

Notice of meeting and agenda

Development Management Sub-Committee

10.00 am Wednesday, 9th November, 2022

Dean of Guild Court Room - City Chambers

This is a public meeting and members of the public are welcome to attend or watch the webcast live on the Council's website

Contacts

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1. Order of business

- 1.1 Including any notices of motion, hearing requests from ward councillors and any other items of business submitted as urgent for consideration at the meeting.
- 1.2 Any member of the Council can request a Hearing if an item raises a local issue affecting their ward. Members of the Sub-Committee can request a presentation on any items in part 4 or 5 of the agenda. Members must advise Committee Services of their request by no later than **1.00pm on Monday 7 November 2022** (see contact details in the further information section at the end of this agenda).
- 1.3 If a member of the Council has submitted a written request for a hearing to be held on an application that raises a local issue affecting their ward, the Development Management Sub-Committee will decide after receiving a presentation on the application whether or not to hold a hearing based on the information submitted. All requests for hearings will be notified to members prior to the meeting.

2. Declaration of interests

- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

3. Minutes

- 3.1 Minutes of Previous Meeting of Development Management Sub-Committee of 21 September 2022 – submitted for approval as a correct record 11 - 26

- 3.2 Minutes of Previous Meeting of Development Management Sub-Committee of 26 October 2022 – submitted for approval as a correct record 27 - 30

4. General Applications, Miscellaneous Business and Pre-Application Reports

The key issues for the Pre-Application reports and the recommendation by the Chief Planning Officer or other Chief Officers detailed in their reports on applications will be approved without debate unless the Clerk to the meeting indicates otherwise during “Order of Business” at item 1.

Pre-Applications

- 4.1 Report for forthcoming application by Inverdunning (Hatton Mains) Ltd & W & S Crawford for Proposal of Application Notice at land 320 metres north of Ratho Park Hotel, 1A Dalmahoy, Edinburgh - New village incorporating new market and affordable homes, neighbourhood centre, public and active transport hub, community facilities, site for a primary school, site for sports use, new public park and associated new open space, woodland planting, roads, paths and infrastructure - application no. 22/04891/PAN – Report by the Chief Planning Officer 31 - 38
- 4.2 Report for forthcoming application by CCG Limited. for Proposal of Application Notice at land 20 metres north of 82, Niddrie Mains Road, Craigmillar - Removal of existing partly vacant retail parade and new build development of circa 110 residential units over ground floor retail business and leisure units (Use Classes 1, 2, 3 and 4) - application no. 22/04481/PAN – Report by the Chief Planning Officer 39 - 48
- 4.3 Report for forthcoming application by Bellway Homes Scotland East & Roseberry Estates for Proposal of Application Notice at land at, Turnhouse Road, Cammo - Residential development, access, landscaping and associated works - application no. 49 - 54

Pre-Applications

- 4.4** 27 & 29 Beaverhall Road, Edinburgh, EH7 4JE - Demolition of existing buildings and erection of mixed-use development comprising residential and other commercial uses, with associated private amenity and open space, landscaping /public realm, car parking, access arrangements, and associated infrastructure (205 units) (as amended) - application no. 22/01654/FUL – Report by the Chief Planning Officer 55 - 80
It is recommended that this application be **GRANTED**.
- 4.5** 29B Blair Street, Edinburgh, EH1 1QR - Retrospective COU from residential to short-term let visitor accommodation (sui generis) - application no. 22/02338/FUL – Report by the Chief Planning Officer 81 - 90
It is recommended that this application be **GRANTED**.
- 4.6** 3 King's Place, Edinburgh, EH15 1DU - Proposed alterations and extension of a public house with restaurant - application no. 21/05935/FUL – Report by the Chief Planning Officer 91 - 102
It is recommended that this application be **GRANTED**.
- 4.7** Flat 1, 140 Princes Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01744/FUL – Report by the Chief Planning Officer 103 - 114
It is recommended that this application be **GRANTED**.
- 4.8** Flat 2 140 Princes Street, Edinburgh, EH2 4BL - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01745/FUL – Report by the Chief Planning Officer 115 - 124

It is recommended that this application be **GRANTED**.

- 4.9** Flat 2A, 140 Princes Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01746/FUL – Report by the Chief Planning Officer 125 - 134

It is recommended that this application be **GRANTED**.

- 4.10** Flat 3, 140 Princes Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01747/FUL – Report by the Chief Planning Officer 135 - 144

It is recommended that this application be **GRANTED**.

- 4.11** Flat 4, 140 Princes Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01743/FUL – Report by the Chief Planning Officer 145 - 156

It is recommended that this application be **GRANTED**.

- 4.12** Flat 4A, 140 Princes Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01748/FUL – Report by the Chief Planning Officer 157 - 166

It is recommended that this application be **GRANTED**.

- 4.13** Flat 5, 140 Princes Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01750/FUL – Report by the Chief Planning Officer 167 - 176

It is recommended that this application be **GRANTED**.

- 4.14** Flat 6, 140 Princes Street, Edinburgh - Change of Use (retrospective) from residential to short-term let (sui-generis) - application no. 22/01751/FUL – Report by the Chief Planning Officer 177 - 186

It is recommended that this application be **GRANTED**.

5. Returning Applications

These applications have been discussed previously by the Sub-Committee. A decision to grant, refuse or continue consideration will be made following a presentation by the Chief Planning Officer and discussion on each item.

- 5.1** None

6. Applications for Hearing

The Chief Planning Officer has identified the following applications as meeting the criteria for Hearings. The protocol note by the Head of Strategy and Insight sets out the procedure for the hearing.

- 6.1** 34 Cramond Road North, Edinburgh (at land adjacent to former) - application no. 20/02916/FUL – Protocol Note by the Interim Executive Director of Corporate Services 187 - 190
- 6.2** 34 Cramond Road North, Edinburgh (at land adjacent to former) - Section 42 application to vary condition 1 of planning permission reference 13/01843/FUL (which modified consent 05/02947/FUL, which previously modified consent 01/01881/FUL), to extend the proposed timescale for laying out & operating the approved sports pavilion & sports pitches for a further five year period - application no. 20/02916/FUL – Report by the Chief Planning 191 - 198

Officer

It is recommended that this application be **GRANTED**.

7. Applications for Detailed Presentation

The Chief Planning Officer has identified the following applications for detailed presentation to the Sub-Committee. A decision to grant, refuse or continue consideration will be made following the presentation and discussion on each item.

- 7.1** East Princes Street Gardens, Princes Street, Edinburgh - 199 - 216
Temporary use of public gardens/hardstanding for big wheel associated rides/attractions (5 No.) including carousels, fun flyer, techno base, food, craft concession stall, public toilet, waste facilities, entrance features, boundary treatment, ancillary offices, stores info signage. Maintenance of pedestrian routes.
Temporary recurring for 5 years - application no. 22/04917/FUL – Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 7.2** Christmas Market, George Street, Edinburgh - Erection of ice rink 217 - 230
including viewing /seating, sculpture, star flyer, bar and covered seating area, 5 food trader stalls, offices, first aid area and toilets, ancillary storage and generator. Pedestrian walkway retained to southern edge of site. Temporary Period (5 Years) - application no. 22/04920/FUL – Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 7.3** West Princes Street Gardens, Princes Street, Edinburgh - 231 - 246
Temporary change of use and siting of performance units, catering units and other associated moveable structures for Edinburgh's Christmas Festival. Recurring Period of 5 Years - application no. 22/04921/FUL – Report by the Chief Planning

Officer

It is recommended that this application be **GRANTED**.

8. Returning Applications Following Site Visit

These applications have been discussed at a previous meeting of the Sub-Committee and were continued to allow members to visit the sites. A decision to grant, refuse or continue consideration will be made following a presentation by the Chief Planning Officer and discussion on each item.

8.1 None.

Nick Smith

Service Director – Legal and Assurance

Committee Members

Councillor Hal Osler (Convener), Councillor Alan Beal, Councillor Chas Booth, Councillor Lezley Marion Cameron, Councillor James Dalgleish, Councillor Neil Gardiner, Councillor Euan Hyslop, Councillor Tim Jones, Councillor Amy McNeese-Mechan, Councillor Joanna Mowat and Councillor Kayleigh O'Neill

Information about the Development Management Sub-Committee

The Development Management Sub-Committee consists of 11 Councillors and is appointed by the City of Edinburgh Council. This meeting of the Development Management Sub-Committee is being held in the Dean of Guild Court Room in the City Chambers on the High Street in Edinburgh and remotely by Microsoft Teams

Further information

If you have any questions about the agenda or meeting arrangements, please contact Martin Scott, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, email martin.scott@edinburgh.gov.uk / blair.ritchie@edinburgh.gov.uk.

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Minutes

Development Management Sub-Committee of the Planning Committee

10.00am, Wednesday 21 September 2022

Present:

Councillors Osler (Convener), Beal, Booth, Cameron, Dalglish, Gardiner, Hyslop, Jones, McNeese-Mechan and Mowat.

1. Minutes

Decision

- 1) To approve the minute of the Development Management Sub-Committee of 10 August 2022 as a correct record.
- 2) To approve the minute of the Development Management Sub-Committee of 17 August 2022 as a correct record.
- 3) To approve the minute of the Development Management Sub-Committee of 24 August as a correct record.

2. General Applications and Miscellaneous Business

The Sub-Committee considered reports on planning applications listed in sections 4, 5, 6, 7 and 8 of the agenda for this meeting.

Requests for a Presentation:

Councillor Beal requested a presentation on item 4.1 – Report for forthcoming application by Scottish Widows Unit Trust Managers Ltd. for Proposal of Application Notice at 15 Dalkeith Road, Edinburgh - application no. 22/02659/PAN.

Decision

To determine the applications as detailed in the Appendix to this minute.

(Reference – reports by the Chief Planning Officer, submitted.)

3. 17 Mcleod Street (Former Tynecastle High School), Edinburgh

The Chief Planning Officer had identified three linked applications to be dealt with by means of a hearing: 1) planning permission for the partial demolition, change of use and new build to form student residential development and community facilities with associated infrastructure,

landscaping, and access (as amended) at 17 McLeod Street (Former Tynecastle High School), Edinburgh - application no. 21/04469/FUL; 2) Planning permission for alterations to land to provide landscaping and planting beds as part of a community garden at 17 McLeod Street (Former Tynecastle High School - application no. 21/05152/FUL; and 3) Listed building consent for selective demolitions to enable adaptation of original school building to long-term future use including preservation of essential special architectural and historic interest of the listed building and its setting (as amended) at 17 McLeod Street (Former Tynecastle High School - application no. 21/04468/LBC.

(a) (i) Report by the Chief Planning Officer - application no. 21/04469/FUL

The application proposed the redevelopment of the site to provide a development of 100% student accommodation which totalled 468 bedspaces. A range of cluster and studio apartments would be provided.

The proposals were split into a number of different elements as follows:

- redevelopment of the original Tynecastle High school to provide student accommodation;
- demolition of the later additions and workshop buildings and the development of new student accommodation blocks;
- development of a new community space within the ground floor of the new northern block 284 square metres and
- redevelopment of the central space to provide amenity space and planting.

