga classes and is a separate planning unit itself. The premises is located within a commercial lane with the nearest flatted residential premises to the north on Montgomery Street. Adjacent to the application site will be a two bedroom self-catering accommodation, which is ancillary to the existing Cairn Hotel at 10-18 Windsor Street. The Cairn Hotel also owns the townhouses at 20, 22, 24 Windsor Street where planning permission was granted to subdivide the townhouses into flats.

Irrespective of land/buildings owned by the Cairn Hotel, the application site on the location plan relates to 2-3 Montgomery Street Lane only. Therefore, assessment of the proposal is limited to that planning unit and not the proliferation of the existing Cairn Hotel. The premises are located within a busy commercial lane (motorcycle shop/business/offices) and is used to service deliveries for retail units on Elm Row. It lies within an urban area as designated in the LDP and is highly accessible to good public transport and nearby amenities. The conversion of the premises will utilise its own separate access and its conversion to a self-catering accommodation in this location is compatible with the commercial character of the lane. The proposal complies with criterion (c) of policy Emp 10 of the LDP.

A number of representations relate to the loss of the existing premises as a charity registered community outlet for yoga and meditation. Policy Hou 10 Community Facilities in the LDP seeks to protect/provide community facilities as a result of new housing developments only. Therefore, the loss of premises as a community asset as a result of the proposed conversion to a self-catering accommodation cannot be safeguarded through the LDP.

Hotel or self-catering guests are not afforded protection from commercial activities within the lane, which may cause disturbance to their stay. In these circumstances, the proposal will not prejudice or inhibit the activities of nearby employment uses and complies with criterion (a) of policy Emp 9 of the LDP.

The principle of converting the premises into a self-catering accommodation in this location is acceptable subject to compliance with other policies in the plan. These are addressed below.

b) Neighbouring Amenity

Policy Hou 7 Inappropriate Uses in Residential Areas in the LDP states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted. The intention of this policy is to preclude the introduction or intensification of non-residential uses incompatible with predominately residential areas; and to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions.

The nearest residential properties are the five storey building located on Montgomery Street Lane which provides the pend access to the lane.

A number of representations have been raised in relation to the noise and anti-social behaviour arising from guests staying at the existing hotel and the self-catering apartments on Windsor Street and the potential for the proposal to further exacerbate the situation. The existing Cairn Hotel at 10-18 Windsor Street is an established hotel use. In these circumstances, planning has no remit to control noise emitting from these premises or to control/contain on-street noise. This is a separate matter that may be addressed under a different legislative regime. The proposal purely relates to 2-3 Montgomery Street Lane as a separate planning unit, which is currently an unrestricted Class 11 (Leisure and Assembly). Given the range of activities that falls under a Class 11 use and the potential for noise and disturbance to occur, the proposal is for the conversion to a one and two bedroom self-catering accommodation will have no more of an impact on residential amenity than a Class 11 use within this mixed use lane. The proposal on balance is acceptable.

The introduction of rooflights will not impact on the privacy of nearby residents.

The proposal complies with policy Hou 7 of the LDP.

c) Listed Building

Policy Env 4 in the Edinburgh Local Plan (LDP) states that proposals to alter a listed building will be permitted where those alterations are justified; will not result unnecessary damage to historic structures or result in an diminution of the buildings interest; and any additions would be in keeping with other parts of the building.

The proposed alterations have been approved under listed building consent, reference 18/03354/LBC which was largely consistent with the previously approved listed building consent 08/00358/LBC. Externally, the proposed alterations relate to non-original features and will not result loss of the buildings original fabric. The inclusion of additional conservation rooflights to the front and rear will sit flush with the roof and are acceptable.

The proposed external alterations comply with the objectives of policy Env 4 of the LDP.

d) Conservation Area

Policy Env 6 in the LDP requires development proposals to preserve or enhance the character or appearance of the conservation area and is consistent with the relevant conservation character appraisal.

The application site is located within the New Town Conservation Area. The character appraisal states the following:

Craig's New Town contained lanes that were composed of artisans' dwellings, but as the expansions of the New Town took place, the original purpose of the lanes transferred to the provision of mews. These provided accommodation for stabling and coaches, usually associated with the town houses on the streets that they lay behind. They are usually one and a half stories high, with a carriage entrance and sometimes a hayloft, both on the lane side. They were usually built with a formal high quality design facing the house and an informal rubble elevation facing the lane of the mews.' There is a standard palette of traditional building materials including blonde sandstone, timber windows and pitched slated roofs.

The external alterations relates to the replacement of non-original features within existing openings and is for an improvement in terms design and detail. Whilst the alterations are not characteristic of the details of existing garage doors openings which are prevalent within the lane, the alterations will not have an unacceptable impact on the character and appearance of the conservation area.

The proposed alterations comply with the objectives of policy Env 6 of the LDP.

e) Parking and Road Safety

The proposal is for the conversion of existing premises that is currently used for visiting members of the public and does not include the formation of a new access road. The lane is used for commercial deliveries and access to business/commercial units. The proposal as a result of its conversion to self-catering accommodations does not raise new issues of road safety concerns and there is no requirement to provide a pedestrian crossing as part of this application. In addition, planning cannot control the turnover of pedestrians using this lane for other uses/access.

The application form indicates that two existing parking spaces will be retained but the location of the parking spaces is outwith the red boundary line on the location plan as submitted. There is no requirement to provide parking for a self-catering accommodation of this scale within a city centre location. The site is highly accessible to public transport and nearby amenities.

The proposal complies with Tra 2 of the LDP.

f) Matters Raised in Representations

Material Representations - Objection

- Principle - Impact on rising tourism and loss of community use - Addressed in Section 3.3 (a).
- Loss of commercial space and the lane is not for sleeping - Addressed in Section 3.3 (a).
- Planning history - Addressed in Section 3.3 (a).
- Impact on residential amenity - noise and anti-social behaviour issues as a result of stag/hen dos/party flats (the lane is quiet in the evening when commercial activity stops) and loss of privacy as result of new rooflights - Addressed in Section 3.3 (b)
- Impact on listed building - poor quality of design - Addressed in Section 3.3 (c).
- Impact on the character and appearance of the conservation area- poor quality of design - Addressed in Section 3.3 (d).
- Road Safety - lane is congested and is used for commercial deliveries, no space to put pedestrian walk/way and will increase chance of an accident - Addressed in Section 3.3 (e).
- Parking provision - Addressed in Section 3.3 (e).

Non-Material Representations - Objection

- Detrimental to World Heritage status - The site is not located within a World Heritage boundary as designated in the LDP.
- Inappropriate location for residential uses and likely to encourage more applications for residential uses in this location - The proposal is not for a Class 9 residential use.
- Residential uses likely to bring more cars and parking pressures within the lane - The proposal is not for a Class 9 residential use.
- Previous applications refused/withdrawn due to local oppositions - Each application is assessed on its own merits.

- To grant planning permission for a change of use and threaten the existence of this centre would discriminate against people on lower incomes. There is no nearby alternative to this centre - Planning cannot control/condition the pricing and location of a service provider.
- Lack of information on the proposed finishes - The drawings as submitted are clear in terms of what is being proposed and this does not preclude assessment of the proposals.
- The proposal should be viewed alongside the relentless rise in AirBnB and short term let properties in area as being an urban blight - Each planning application is assessed on its own merit.
- Stress on local businesses as result of tram extension and more should be done to protect businesses within their unique mews lane - This matter cannot be resolved as part of this application and does not preclude assessment of the proposal against the policies in the LDP.
- Cairn Hotel does not maintain their premises and allows them to slowly fall into a state of disrepair - Planning cannot resolved maintenance issues as part of this application.
- Pressure for housing in central Edinburgh and the proposal is located within a residential area that could benefit individuals seeking long term housing - The previous application was withdrawn due to the incompatibility of housing units within this commercial lane. The site is not a designated in the LDP as being safeguarded for housing uses.
- The existing 'residential' planning consent for the Cairns Hotels was granted with condition that neither they nor the residents within the property are allowed to complain about any noise within the lane - There is no planning condition to monitor the situation under planning permission 17/00228/FUL. An informative which is different from a planning condition was added to make it clear that the hotel's self-catering guests are not afforded protection from commercial activities within the lane.
- Title deeds prohibiting residential/hotel uses - Planning cannot resolve issues of title deeds and land ownerships. This is a civil matter.
- Bins are overflowing within Montgomery Street and approving this application will increase the level of waste in the area - Issues of commercial waste bins is not a planning matter.
- The Cairn Group hotel already dominates Windsor Street - The portfolio of a business is not a planning matter and planning has no remit to curb any business enterprises.
- No neighbour notification sent to 8 Montgomery Street Lane - Neighbour Notification list shows that a notification letter was sent to this address. The council cannot be held liable for any correspondences that do not reach their intended destination.
- The lack of comments relating to the approved application 17/00228/FUL is puzzling and residents were not aware of this development until works started on the site - The Council carried out the required statutory publicity. This has no bearing in the assessment of the current proposals.
- Littering issues from existing hotel guests - Not a planning matter.
- Site Notice and Neighbour Notification - The situation was rectified and letters were sent to all notifiable neighbours. This does not preclude assessment of the proposal.
- Allegations of bribery - This is a Police Scotland matter.