A total of 468 student beds will be provided split between 87 studios and 381 cluster bed spaces.

Tynecastle High School

The original building and early extensions to the eastern range, including the Janitor's House, would be retained. The following key external alterations were proposed:

- demolish the extension to the west wing and modern classroom extensions to the rear;
- carry out remedial works to the elevations affected by the proposed demolitions (described below) and install traditional and contemporary style window and door openings in restored sections;
- erect two brick/glazed stair extensions on the rear elevation and form connecting door openings from four existing windows;
- remove the existing rooflight on the rear roof pitch and slate the roof to match the original finish;
- remove a section of the existing railings and plinths at the south end of McLeod Street to form gated vehicular access to a new sub-station and
- remove the existing vehicular and pedestrian gates and a stone wall at the north end of the main school building to form new vehicular and pedestrian accesses.

Demolitions

The workshop ranges, including the single-storey extension to the western block and the modern blocks to the rear (classrooms extension, Games Hall and Dining Hall and Kitchen) would be demolished.

New Buildings

The proposed new blocks of student accommodation would extend along the northern (block C) and western boundaries (block B) of the site with a section towards the centre of the site. Block B would range from 4 storeys to 6 storeys high. Block C will range from 4 storeys at the eastern end of the site to 7 storeys at the western end of the site. Within the ground floor of each of the blocks a range of student amenity facilities were proposed including a gym, cinema and large breakout spaces facing onto the central landscaped area.

A community facility was proposed within the ground floor of Block C with direct access and facing towards McLeod Street. This facility would have an approximate floor area of 238 square metres and would include meeting rooms.

No provision was provided within the site for car parking. Delivery/servicing access would be provided from a controlled access to the north of the site on to McLeod Street. Cycle parking would be provided in a range of locations across the site with dedicated cycle storage for each block.

Scheme 1

The original application proposed the demolition of the Janitor's House on the eastern section of the main school building.

An associated application for listed building consent had been submitted for the external and internal alterations to the listed buildings and demolition of listed curtilage buildings (application number 22/00671/LBC).

Supporting Information

- Pre-application Consultation Report;
- Planning Statement and Addendum;
- Heritage Statement;
- Design and Access Statement and Addendum;
- Transport Statement;
- Archaeology Assessment;
- Ecology/ Bat Survey;
- Sustainability Statement, Sustainability Design File Note and Sustainability Form S1;
- Daylight and Sunlight Assessment and Daylight Addendum;
- Noise Impact Assessment and Addendum;
- Air Quality Assessment;
- Desktop Ground Investigation Report;
- Light Pollution Assessment ;
- Pre-Application Consultation (PAC) Report;
- Flood Risk Impact Assessment;
- Economic Impact Report and Addendum; and
- Surface Water Management Plan.

(ii) Report by Chief Planning Officer - application no. 21/05152/FUL

The application proposed the development of an urban farm on land adjacent to the former Tynecastle School.

The proposals would include the formation of growing areas, an orchard, greenhouses and storage shed.

Pedestrian access would be provided to the south of the site. Limited vehicle access would be provided to the north as required.

The removal of the buildings located on the eastern section of the site were considered separately under application 21/04468/LBC.

Supporting Information:

No information submitted in support of the application.

(iii) Report by Chief Planning Officer - application no. 21/04468/LBC

The application proposed the redevelopment of the site to provide a development of student accommodation. The associated works that required listed building consent comprised the following: –

- alteration, extension and refurbishment of the original Tynecastle High School to provide student accommodation;
- demolition of the early classroom extension to the west wing and separate workshop buildings on the northern and eastern edges of the site.

The proposed new student accommodation blocks and associated hard and soft landscaping formed part of the associated application for planning permission

Tynecastle High School

The original building and early extensions to the eastern range, including the Janitor's House, would be retained. The following key alterations were proposed:

External

- demolish the extension to the west wing and modern classroom extensions to the rear;
- carry out remedial works to the elevations affected by the proposed demolitions (described below) and install traditional and contemporary style window and door openings in restored sections;
- erect two brick/glazed stair extensions on the rear elevation and form connecting door openings from four existing windows;
- remove the existing rooflight on the rear roof pitch and slate the roof to match the original finish;
- fit existing windows with double glazing and replace original windows in poor condition with double-glazed versions to match the existing profiles and materials;
- remove a section of the existing railings and plinths at the south end of McLeod to form gated vehicular access to a new sub-station; and
- remove the existing vehicular and pedestrian gates and a stone wall at the north end of the main school building to form new vehicular and pedestrian accesses.

Internal

- remove selected walls and sections of walls within the original school building and Assembly Hall and erect new partitions to form student bedrooms, kitchen/lounges, a meeting room, reception area and stores;
- remove the majority of the existing walls and stairs within the Janitor's House and adjoining classroom extension and erect new partitions and stairs to form student accommodation;

Scheme 1

The original application proposed the demolition of the Janitor's House on the eastern section of the main school building.

Supporting Information

- Heritage Statement;
- Planning Statement; and
- Design and Access Statement

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(b) Gorgie and Dalry Community Council

Mathew Reilly and Alex McKendrick addressed the Development Management Sub-Committee on behalf of Gorgie and Dalry Community Council:

Mr Reilly advised that the Community Council were opposed to this application. They had undertaken an online-survey and received 116 responses. 43% of respondents wanted mixed use, 19% wanted purpose-built student accommodation. 87% were opposed to the proposals, 9% supporting and 4% were undecided. The need to prioritise affordable housing was the biggest reason cited for opposition to the proposals. 85% thought there would be an excessive concentration of student accommodation that would be detrimental to diverse communities and 65% thought there would be pressure on local infrastructure.

Mr McKendrick advised that the single use proposals would be unsustainable and detrimental to the community. They would be contrary to LDP Policy Des 4 on flexible use, LDP Policy Env 22 on noise pollution and LDP Policy Hou 8 on the excessive concentration of students. The proposals would also expose students to pollution. Student population in Gorgie was 20% percent in 2011, but this had greatly increased. Moreover, students were a transient community and this could cause problems for the area. The Community Council welcomed the retention of the High School building and the attempts to improve certain aspects for the community. However, there was a need to provide new affordable housing and not just student accommodation.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(c) Living Rent Gorgie/Dalry Branch

Aditi Jehangir addressed the Development Management Sub-Committee on behalf of Living Rent Gorgie/Dalry Branch. Ms Jehangir advised that Living Rent was opposed to the proposals as more student accommodation was unnecessary. The Environmental Report stated that this site was not suitable for any accommodation. Therefore, this should include students. Regarding the community views, over the last decade, there had been a doubling of population, but only 100 new homes had been built. There was discontent at both the failure to provide affordable and the lack of meaningful engagement. Local services were at full capacity and more student accommodation would only exacerbate this. Everyone, including students, should have a suitable accommodation. In conclusion, local people were fed up of being ignored and the members should listen to them. If the site was unsafe, then it was unsafe for student accommodation, but if it was safe, then there should be residential housing provided.

The presentation can be viewed in full via the link below

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Council Webcasts \(public-i.tv\)](#)

(d) People Know How

Tanya Anderson addressed the Development Management Sub-Committee on behalf of People Know How. Ms Anderson advised that she knew this area very well. Her organization undertook charitable work, created spaces in local communities and encouraged collaborative development. They provided a positive transition service from primary to secondary school and also believed that social inclusion was linked to digital inclusion and had launched a digital service. Most of their volunteers came from connections with Universities and Colleges. Operating directly within student accommodation demonstrated the benefit to their organization and for students. If the proposals were approved, they would operate a community space in the building and would provide digital support. They looked forward to working with S1 Development on this project should the development be approved.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(e) Love Gorgie (Gorgie Farm)

Lynn Black addressed the Development Management Sub-Committee on behalf of Love Gorgie. Ms Black advised that Love Gorgie was greatly involved with the local community. The proposals were obviously controversial, however, S1 Developments had engaged with them and their proposals would benefit the community. This would greatly help with the work of Love Gorgie, which included support for vulnerable children and adults, as well as providing activities for young people and developing the farm as a

therapeutic resource. S1 wanted a strong community focus for the project and a new facility would be provided for multiple charities. If approved, the development would include a community garden, which would deliver environmental programmes and combat food poverty. Students would be crucial to this plan. Members should consider the overall potential community benefit when they made their decision.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(f) Ward Councillors

Councillors Denis Dixon and Ross McKenzie addressed the Sub-Committee as members for the Sighthill/Gorgie Ward.

Councillor Dixon advised that he wanted to support these proposals. Because of its close proximity to the nearby industrial site, this site did not lend itself to long term occupation. The site and the buildings over the years had decayed. The developer proposed new student accommodation and he thought that this was the best way forward. In the past, there were examples of developers being refused applications and the land had stayed vacant, such as the proposals for the Royal High School and the nearby Scotmid Site, and he did not want this to happen with this site at Mcleod Street. This was an opportunity to bring new people in and enhance the area. The Sub-Committee should approve this application and bring this area back to life.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

Councillor McKenzie advised that there was very strong opposition to the proposals from the local community, which had not been given proper consideration. He wanted to challenge the narrative given of the history of the site, which had stayed dormant for 15 years for various reasons. The proposals would contravene LDP Policy Des 5 in relation to industrial noise and LDP Policy Hou 8 on student accommodation. According to the impact assessment, there was no distinction between residential and student accommodation. Environmental Protection advised that the application should be refused. If members approved this application, then they would be accepting that students were less deserving of the same level of environmental protection as the rest of society. Therefore, they should refuse this application.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(g) Councillor Fullerton (Sighthill/Gorgie Ward) had submitted written statement, which was circulated to members.

Councillor Fullerton advised that she would like to support the planning

applications. This school had lain moribund for far too many years and was an excellent site for such a development and would bring community benefits too through the delivery of community space for charity People Know How and a garden managed by LOVE Gorgie Farm. She understood that there was evidence that the demand outweighed the supply of student accommodation in Edinburgh and this site had excellent travel routes to the various Colleges and Universities in Edinburgh. The constraints of the site, such as the location of the North British Distillery and Western Approach also meant that student accommodation would be a better use of this site than residential housing and would also ensure the careful restoration and repair of the Category B listed school building. In addition, and importantly, the development would boost the local economy of Gorgie and Dalry which was of great importance to her having lived in both Gorgie and Dalry and still shopped there regularly.

(h) Applicant and Applicant's Agent

Dan Teague and Luke McClelland (S1 Developments) and Steven Black (Planning Consultant of JLL) were heard in support of the application.

Dan Teague advised that he was the Owner and Director of S1 Developments. Mr Teague indicated that S1 was a family company based in Edinburgh with 15 years of experience, delivering high quality residential developments in Edinburgh. He illustrated some of the more recognisable developments they had undertaken around the city. This included Horne Terrace, Malta Terrace in Stockbridge and Ellerslie Road, which was the old Scottish and Newcastle site, and they had developed most of Ellerslie Road and the Rope Works Development in Salamander Place. They were primarily an opportunity-based developer and main contractor, which meant that they purchased largely brownfield constrained sites because they were the ones that they could compete for against the major housebuilders, who took greenfield sites that were easy to develop.

At present, they were on site with 3 residential developments, this included another site on the Union Canal, which was for 46 apartments features 25 percent on-site affordable housing, which would be Link Housing Association. There was also a small site in West Lothian of six units that would go to site, probably later in the year. Additionally, there was also the Rope Works Developments. This was a large 16-acre brown field site that they had developed of about 350 affordable homes on the site and about 320 private homes. They had managed to deliver all of those in the last five years, which for a family-owned company was a tremendous output, but it also showed the amount of affordable housing they were putting into the city. For some sites, they had to clear the site entirely which made it a lot easier to deliver residential housing. There was also a proposed development in St Andrews, which would be one of their first developments outside Edinburgh. It would be an expansion to the town centre in St Andrews and it would deliver high quality residential housing.

Everything they undertook was of quality. They had completed two student developments in the past 15 years, which was less than 5% of all the projects that they had taken on and they tended to carry out two or three developments per year. Additionally, they completed work on Pentland House in Chesser, which was 338 beds which they delivered for Edinburgh University. More recently, they completed work on a

site on Gilmore Place, which was listed building constrained, where they created a collegiate style courtyard with some high-quality sandstone and for the new buildings at the rear. Also, they converted the Chapel into communal space. They wanted to focus on the communal space. Within any student development, that was the key, as if students were going to live in a purpose-built student accommodation, they would have a small bedroom which was perfect with its storage solutions, but the key was mixing with other students, and this sort of space was ideal. There was also the same development at Gilmore Place which had just completely transformed the Old Nunnery and given that building a whole new lease of life. S1 were primarily residential developers. Edinburgh University had stated that the Gilmore Place development was the highest quality student residential they had in their portfolio. S1 certainly did not believe that students were second class citizens. At Tynecastle, they were trying to create high quality student development.

Finally, they were not speculators in land, they were developers, but were also the main contractor. As a family business, they built the sites that they bought and developed. That allowed them to retain the quality, to avoid arguments with contractors, which meant there would be a race to the bottom in terms of quality and result in a slower delivery. When on site, they were fast in delivery, the housing they delivered was well regarded throughout Edinburgh and they would continue to purchase sovereign development sites. Their first choice would always be to undertake residential accommodation. They considered themselves to be residential developers, it was just the case that the circumstances of some sites lent themselves to purpose-built student accommodation. This was an important development for the city and would provide economic benefits.

Luke McClelland advised that he was Project Manager for the Tynecastle Site. Mr McClelland indicated that a narrative was required about how they had reached the decision to provide a student development. There had been a number of views from consultants and from statutory consultees, all of them were relevant and all of these they had considered. It was important to state that they did not purchase this site with a view to putting student housing on it. They purchased it with an open mind about providing a housing mix or student accommodation. But when the secrets of the site had been revealed, they came to this conclusion to provide student accommodation and he would set out exactly how they arrived at that point. They purchased the site in March last year and it was apparent that it was constrained. The Project Summary provided an outline of how the constraints would be addressed and how the development would proceed.

Old Tynecastle High School

Project Summary

On 20/05/22 Tynecastle Teague submitted an updated planning application for the redevelopment of the Old Tynecastle High School site into student accommodation. This note had been prepared as a concise summary of the supporting material and a list of primary drivers for the chosen form of development. Their aim was to deliver a high quality and sustainable scheme that was compatible with the neighbouring uses and benefits the local community.

The development was impacted by a number of specific site constraints:

1. Sensitive neighbouring uses in the form of North British Distillery and Tynecastle Stadium
2. Proximity to the Western Approach Road increased noise and air quality issues
3. HSE Consultation Zone restricted residential development on western boundary
4. Existing sewer ran through the middle of the site with an associated 'no-build' zone
5. Poor condition and difficulty to convert the existing Category B Listed school building

They had consulted extensively with local representatives to develop a number of key community benefits:

1. Inclusion of a 2,734sqft community space to be operated by 'People Know How', a Scottish social innovation charity with existing ties to Tynecastle School
2. An 18,298sqft Urban Farm space to be operated by LOVE Gorgie Farm
3. Biggar Economics had reported on positive economic impacts including:
 - job creation and associated spending from the development.
 - increased spending from student population.
 - increased council tax revenue from 180 properties freed up for family homes.
4. NBD and Hearts supported student use as compatible with their own operations.

The proposed development had a strong focus on sustainability, including:

- Increased biodiversity with 40% increase in green space across the site including extensive green roofs.
- Fully electric heating via air source heat pumps.
- Car free development.
- 100% cycle provision (with potential links to proposed Roseburn to Union Canal cycle path).
- Adaptive reuse of the existing school building and school hall.
- Focus on circular economy through re-use of existing materials

Their considered approach to the heritage of the site included:

- The careful restoration and repair of the original Category B Listed school building. The single aspect cellular layout of the existing building works for student conversion without extensive alterations to the existing fabric. This would not be the case for other uses.
- Key internal features, such as the grand atrium and staircase, would be restored to their former glory.
- The repurposing of existing school hall as a high-quality central amenity hub.
- The historic setting of the original school building was preserved through the reinstatement of the original courtyard arrangement and the reduced heights of the new blocks closest to it.

Biggar Economics had produced a report outlining student demand in the local area:

- The student population in Edinburgh was rising by 3% each year.

- The total student population of the Gorgie/Dalry Community Council Ward boundary was currently 2,260 (15% of the area's total population), of which 669 were in PBSA; and 1,591 were in non PBSA residences.
- This meant that more than 70% of the students within the Gorgie Community Council Area were currently living within open market housing stock.
- Should all proposed PBSA in the Community Council area be built, the total student population would be 3,320 which would account for 20% of the area's population. This figure sat well below a level where the Council would consider the concentration to be excessive.
- As it stood, 35,575 (64.69%) of Edinburgh students must obtain accommodation outside PBSA and this shortfall puts pressure on traditional housing stock.
- The Biggar Economics Report identified that PBSA was effective in reducing impact on traditional housing stock, and also estimated that the development could release 180 properties back to the housing market.

A high quality scheme that exceeded amenity standards on other award-winning and recently consented PBSA:

- The design was centred around a high quality collegiate-style courtyard, with landscaping accounting for more than 65% of the total site area.
- The courtyard provided a communal amenity space that could be sheltered from the surrounding noise constraints by the proposed new blocks.
- External amenity provision was 8.26 sqm/student, more than five times the provision at the consented Westfield Road development in Dalry.
- Internal amenity provision was 2.05 sqm/student, more than double the provision at Westfield Road.
- Robust high-quality materials were proposed, with a palette sympathetic to the existing buildings.

To conclude, S1 recognised the issues in front of the Committee. There was a massive issue in Edinburgh with affordable housing, and student housing was an incredibly emotive subject. He understood the concerns of Living Rent and Gorgie Dalry Community Council. S1 had looked at this site in isolation, they had considered the statistics provided by the Council and had taken the advice from or environmental consultants. That was how they had reached this conclusion and had tried very hard to make it the best student development possible on the site. They believed that not having balconies, private gardens, or being able to open a window was an issue for private housing, but it was something that could be mitigated through communal living in student housing. He thought that was the crux of the argument. Additionally, there would be single operator which was the other important point. S1 looked at each site in its own merits and their development history provided very clear evidence of a willingness to provide good quality affordable housing where possible. They had worked hard to create a sustainable scheme that benefited the local economy, safeguarded an important heritage asset and provided much needed community space for two established organisations. S1 would continue to provide good quality private and affordable residential housing on other sites, which did not have these site-specific constraints.

The presentation can be viewed in full via the link below:

[Development Management Sub-Committee - Wednesday, 21st September 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

Development Management Sub-Committee of the Planning Committee 21 September 2022

17 Mcleod Street (Former Tynecastle High School), Edinburgh (application no. 21/04469/FUL)

Motion

To **GRANT** planning permission subject to the conditions, reasons and informatives set out in section C of the report by the Chief Planning Officer.

- moved by Councillor Osler, seconded by Councillor McNeese-Mechan.

Amendment

To **REFUSE** planning permission as the proposal was contrary to Local Development Plan Policies Hou 1 (paragraph 1D), Hou 8 and Des 5 (paragraph A).

- moved by Councillor Booth, seconded by Gardiner.

Voting

For the motion: - 4 votes

For the amendment: - 5 votes

Abstentions: - 1

(For the motion: Councillors Beal, Cameron, McNeese-Mechan and Osler

For the amendment: Councillors Booth, Dalgleish, Gardiner, Hyslop and Jones

Abstentions: Councillor Mowat)

Decision 1

To **REFUSE** planning permission as the proposal was contrary to Local Development Plan Policies Hou 1 (paragraph 1D), Hou 8 and Des 5 (paragraph A).

17 Mcleod Street (Former Tynecastle High School), Edinburgh (application no. 21/05152/FUL)

Decision 2

To **GRANT** planning permission subject to the informatives set out in section C of the report by the Chief Planning Officer.

17 Mcleod Street (Former Tynecastle High School), Edinburgh (application no. 21/04468/LBC)

Decision 3

To **REFUSE** listed building consent as the proposed development was contrary to HES's guidance on the "Use and Adaptation of Listed Buildings" as the proposals involved the removal, or demolition, of parts of a listed building and an appropriate scheme which would enable the significant parts of a listed building to be retained had not been agreed.

(References – reports by the Chief Planning Officer, submitted.)

Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.</p>		
<p>4.1 - Report for forthcoming application by Scottish Widows Unit Trust Managers Ltd. for Proposal of Application Notice at 15 Dalkeith Road, Edinburgh, EH16 5BH</p>	<p>The selective demolition, adaptation, extension and upgrading of a Class 4 office building, demolition of car park and ancillary buildings, and the proposed development of standalone residential accommodation with associated landscaping, parking and infrastructure – application no. 22/02659/PAN</p>	<ol style="list-style-type: none"> 1) To note the key issues at this stage. 2) To note that forthcoming development should address issues of energy rating and sustainability as buildings from the 1970s tended not to have good energy ratings. 3) To note that energy policy should be embodied in new structures and planning officers should consider the impact on the integrity of a building when parts of the building were removed.
<p>4.2 - 58 Gogarloch Road (Land 39 metres west of), South Gyle</p>	<p>Erection of a new dwelling - application no. 22/02375/FUL - Report by the Chief Planning Officer</p>	<p>To REFUSE planning permission for the reasons set out in section C of the report by the Chief Planning Officer.</p>
<p>4.3 - 43 Northumberland Street, Edinburgh</p>	<p>Construct new residential mews incorporating part of existing boundary wall – application no. 22/01348/FUL</p>	<p>To GRANT planning permission subject to the conditions, reasons and informatives set out in section C of the report by the Chief Planning Officer.</p>
<p>4.4 – 43 Northumberland Street, Edinburgh</p>	<p>Alter existing boundary wall to incorporate it into new residential mews building - application no. 22/01345/LBC</p>	<p>To GRANT listed building consent subject to the informatives set out in section C of the report by the Chief Planning Officer.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>4.5 - 98 Ocean Drive (Ocean Terminal), Edinburgh</p>	<p>Part demolition of existing shopping centre, remodelling and re-facing of facade to provide reconfigured commercial units (Class 1/2/3) at ground floor level, reconfigured visitor attraction space (Class 10) and potential co-working office space (Class 4), commercial units (Class 1/2/3) and/or leisure uses (Class 11) on upper floors, relocation of access bridge to Royal Yacht Britannia, temporary landscaping on the cleared site, and associated works - application no. 22/01372/FUL</p>	<p>To GRANT planning permission subject to the conditions, reasons and informatives set out in section C of the report by the Chief Planning Officer.</p>
<p>5.1 - 126 - 130 Raeburn Place, Edinburgh</p>	<p>Section 42 Application seeking variation to condition No.9 of Planning Permission 12/03567/FUL, to allow the use of acoustic glazing on the elevation fronting onto Comely Bank Road - application no. 21/01222/FUL</p>	<p>To AGREE to a further one-month extension to the period to conclude the legal agreement which will enable the planning permission to be released for this application.</p>
<p>5.2 - Scotstoun Avenue (at Former Agilent Technologies)South Queensferry</p>	<p>Residential development comprising 16 flats with associated car and cycle parking, infrastructure and landscaping (as amended) - application no. 21/00518/FUL</p>	<p>To REFUSE planning permission as the applicant has failed to secure an appropriate legal agreement within the specified period. It is recommended that the application be refused on the basis that the appropriate infrastructure to mitigate the development has not been provided contrary to policies DEL 1 and HOU 6 of the Edinburgh Local Development Plan.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p><u>6.1 - 17 Mcleod Street (Former Tynecastle High School), Edinburgh -</u> application nos. 21/04469/FUL, 21/05152/FUL and 21/04468/LBC</p>	<p>Protocol Note by the Chief Executive</p>	<p>To note the protocol note.</p>
<p><u>6.2 - 17 Mcleod Street (Former Tynecastle High School), Edinburgh</u></p>	<p>Partial demolition, change of use and new build to form student residential development and community facilities with associated infrastructure, landscaping, and access (as amended) - application no. 21/04469/FUL</p>	<p>To REFUSE planning permission as the proposal was contrary to Local Development Plan Policies Hou 1 (paragraph 1D), Hou 8 and Des 5 (paragraph A). (On a division)</p>
<p><u>6.3 - 17 Mcleod Street (Former Tynecastle High School), Edinburgh</u></p>	<p>Proposed alterations to land to provide landscaping and planting beds as part of a community garden - application no. 21/05152/FUL</p>	<p>To GRANT planning permission subject to the informatives set out in section C of the report by the Chief Planning Officer.</p>
<p><u>6.4 - 17 Mcleod Street (Former Tynecastle High School), Edinburgh</u></p>	<p>Selective demolitions to enable adaptation of original school building to long-term future use including preservation of essential special architectural and historic interest of the listed building and its setting (as amended)- application no. 21/04468/LBC</p>	<p>To REFUSE listed building consent as the proposed development was contrary to HES's guidance on the "Use and Adaptation of Listed Buildings" as the proposals involved the removal, or demolition, of parts of a listed building and an appropriate scheme which would enable the significant parts of a listed building to be retained had not been agreed.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p><u>7.1 – St James Square (Proposed Festival Event Space at), Edinburgh</u></p>	<p>Erection of temporary structures and enclosures, including Spiegel tent and bar, and other associated works to facilitate use of St James Square as an external events space - application no. 22/02035/FUL</p>	<p>To REFUSE planning permission for the reasons set out in section C of the report by the Chief Planning Officer.</p>
<p><u>8.1 - 30 Canaan Lane (land to rear of), Edinburgh</u></p>	<p>New dwelling and driveway (amendment to 18/04505/FUL) - application no. 21/05402/FUL</p>	<p>To GRANT planning permission subject to the conditions, reasons and informatives set out in section C of the report by the Chief Planning Officer.</p>

Minutes

Development Management Sub-Committee of the Planning Committee

10.00 am, Wednesday 26 October 2022

Present:

Councillors Osler (Convener), Beal (Items 1.1-4.4 & 7.1-7.2), Booth, Cameron (Items 4.4 and 5.1), Dalgleish (Items 1.1-4.4 & 7.1-7.2), Gardiner (Items 1.1-4.4 & 7.1-7.2), Hyslop (Items 1.1-4.4 & 7.1-7.2), Jones (Items 1.1-4.4 & 7.1-7.2), O'Neill (Items 1.1-4.4 & 7.1-7.2), McNeese-Mechan (Items 1.1-4.4 & 7.1-7.2), and Mowat.

1. Minutes

Decision

To approve the minute of the Development Management Sub-Committee of 5 October as a correct record.

2. General Applications and Miscellaneous Business

The Sub-Committee considered reports on planning applications listed in Sections 4, 5 and 7 of the agenda for this meeting.

Requests for a presentation:

Councillor Booth - Item 4.4 – Western Harbour, Western Harbour Drive, Edinburgh - application no. 22/01633/AMC

Decision

To determine the applications as detailed in the Appendix to this minute.

(Reference – reports by the Chief Planning Officer, submitted)

Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.</p>		
<p>4.1 – 18 Cumlodden Avenue, Edinburgh</p>	<p>Proposed demolition and replacement dwelling house (as amended) – application no. 22/02279/FUL</p>	<p>To GRANT planning permission subject to the conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.</p>
<p>4.2 – 35 Kekewich Avenue, Edinburgh</p>	<p>To erect new dwelling, adjust location of new house on plot. Additional various minor adjustments to internal floor plan, fenestration etc. previous approval 21/01287/FUL – application no. 22/03115/FUL</p>	<p>To GRANT planning permission subject to the informatives set out in section C of the report by the Chief Planning Officer.</p>
<p>4.3 – 8 Roseneath Place, Edinburgh</p>	<p>Erect a timber clad garden room in rear garden of ground floor flat (IN PART RETROSPECT) – application no. 22/02353/FUL</p>	<p>To GRANT planning permission subject to the conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer.</p>
<p>4.4 – Western Harbour, Western Harbour Drive, Edinburgh</p>	<p>Approval of matters specified in condition 3 of planning permission 20/03225/PPP for residential and commercial development providing for use classes 1, 2, 3 and 4 and associated infrastructure – application no. 22/01633/AMC</p>	<p>To APPROVE planning permission subject to:</p> <ol style="list-style-type: none"> 1) The conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer. 2) Two additional informatives: <ol style="list-style-type: none"> i) The applicant shall submit a plan showing how clear and continuous priority is given to the pedestrian / cycle movement to and from the park, allowing access to the park. ii) The applicant shall examine the potential to ensure the heat network is considered in order to allow for the retro fitting of

		a district heating network including dialogue with Victoria Primary School.
5.1 – 49 Mitchell Street, Edinburgh	Extension to hotel – application no. 21/00880/FUL	To REFUSE planning permission for the reasons set out in Section A of the report by the Chief Planning Officer.
7.1 – Site 117 Metres Southwest of 6 New Market Road, Edinburgh	Mixed-use development including built-to-rent homes and student accommodation with ancillary development including commercial use (Class 1, 2, 3, 4, 10 and 11), demolitions, public realm, landscaping and access – application no. 22/00670/FUL	To WITHDRAW the application from the agenda to allow Officers to consider correspondence that was received in respect of the planning permission application and to allow the relevant neighbour with an opportunity to make comments on an updated noise information.
7.2 – Site 117 Metres Southwest of 6 New Market Road, Edinburgh	Part demolition and alterations of listed buildings in association with proposed mixed-use development – application no. 22/00671/LBC	To WITHDRAW the application from the agenda to allow Officers to consider correspondence that was received in respect of the listed building consent application and to allow the relevant neighbour with an opportunity to make comments on an updated noise information.

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Development Management Sub Committee

Wednesday 9 November 2022

Report for forthcoming application by

**Inverdunning (Hatton Mains) Ltd & W & S Crawford for
Proposal of Application Notice**

22/04891/PAN

**at land 320 metres north of Ratho Park Hotel, 1A Dalmahoy,
Edinburgh.**

**New village incorporating new market and affordable
homes, neighbourhood centre, public and active transport
hub, community facilities, site for a primary school, site for
sports use, new public park and associated new open
space, woodland planting, roads, paths and infrastructure.**

Item number

Report number

Wards

B02 - Pentland Hills

Summary

The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming application for planning permission in principle for a residential development and ancillary uses at Land 320 metres north of 1A Dalmahoy, Edinburgh. In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, the applicants submitted a Proposal of Application Notice 22/04891/PAN on 27th September 2022.

Links

Coalition pledges

Council outcomes

Single Outcome Agreement

Recommendations

- 1.1** It is recommended that the Committee notes the key issues at this stage and advises of any other issues.

Background

2.1 Site description

The greenfield site is located on the A71 arterial route west of Edinburgh. One mile to the north lies Ratho, the M8/ M9 motorway network and Edinburgh Airport. To the east lies Heriot-Watt University's Riccarton Campus. To the south lies Dalmahoy Country Club and to the west lies Livingston. The 62-hectare site is located in the Green Belt, bounded by agricultural land to the east, west and north.

The site contains a cluster of listed buildings: 3-5 Dalmahoy, St Mary's Episcopal rectory, church hall and rectory cottage, listed Category C (listing reference: LB26999, date of listing 3 August 1994). However, these buildings have been excluded from the red line boundary of the proposal.

2.2 Site History

The proposed site was subject to a previous PAN process (June 2016, ref.16/03587/PAN) with associated public consultation events in late 2016. Further informal consultation was undertaken between 2018 and 2021 including newsletters and updates to local community councils, local councillors and interested parties. However, due to the length of time since the original PAN, the applicants now wish to undertake further formal consultation ahead of a proposed planning application in 2023.

The previous proposal was for approximately 1200 new housing units, community centre, primary school, open space and associated landscaping, roads and infrastructure.

Main report

3.1 Description of the Proposal

An application for planning permission in principle will be submitted for a new village incorporating new market and affordable homes (Class 9), neighbourhood centre (Class 10 and Sui Generis), public and active transport hub, community facilities, site for a primary school (Class 10), site for sports use (Class 11), new public park and associated new open space, woodland planting, roads, paths and infrastructure.

No details have been submitted regarding number of units, access, design or any other aspect of the proposal.

3.2 Key Issues

The key considerations against which the eventual application will be assessed include whether:

a) The principle of the development is acceptable in this location;

The Local Development Plan (LDP) identifies the site as within the Green Belt. Policy Env 10 sets out criteria for development in the Greenbelt and Countryside. Any proposal will be required to address the policies of the LDP, including how it accords with Env 10 and the Council's Guidance for Development in the Countryside and Greenbelt (dated February 2019).