Conclusion

In conclusion, the conversion of the premises as a separate planning unit to self-catering accommodation (Class 7) is acceptable in principle and will not prejudice nearby employment uses. The proposal will have no more of an impact than the existing Class 11 use and will not be materially detrimental to the living conditions of nearby residents. The proposed external alterations relate to non-original features and will not be harmful to the special interests of the listed building and will not further detract from the character and appearance of the conservation area. There are no material considerations that would outweigh this conclusion. It is recommended that Committee grant this application.

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

3.4 Conditions/reasons/informatives

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. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
4. Hotel or self-catering guests are not afforded protection from commercial activities within the lane, which may cause disturbance to their stay.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications 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 26 October 2018 and the proposal attracted 34 letters of objections. Only 27 of these letters were valid/material to the proposal. The comments made are addressed in the Assessment section of the report.

Background reading/external references

- 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**

The site is an urban area as designated in the Edinburgh Local Development Plan and the New Town Conservation Area.

Date registered

16 October 2018

Drawing numbers/Scheme

01-04.,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer

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Links - Policies

Relevant Policies:**Relevant policies of the Local Development Plan.**

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

LDP Policy Env 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Emp 10 (Hotel Development) sets criteria for assessing sites for hotel development.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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.

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 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

Other Relevant policy guidance

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

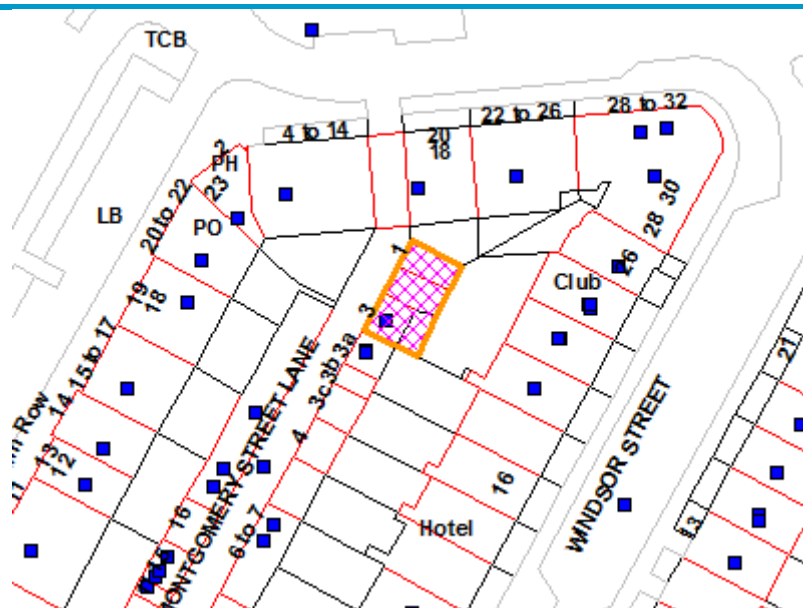
Appendix 1

**Application for Planning Permission 18/09103/FUL
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Consultations

No consultations undertaken.

Location Plan



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