The LDP is now over five years old, therefore should the applicant submit a full planning application prior the adoption of City Plan 2030, consideration would also need to be given to the 13 principles of sustainable development that are outlined in Scottish Planning Policy.

b) The design, scale and layout are acceptable within the character of the area; and does the proposal comply with the Edinburgh Design Guidance;

The application will be for full planning permission. A design and access statement will be required to accompany the application. Impact on the setting of listed buildings should be considered and will be assessed in relation to Sections 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Other matters including constraints and opportunities presented by existing trees, landscaping, heritage assets, and nearby infrastructure including the A71 will be important design considerations.

The amount of space dedicated to each of the land uses that the applicant proposes as part of any application will need to address a wide variety of LDP policies and the Edinburgh Design Guidance.

Key design considerations will include:

- a phased masterplan which creates a cohesive place.
- a balance of uses and spaces which create an attractive environment.
- Provision of strategic open space and landscaping to support the mix and extent of development proposed.
- Sustainability and climate change.

c) Access arrangements are acceptable in terms of road safety and public transport accessibility;

The application must demonstrate how the proposal aligns with the Council's transport strategy and guidance. Consideration should be given to the impact on traffic flows on local roads and access to public transport and Active Travel networks. The Council's parking standards, including service arrangements and cycle parking provision must also be considered.

The proposals should comply with Edinburgh Design Guidance and Street Design Guidance. A Full Transport Assessment will be required to support the application.

d) The proposal has acceptable effects on infrastructure;

The application will be required to consider impacts on infrastructures in accordance with LDP policy Del 1 (Developer Contributions - Infrastructure and Delivery).

e) There are any other environmental factors that require consideration;

The applicants will be required to submit sufficient information to demonstrate that the site can be developed without having a detrimental impact on the environment. In order to support the application, it is anticipated the following documents will be submitted:

- Pre-Application Consultation report;
- Planning Statement;
- Design and Access Statement;
- Heritage Statement;
- Transport Assessment;
- Affordable Housing Statement;
- Landscape Strategy;
- Archaeology Survey;
- Landscape and Visual Impact Appraisal;
- Surface Water Management Plan;
- Flood Risk Assessment;
- Sustainability Statement;
- Air Quality Impact Assessment;
- Noise Impact Assessment;
- Phase 1 Habitat and Protected Species Survey and
- Tree Survey and constraints appraisal.

The above is not an exhaustive list and other supporting details or assessments may be identified prior to the application being submitted or during the application assessment stage.

The proposal will need to be screened under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to determine whether an Environmental Impact Assessment is required.

3.3 Assessment

This report highlights the main issues that are likely to arise in relation to the various key considerations. This list is not exhaustive and further matters may arise when the new application is received, and consultees and the public have the opportunity to comment.

Financial impact

4.1 The forthcoming application may be subject to a legal agreement.

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 This is a pre-application report. When a planning application is submitted it will be assessed in terms of equalities and human rights.

Sustainability impact

7.1 A sustainability statement will need to be submitted with the application.

Consultation and engagement

8.1 Pre-Application Process

No pre-application.

8.2 Publicity summary of representations and Community Council comments

The Proposal of Application Notice (reference: 22/04891/PAN) outlined the following pre-application consultation:

-
- a dedicated website (www.hattonvillage.com), currently live;
 - two half-day public drop-in events in local venues in Ratho and Dalmahoy on 2nd February 2023, including evening hours;
 - one live online consultation question and answer session during consultation period, 1-6pm, advertised 7 days in advance;
 - offer of meeting with key stakeholders outlined in Section 5 of the PAN form;
 - meeting and presentation with Ratho and District Community Council
 - flyer distribution to local area including A71 corridor, Ratho, Dalmahoy and Riccarton, to include public places.
-

The applicant notes in the PAN application that Ratho Community Council, Currie Community Council and Balerno Community Council and Pentland Neighbourhood Partnership received notification of the PAN on 27 September 2022. The applicant further advises that the following councillors for the Pentland Hills Ward notified of the PAN on 27 September 2022: Councillor Neil Gardiner; Councillor Graeme Bruce; Councillor Fiona Glasgow; and Councillor Stephen Jenkinson.

The results of the community consultation will be submitted with the application as part of the Pre-application Consultation Report.

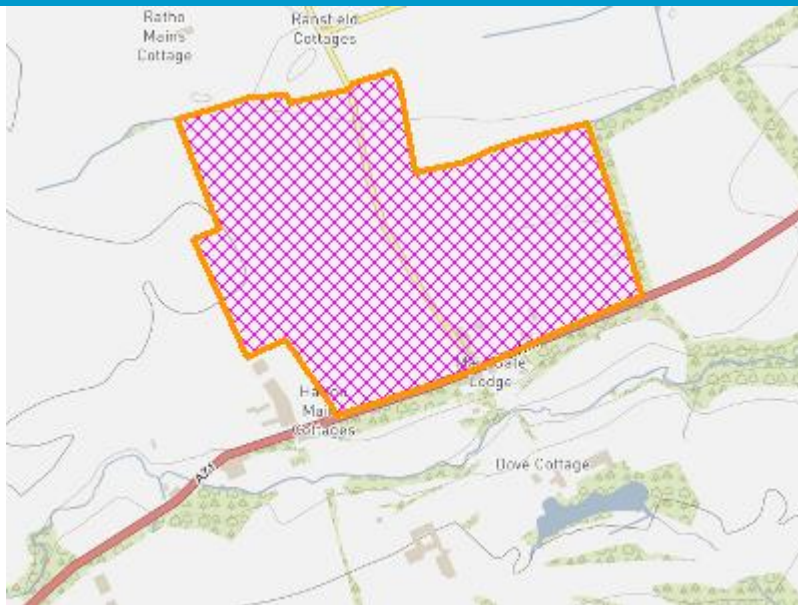
Background reading / external references

- To view details of the proposal of Application Notice go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Simon Wasser, Assistant Planning Officer
E-mail:simon.wasser@edinburgh.gov.uk Tel:

Location Plan



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Development Management Sub Committee

Wednesday 9 November 2022

Report for forthcoming application by

CCG Limited. for Proposal of Application Notice

22/04481/PAN

**at land 20 metres north of 82, Niddrie Mains Road,
Craigmillar.**

**Removal of existing partly vacant retail parade and new build
development of circa 110 residential units over ground floor
retail business and leisure units (Use Classes 1, 2, 3 and 4).**

Item number

Report number

Wards

B17 - Portobello/Craigmillar

Summary

The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming application for planning permission in principle for the overall site, and detailed planning permission for phase 1 for a mixed use development. The proposals will include the removal of existing retail units and new build development including residential, ground floor retail, business and leisure units (Class 1, 2, 3 and 4).

In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, the applicants submitted a Proposal of Application Notice 22/04481/PAN on 7 September 2022.

Links

Coalition pledges

Council outcomes

Single Outcome Agreement

Recommendations

- 1.1 It is recommended that the Committee notes the key issues at this stage and advises of any other issues.

Background

2.1 Site description

The site is located on the south side of Niddrie Mains Road and has a total site area of 0.9 hectares. The site is currently occupied by a mix of uses formed by two main blocks situated along the west and east of the main road. The west of the site is occupied by an existing retail unit, bookmakers and hot food takeaway with associated car parking provision to the rear and separated from the eastern section of the site by Seacole Square road. The eastern section of the site is occupied by an existing row of retail and commercial units. The Tesco Express retail unit provides a bookend on the eastern end of the row of mixed use units, and the Lindsay and Gilmour Pharmacy provides a bookend to the west of the site, with a mix of uses provided in the units situated between both on the eastern section. There exists an area of derelict open space in the eastern section of the site to the rear of Tesco Express, which is partially covered in trees/shrubs. Existing car parking provision is located in a wedge section between the western and eastern sections of the site accessed from Seacole Square Road, and a larger dedicated parking area is located to the south east of the site to the rear of the pharmacy accessed directly from Niddrie Mains Road.

The northern boundary of the site is formed by Niddrie Mains Road. The western boundary of the site is formed by the boundary wall, fencing and parking area entrance associated with the units which form the western section of the site. The site's southern boundary is formed by the boundary walls of the residential garden grounds associated with the properties at both Craigmillar Castle Loan and Seacole Square. The site's eastern boundary is formed by the boundary wall and planting associated with the pharmacy unit in the eastern section of the site.

The site is adjacent to the following listed building:

The White House, 68-70 Niddrie Mains Road (Category B listed) - Reference: LB30325.

2.2 Site History

Development site:

1 November 2016 - Application withdrawn for erection of mixed use development including, residential (houses + apartments), residential care homes (class 8), business (class 4), retail (class 1), food store (class 1) (including cafe), petrol filling station, classes 2 and 3, Community High School (including public library, cafe and sports/ leisure facility), Train Station, with associated landscaping, infrastructure and car parking at development site at Niddrie Mains Road, Edinburgh (application reference 08/02553/OUT).

28 July 2017 - PAN approved for proposed flatted residential development at former Lidl, 100 Niddrie Mains Road, Edinburgh (application reference 17/03400/PAN).

11 October 2017 - Application withdrawn for proposed flatted residential development at Unit 13, 80 Niddrie Mains Road, Edinburgh (application reference 17/03139/PPP).

Adjacent sites:

24 September 2015 - Planning permission granted for mixed use development inc. retail (class 1); financial, professional + other services (class 2); food + drink (class 3); business + employment (class 4); residential institutions (class 8); residential (class 9); assembly + leisure (class 11); sui generis flatted development + other associated works including car parking, public realm, access arrangements + works in general at the development site north of Niddrie Mains Road, Edinburgh (application reference 14/03416/PPP).

31 December 2015 - Planning permission granted for proposed class 1 retail unit, car parking, service road, temporary turning hammerhead and landscaping (Retail Unit 4 - 14/03416/PPP) at redevelopment site north of Niddrie Mains Road, Edinburgh (application reference 15/04443/AMC).

9 December 2016 - Planning permission granted for extension of the Craigmillar Town Square and public realm in front of the neighbourhood hub, connecting the two spaces through uniform materials and building on the existing design framework. The Town Square provides ample space for flexible use at redevelopment site at Niddrie Mains Road, Edinburgh (application reference 16/02697/AMC).

1 October 2019 - Planning permission granted for the erection of a new 3 and 4 storey secondary school with associated hard and soft landscaping, 'town square' proposal, external sports provision and car parking at redevelopment site at Niddrie Mains Road, Edinburgh (application reference 19/01771/FUL).

24 January 2020 - Planning permission granted for the demolition of existing Lidl building and erection of new build residential development comprising of 136 flatted units across 5 no. blocks; with associated parking, roads and landscaping at land at 100 Niddrie Mains Road, Edinburgh (application reference 18/02744/FUL).

7 October 2020 - Planning permission granted for mixed-use residential led development comprising of dementia care centre (Class 8), assisted living apartments (Class 8), student accommodation (Sui Generis) and commercial units (Class 1,2 or 3) with access, landscaping, SUDS and car parking at land 90 Metres South of 2 Pepper Place, Edinburgh (application reference 20/00292/FUL).

Main report

3.1 Description Of The Proposal

An application for planning permission in principle for the overall site, and detailed planning permission for phase will be submitted for a mixed use development. The proposals will include the removal of existing retail units and new build development including residential, ground floor retail, business and leisure units (Class 1, 2, 3 and 4).

No details have been submitted regarding, access, design, unit numbers, commercial floorspace or other aspects of the proposal.

3.2 Key Issues

The key considerations against which the eventual application will be assessed include whether:

a) The proposed development will have a detriment impact on the setting of any listed buildings and structures or the character and appearance of the conservation area;

There is a single listed building located just beyond the western boundary of the site.

The impact of the proposed development on the character, appearance and setting of the identified listed building will be considered in relation to Sections 14 and 59 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997.

b) the principle of the development is acceptable in this location

The site is within the urban area where a mixture of uses including residential, retail and leisure are acceptable in principle. The specific site proposals will be assessed against the relevant policies of the LDP. This includes policy Hou 1 Housing Development, which sets out criteria for considering the suitability of sites for housing, policy Emp 1 Office Development which sets out the policy criteria for commercial development per the proposed Class 4 provision on site.

Given the nature of the existing employment uses throughout the site, policy Emp 9 Employment Sites and Premises, will need to be considered in relation to the redevelopment of employment sites or premises in the urban area for uses other than business, industry or storage. This policy permits the introduction of non-employment uses on the proviso that they will not prejudice or inhibit the activities of any nearby employment use; and the proposal contributes to the comprehensive regeneration and improvement of the wider area.

In terms of assessing the proposed retail element of the proposals, policy Ret 5 Local Centres will be applicable, the policy sets out criteria for the suitability of retail proposals in Local Centres within which the site falls. Policy Ret 9 Alternative Use of Shop Units in Defined Centres outlines the policy requirements where the loss of retail space is concerned in defined centres, due to proposed loss of retail units policy Ret 9 will form part of the assessment.

c) the Design, Scale and Layout are acceptable within the character of the area and whether the proposal complies with the Edinburgh Design Guidance

The application will be for planning permission in principle for the overall site, and detailed planning permission for phase 1. A design and access statement will be required to accompany the application. The layout and design of the proposal will be assessed against the requirements of the Edinburgh Design Guidance and the Revised Craigmillar Urban Design Framework 2013.

d) the proposal is acceptable in terms of residential amenity

The application will need to ensure that there is no significant impact on residential amenity of neighbours. The proposals will be assessed to ensure that there is adequate level of amenity for the future occupiers of the development with the mix of uses proposed a consideration.

e) access arrangements are acceptable in terms of road safety and public transport accessibility

The application should have regard to the transport policies of the LDP and Designing Streets. Consideration should be given to prioritising pedestrian and cycle movement. Transport Information will be required to support this application.

f) there are any other environmental factors that require consideration

The applicant will be required to submit sufficient information to demonstrate that the site can be developed without having an unacceptable impact on the environment. In order to support the application, the following documents are likely to be expected (this list is not exhaustive):

- Pre-application Consultation Report;
- Planning Statement;
- Design and Access Statement;
- Daylighting, Sunlight and Privacy analysis;
- Townscape and Visual Impact Assessment;
- Transport Information;
- Archaeology Assessment;
- Flood Risk Assessment and Surface Water Management Plan;
- Contaminated land survey;
- Noise Impact Assessment;
- Air Quality Impact Assessment; and
- Sustainability Statement.

The proposal will need to be screened under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to determine whether an Environmental Impact Assessment is required.

3.3 Assessment

This report highlights the main issues that are likely to arise in relation to the various key considerations. This list is not exhaustive and further matters may arise when the new application is received, and consultees and the public have the opportunity to comment.

Financial impact

4.1 The forthcoming application may be subject to a legal agreement.

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 This is a pre-application report. When a planning application is submitted it will be assessed in terms of equalities and human rights.

Sustainability impact

7.1 A sustainability statement will need to be submitted with the application.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions are taking place on this application.

8.2 Publicity summary of representations and Community Council comments

The Proposal of Application Notice (reference: 22/04481/PAN) outlined:

Pre-event publicity including a dedicated website, emails to key stakeholders, press release in Edinburgh Evening News, social media posts, flyer distribution to 1000+ local residents and businesses, posters placed locally and a statutory advert.

A public exhibition on Wednesday 28th September 3pm - 7pm, including stakeholder preview 2pm - 3pm.

An online exhibition on Tuesday 4th October 3pm to 7pm, with reminders posted on social media.

Direct consultation with all relevant parties including local ward councillors, constituency MP and MSP, community organisations and immediate neighbours to the site, including existing tenants.

The results of the community consultation will be submitted with the application as part of the Pre-application Consultation Report.

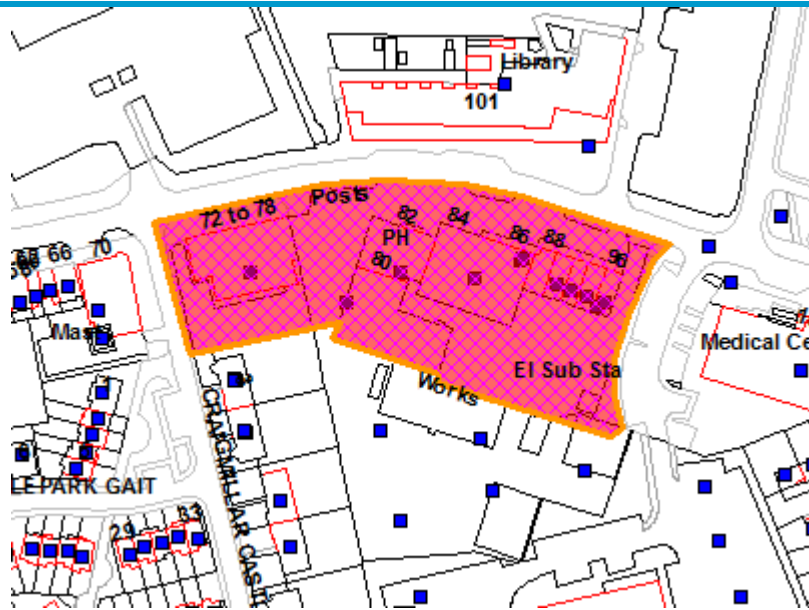
Background reading/external references

- To view details of the proposal of Application Notice go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Julie Ross, Planning Officer
E-mail: julie.ross@edinburgh.gov.uk Tel: 0131 529 4468

Location Plan



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Development Management Sub Committee

Wednesday 9 November 2022

Report for forthcoming application by

**Bellway Homes Scotland East & Roseberry Estates for
Proposal of Application Notice**

22/03180/PAN

at land at, Turnhouse Road, Cammo.

**Residential development, access, landscaping and
associated works.**

Item number

Report number

Wards

B01 - Almond

Summary

The purpose of this report is to inform the Development Management Sub-Committee of a forthcoming application for full planning permission for a residential development, access, landscaping and associated works at Land at Turnhouse Road, Maybury. In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, the applicants submitted a Proposal of Application Notice 22/03180/PAN on 16 June 2022.

Links

Coalition pledges

Council outcomes

Single Outcome Agreement

Recommendations

- 1.1 It is recommended that the Committee notes the key issues at this stage and advises of any other issues.

Background

2.1 Site description

The development site is a roughly triangular area of land situated to the West of Edinburgh and is currently vacant. The site is surrounded to the north and northeast by Turnhouse road, to the south and south west by a railway line, and to the south east by other vacant land. The most easterly part of the site abuts 35, 35A and 35B Turnhouse road, currently in use as a motor vehicle maintenance garage, car showroom, and painter and decorating services. Turnhouse Golf Club is opposite the site across Turnhouse Road. There are few built or natural features within the site boundary, and a hedge forms a boundary between the site and Turnhouse Road in some places.

The site forms part of the Urban Area as shown in the Local Development Plan proposals map, and within the HSG 19 Housing Proposal: Maybury.

2.2 Site History

The below site history relates to neighbouring development sites to the east and north-west.

Neighbouring land to the southeast is allocated for housing in the Local Development Plan, HSG 19: Maybury.

21 November 2019 - Approval of Matters Specified in Conditions of planning permission in principle 16/04738/PPP, in respect of conditions 6(c), 6(d), 6(e), 7, 8, 10, 11, 12, 13, 14, 16, 18, 19, 20 and 21 (relating to landscape and enabling infrastructure) (19/05514/AMC) at Site 100 Metres Northeast Of 19 Turnhouse Road, Edinburgh was granted.

28 July 2020 - Approval of Matters Specified in Conditions of planning permission in principle PPA-230-2207 in respect of Condition 9 (20/00649/AMC) at Site 100 Metres Northeast Of 19 Turnhouse Road, Edinburgh was granted.

5 November 2021 - Planning permission in principle for class 4, 5 and 6 use units, access and landscaping (21/03852/PPP) at 39 Turnhouse Road, Edinburgh, EH12 0AE was granted.

26 September 2019 - Planning permission in principle for Residential development, up to a maximum of 1400 units, and ancillary commercial (Class 1 retail and Class 2 financial and professional) including landscaping, access and services and all other ancillary development (16/04738/PPP) at Site 100 Metres North East Of 19 Turnhouse Road, Edinburgh was granted at appeal.

29 September 2022 - Approval of matter specified in conditions 2, 3, 4, 5 and 6 of Planning Permission in Principle 21/03852/PPP for class 4, 5 and 6 use units, access and landscaping (22/04552/AMC) at 39 Turnhouse Road, Edinburgh, EH12 0AE is pending consideration.

8 August 2022 - Approval of Matters Specified in Conditions of consent 16/04738/PPP in respect of condition nos. 5 (Part 2 i, ii, iii, iv, v, vi), 6(a), 6(b), 6(c), 6(d), 6(e), 6(f), 6(g), 6(h), 6(i), 6(j), 6(k(i-ix)) 10 and 15 for Plots 10-12 only. Erection of dwellings and apartments and associated drainage, infrastructure, and landscaping (22/03824/AMC) at Site 100 Metres North East Of 19 Turnhouse Road, Edinburgh is pending consideration.

Main report

3.1 Description Of The Proposal

An application for planning permission will be submitted for residential development, any ancillary uses and associated access, landscaping and works. No details have been submitted of the number of units, sqm or floorspace of any ancillary uses, type of housing, access, design or associated works.

3.2 Key Issues

The key considerations against which the eventual application will be assessed include whether:

The key considerations against which the eventual application will be assessed include whether:

a) The principle of the development is acceptable in this location;

The site is designated in the Local Development Plan for housing, HSG 19 Maybury. The application will be required to comply with the Maybury and Cammo site brief outlined in the LDP, which sets out the key features for new development in this part of the City.

The LDP is now over five years old, therefore should the applicant submit a full planning application prior the adoption of City Plan 2030, consideration would also need to be given to the 13 principles of sustainable development that are outlined in Scottish Planning Policy.

b) The design, scale and layout are acceptable within the character of the area; and does the proposal comply with the Edinburgh Design Guidance;

The application will be for full planning permission. The proposal will be considered against the LDP's design policies and the Edinburgh Design Guidance. The applicant will need to demonstrate a high-quality design and the suitability of the proposed layout, height, mass and scale of development. A design and access statement will be required to accompany the application.

c) Access arrangements are acceptable in terms of road safety and public transport accessibility;

The proposal should have regards to the Council's transport policy and guidance. Consideration should be given to the impact on traffic flows on local roads, access to public transport and Active Travel. Integration of the proposal with the surrounding road and path network will be important and a servicing strategy inclusive of waste and recycling arrangements will be required. A transport statement will be required to support the application.

d) There are any other environmental factors that require consideration;

The applicant will be required to submit sufficient information to demonstrate that the site can be developed without having a detrimental impact on the environment. In order to support the application, it is anticipated the following documents may be submitted:

Pre-Application Consultation report;
Planning Statement;
Design and Access Statement;
Transport Statement;
Landscape and Visual Impact Appraisal;
Archaeological Assessment;
Ecology Appraisal;
Surface Water Management Plan;
Air Quality Impact Assessment;
Noise Impact Assessment and
Phase 1 Habitat and Protected Species Survey.

The above is not an exhaustive list and other supporting details or assessments may be identified prior to the application being submitted or during the application assessment stage.

Environmental Impact Assessment:

The proposal and site will need to be screened under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to determine whether an Environmental Impact Assessment is required.

3.3 Assessment

This report highlights the main issues that are likely to arise in relation to the various key considerations. This list is not exhaustive and further matters may arise when the new application is received, and consultees and the public have the opportunity to comment.

Financial impact

4.1 The forthcoming application may be subject to a legal agreement.

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 This is a pre-application report. When a planning application is submitted it will be assessed in terms of equalities and human rights.

Sustainability impact

7.1 A sustainability statement will need to be submitted with the application.

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 Proposal of Application Notice (reference: 22/03180/PAN) outlined a public exhibition to be held on 18 August 2022 at Turnhouse Golf Club. A website was also created to allow feedback to be submitted to the applicant and was available at <https://turnhouseroadbellway.co.uk/>. The results of the community consultation will be submitted with the application as part of the Pre-application Consultation Report.

The applicant notes in the PAN application that Corstorphine Community Council, Drum Brae Community Council and Cramond & Barnton Community Council have received notification of the PAN. The applicant was advised that all Councillors for the Almond Ward and local constituency MPs and MSPs should be notified of the PAN.

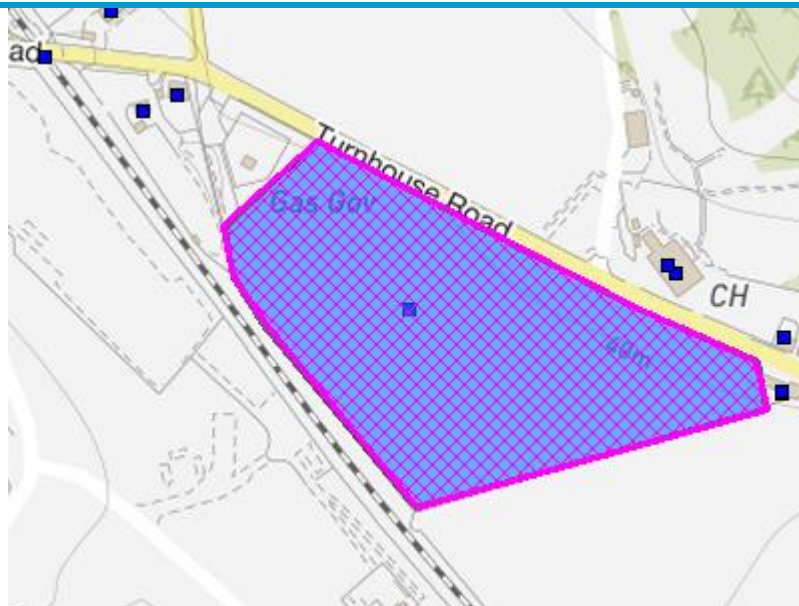
Background reading/external references

- To view details of the proposal of Application Notice go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)

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Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
27 & 29 Beaverhall Road, Edinburgh, EH7 4JE.**

Proposal: Demolition of existing buildings and erection of mixed-use development comprising residential and other commercial uses, with associated private amenity and open space, landscaping /public realm, car parking, access arrangements, and associated infrastructure (205 units) (as amended).

**Item – Committee Decision
Application Number – 22/01654/FUL
Ward – B12 - Leith Walk**

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee as 36 objections to the proposals have been made. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

Recommendation

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

Summary

Overall, the proposals are in accordance with the Local Development Plan and associated guidance. The proposals are an acceptable design, scale, height and density which are appropriate for the location, and there will be an acceptable level of amenity achieved for existing and new residents. Access arrangements and the levels of car and cycle parking is acceptable as are the proposed landscaping, surface water, sustainability and waste and recycling arrangements. There are no material considerations which outweigh the proposals accordance with the Development Plan.

SECTION A – Application Background

Site Description

The proposal relates to a cluster of buildings located on the west side of Beaverhall Road; including a vacant factory and office building at no.27 currently occupied by creative industries, and a personal training studio/gym at no.29. The site covers an area of 0.5 hectares. The current height of the existing main factory building sits at approximately 12 metres. It is comprised of a concrete frame, red facing brick with high level glazed white UPVC windows and felted flat roof. There is an extension to rear of building towards the north edge of the site with a sun canopy towards the south edge.

The site is close to Broughton Road which provides connections to the city centre and beyond. The area is well connected to open green space with St. Mark's Park and the Water of Leith to the north.

Although traditionally an industrial area, Beaverhall is an area of change, with an increasingly residential character. The north of the area is characterised by residential development, whilst the west, south and east of the surrounding area is a mix of residential, offices and light industrial uses.

Description of the Proposals

The application proposes the demolition of all existing buildings on the site, and the erection of a new mixed use development comprising of build to rent (BTR) residential accommodation and commercial uses. A total of 205 residential units are proposed of which 153 will be market rent and 52 (25 %) are classed as affordable housing which will be pepper-potted throughout the development.

The breakdown in unit sizes proposed are;

- Studio units - 55 (27 %)
- One bed units - 68 (33 %)
- Two bed units - 41 (20 %)
- Three bed units - 41 (20 %)

The new building will be between five and seven storey in height with a main frontage to Beaverhall Road and projecting wings to the west.

Proposed materials include a predominantly grey brick front and side elevation, with red metal cladding to accentuate frontages and accesses at ground floor level. Upper levels of the block behind the main frontage will be finished in grey and silver infill panels. To the rear elevation, red brickwork will be used as a finishing material on recessed areas facing the courtyard gardens.

Supporting Information

- Pre application consultation (PAC) report;
- Design and Access Statement;
- Planning Statement;
- Flood Risk Assessment;
- Ground Investigation Report;
- Contamination Desk Study;

- Affordable Housing Statement;
- Air Quality Screening Survey;
- Gas Monitoring Study;
- Noise Impact Assessment;
- CCTV Survey;
- Drainage Strategy;
- Economic and Social Benefits Statement;
- Preliminary Ecological Appraisal;
- Sustainability Statement;
- Townscape and Visual Impact Appraisal (TVIA);
- Transport Assessment;
- Landscape Strategy and Management Plan.

Previous Scheme

The application has been revised during the assessment period with several changes made which are minor in nature and did not raise new material planning issues. These revisions include the omission of the proposed gym and use of this area as additional Class 4 workspace and revisions to the design of floor 6 at the north of the site to reduce the visual impact of the proposed air source heat pumps.

Relevant Site History

21/04608/PAN
27,29 Beaverhall Road
Edinburgh
EH7 4JE

Redevelopment of the site for residential dwellings incorporating affordable homes, private amenity and open space as well as the re-provision of cultural/arts workspace/ commercial space.

Pre-application Consultation approved.
20 September 2021

Other Relevant Site History

No other relevant history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

New Town/Broughton Community Council

Archaeologist

Affordable Housing

Environmental Protection

Flooding

Education

SEPA

Scottish Water

Waste Services.

Transport

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 7 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 22 April 2022;

Site Notices Date(s): Not Applicable;

Number of Contributors: 36

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s), this report will first consider the proposals in terms of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development harming the listed building or its setting?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change : Setting

To the south of the application site on an elevated site are the category A listed (LB 28524), 7-21 Claremont Crescent a terrace of two storey with basement and attic, early 19th century houses. From the rear elevation of some of the houses along Claremont Crescent, there are open views over lower lying buildings to the northwest where the proposed development sits.

The proposed development would sit within and alongside more recent development and would be part of that emerging pattern of new development in the Beaverbank area. The open aspects from the rear of the houses along the terrace would be altered to a slight degree, but the principal façades, which front onto Claremont Crescent would not be affected. This area in which the site is located has seen numerous new residential and commercial developments in recent years replacing earlier industrial buildings.

Street sections have been submitted to show that the maximum height of the proposed development is broadly similar to other recent buildings in the local area.

The revised scheme has also reduced the scale of the proposed air source heat pumps on the 6th storey of the northern end of the block. This has reduced the impact of the development on a local view from St Marks Park and associated views of the New Town Conservation Area and prominent listed buildings, including Broughton St Marys Parish Church.

Conclusion in relation to the listed building

Section 59 (1) the Planning (Listed Buildings and Conservation Areas) (Scotland) (Act) states that the proposals are required to preserve the setting of the listed building including any special architectural or historic interests it possesses. The ability to experience, understand and appreciate the special interest of the listed buildings would not be harmed by the proposed development. The application, therefore, complies with Section 59 of the Act.

a) The proposals comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Design Policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 6, Des 7, Des 8, Des 11
- LDP Housing Policies Hou 1, Hou 2, Hou 3, Hou 4, Hou 6
- LDP Environment Policies Env 3, Env 8, Env 9, Env 16, Env 20, Env 21, Env 22
- LDP Transport Policies Tra 2, Tra 3, Tra 4
- LDP Employment Policy Emp 1, Emp 9
- LDP Delivery Policy Del 1
- LDP Resources Policies Rs 1, Rs 6

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering the above policies. Supplementary Guidance set out in Developer Contributions and Infrastructure Delivery is also a material consideration.

Principle

Residential use

Within the urban area, LDP Policy Hou 1 gives priority to the delivery of housing land supply and the relevant infrastructure on suitable sites in the urban area provided proposals are compatible with other policies in the plan. The proposal for residential BTR flats at this site, complies in principle with the requirements of this policy (subject to other policy considerations).

The application proposes a build to rent (BTR) scheme, which is considered a strand of mainstream housing and all relevant LDP policies and guidance apply, including those relating to housing mix, parking, open space and affordable housing.

LDP Policy Hou 6 (Affordable Housing) sets out the requirement for affordable housing amounting to 25% of the total number of units proposed. Affordable housing will account for 25% (52 units) of the proposed new homes. The affordable housing would consist of flatted apartments of a range of sizes from studio to three bedrooms, and these will be distributed throughout the development. This offers a representative and integrated mix of affordable homes delivered on site.

The affordable housing will be delivered by the applicant as "intermediate rent" and would be secured by a Legal Agreement as affordable housing for a minimum of 25 years. Rents would be restricted to Scottish Government's published Broad Rental Market Area 30th Percentile. Rents at the 30th Percentile are affordable to people within the defined client group and significantly less than average market rents.

The application complies with LDP Policy Hou 6. The applicant will be required to enter into a Section 75 legal agreement to secure the affordable housing element of this proposal.

LDP policy Hou 2 (Housing Mix) states that the Council will seek a mix of house types and sizes where practicable to meet a range of housing needs. The surrounding area consists of a mixed use area including existing residential uses. The proposed BTR element would provide further accommodation within the area for a range of occupants and complies with LDP policy Hou 2.

Commercial and other uses

LDP Policy Emp 9 (Employment Sites and Premises) supports the redevelopment of premises in the urban area for uses other than business provided that the introduction of non-employment uses will not prejudice or inhibit the activities of any nearby employment use and the proposal will contribute to the comprehensive regeneration and improvement of the wider areas.

In this instance the existing building has a number of small scale commercial uses. These are mainly small studio and commercial spaces occupied by creative industries. The larger extension block to the west is currently occupied by a gym. The existing employment uses occupy an area of approximately 1110 square metres which includes other uses such as offices and storage. The proposals involve the formation of flexible studio 'creative areas' or commercial uses occupying an area of 1030 square metres on the ground floor of the new block. At this stage, these commercial areas do not have a fixed layout internally, which can be adapted to meet the requirements of future uses and occupiers. It is anticipated that these spaces can be re-let to some of the tenants of the existing building. These studios are restricted as a Class 4 use to avoid potential disturbance to existing neighbours and future occupiers.

The proposals will introduce a mixed-use residential development in an area which is predominantly residential. The proposal will not inhibit surrounding commercial uses. The proposal complies with Policy Emp 9.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Height, scale and massing

LDP Design Policies Des 1 - Des 8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials.

The design advice given by the Edinburgh Urban Design Panel is reflected in the proposals. The application encourages more activity at street level, reconfigures the layout and massing of the block into fingers of development, offers a cohesive approach to the public realm and landscaping and proposes an architectural response which reflects on the industrial heritage.

LDP Policy Des 4 Development Design - Impact on Setting states that development should have a positive impact on its surroundings, including the wider townscape and landscape, and impact on existing views, including (amongst other matters) height and form. LDP Policy Des 3 Development Design - Incorporating and Enhancing Existing and Potential Features states that existing characteristics worthy of retention on the site have been incorporated in the proposals.

The spatial character of the area is mixed. The application proposes a building which varies between five storeys and seven storeys in height. Although central parts of the development are six storeys in height, the introduction of some modulated, saw-tooth roof features and a stepped roof profile complement the topographic profile and visual character of the area, with the set back roof level aiding the protection of daylight levels to neighbouring properties. The applicant has provided detailed sections and elevations to demonstrate that the heights are appropriate in their immediate context, complying with and LDP Policies Des 3 and Des 4.

LDP policy Des 11 (Tall Buildings) states that development which rises above the prevailing building height will only be granted in specific circumstances. The scheme has been revised to reduce the width of the top storey at the northern end of the proposed buildings which will be used to house air source heat pump fans. The updated Townscape and Visual Impact Assessment (TVIA) demonstrates that revisions will reduce the impact of the proposals on the views of the new town from an area of St Marks Park. Whilst the height and scale in parts has an impact on this existing city view, it is not a designated key view. The revised drawings also include sections to show the height of the proposals in relation to neighbouring developments. The maximum height of the proposed development at its saw-tooth roof feature on the western wings (33.925 AOD) is broadly similar to other modern developments in the area including Canonmills Gardens (31.94 AOD) and Powderhall Brae (31.82 AOD). On this basis, the proposed development would not be overly conspicuous in local and city views and complies with LDP policy Des 11.

LDP Policy Hou 4 Housing Density seeks an appropriate density of development on each site having regard to a number of factors. The approximate density of the proposed development is 368 dwellings per hectare, which is relatively high. This exceeds the density of many recent residential developments in the immediate area. The density is considered appropriate to the immediate site conditions and to the neighbourhood. As explained in later sections, it meets other Council's policies in relation to unit mix, daylight, sunlight, privacy and car parking. This indicates that the proposed density is appropriate, providing efficient use of the site whilst also supporting the regeneration of previously developed land.

The application complies with LDP Policy Des 3, 4, 11 and Hou 4.

Design and Materials

LDP Policy Des 1 (Design Quality and Context) states that proposals should be based on an overall design concept that draws on the positive characteristics of the surrounding area. Whilst the elevational treatment of the block is relatively uniform, there are areas which benefit from increased modulation, relief and texture. The use of perforated metal balconies to the recessed areas on frontage on Beaverhall Road, Dunedin Street and the courtyard elevations breaks up the mass of the elevations proposed whilst having a lightweight appearance.

The sawtooth roof form of the western wings and the corner of the proposed roof terrace references the sites industrial heritage, adding interest to the view from Beaverhall Road. The proposed material palette of brick with red features ensures consistency between the elevations. The use of brick and choice of colours references not only the industrial heritage of the site, but also the texture of the neighbouring buildings.

Community security over adjoining streets and open spaces is promoted through a combination of active frontages at ground floor and natural surveillance at higher levels. The ground floor units provide activity to the street. Residents have access to the main entrance, residents amenity including management/lettings, concierge, co-working space, lounge area and private leisure areas. Cycle storage forms a large part of the ground floor footprint.

The design and the proposed materials are suitable for the context and the mix of building forms and elevational treatment provides interest in compliance with LDP policy Des 1.

Public realm and Landscaping

LDP Policy Des 8 Public Realm and Landscape Design supports development where all external spaces and features, including streets, footpaths, civic spaces, green spaces, boundary treatments and public art have been designed as an integral part of the scheme as a whole. The landscape has been designed to provide a series of relaxed and informal social spaces for residents and visitors to the development. The references in the proposed landscaping to the areas cultural heritage are welcomed. There is an appropriate split between intensive and extensive green roofs proposed which will form an important biodiversity element.

The planting strategy enhances the proposals sense of place and increases the site's biodiversity through the creation of new habitats. By providing a varied species selection, with seasonal interest, it creates a high quality, visually aesthetic environment. The communal courtyard gardens have been designed for a range of uses including recreation, socialising, areas of seating and growing spaces. Trees and plants are proposed to provide structure to the spaces. Informal play opportunities/playful elements and small items of equipment are also proposed as part of the courtyard and roof terrace designs

LDP Policy Hou 3 (Private Green Space) sets out that for flatted developments there should be 10 square metres of open space provision per flat except where private space is provided. The Maker's Yard is more of a publicly accessible community space than private communal open space but is secured at night. The main areas of private communal open space are the Tanner's Yard (albeit this has access from the creative workspaces) on the ground floor and the second courtyard at upper ground level - the Cooper's Yard. The remaining private communal open space is made up from the rooftop terrace at level 5 and the provision of balconies to flats. When each of these elements are considered, the private open space included at this site equates to 8.2 square metres per flat which falls short of that required by LDP policy Hou 3.

The policy does allow for shortfalls in the onsite provision where the number of units proposed is justified by density or appropriate provision or financial contribution is made to implement an identified action in the Open Space Strategy which will address a deficiency in the area. There are no open space deficiencies in the Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018) or LDP action programme (2021) which can be attributed to the proposed redevelopment of this site. On this basis, a deviance from LDP Policy Hou 3 is justified.

The EDG target is for 50% of a space to achieve two hours or more of sunlight on 21 March. The daylight and sunlight report confirms that 'All four of the external amenity areas assessed will exceed the BRE overshadowing target criteria on the spring equinox (21 March) attaining at least two hours of direct sunlight to between 54.90% and 97.80% of their footprints against the target of 50%'. Space A1 at ground level achieves 80.83%, Space A3 at ground level achieves 98.07% but Space A2 at ground level only just meets the minimum at 54.90%. Space A1 at fifth floor level attains 97.80%.

Co-ordinated development

Policy Des 2 (Co-ordinated Development) states that planning permission will be granted for development which will not compromise: a) the effective development of adjacent land; or b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council.

The Urban Design Panel when reviewing an early version of the proposals encouraged the provision of east west permeability through the site. Outline details have been shown how access can be provided through the Makers Yard to potential development sites on Dunedin Street and Logie Mill. At the present time a through route to Logie Mill cannot be implemented as there is a hard boundary on the neighbouring site, which may be subject to change should this come forward for future redevelopment.

For other areas around the site an indicative plan has been included to show that the proposals should not unduly constrain neighbouring development sites.

Amenity for Future Occupiers

LDP Policy Des 5 (Amenity) sets out criteria for ensuring future occupants have acceptable levels of amenity in relation to noise, daylight, privacy or immediate outlook. In regard to privacy, the guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances. In terms of privacy and outlook, the proposed layout of the development broadly reflects the existing townscape pattern. Beaverhall Road itself is relatively wide and the proposed development is located a sufficient distance away from the existing residential properties so as not to result in any significant overlooking or loss of privacy to the neighbouring dwellings. To the south at Dunedin Street, proposed units will be located approximately 12 metres away from existing residential properties and will have balconies facing these existing units. This window distance can be found in other densely populated areas of the city and is considered acceptable. The application complies with LDP Policy Des 5a).

In terms of housing mix, LDP Policy Hou 2 (Housing Mix) seeks the provision of a mix of house types and sizes where practical. The proposal contains a range of house/flat types and sizes. The Edinburgh Design Guidance (EDG) expects that 20% of units should be homes for growing families with at least three bedrooms which the proposal meets. The unit sizes meet the minimum internal floorspace requirements as set out in the EDG.

The EDG recommends that no more than 50% of the total units should be single aspect, although it justifies a limited increase in single aspect units for Build to Rent developments. The proposals provide 40.5% dual aspect flats. This is under the 50% standard, however it is justified by the open plan layouts which allows light to penetrate more deeply into the flats. In addition, 24 of the single aspect flats which face Beaverhall Road will include small side return windows giving an alternative outlook. Therefore, this aspect broadly complies with the EDG.

The daylight to all the habitable rooms in the proposed development have been assessed. The tests were undertaken in accordance with the methodology set out in the EDG. The daylight results show that 440 (89%) of the 495 rooms tested achieve the guideline No Skyline (NSL) values. Of the 55 rooms that do not meet the NSL values, 39 are bedrooms. Each of these bedrooms is directly linked to a living/dining area which exceeds the target levels and will provide future occupants with a good standard of daylight amenity where it is considered 'most important'. The remaining 16 rooms attain direct sky visibility between 17.08% and 44.31% of their floor areas which falls below the 50% minimum standard. The rooms most affected are located on the rear 'fingers' of the development and are at ground and first floor levels. Part of the reason for some of these rooms failing to meet the NSL value includes the provision of balconies to the upper storey flats which will enhance the access to external daylight provision. The build to rent nature of the proposals also encourages an element of co-living, with the inclusion of facilities such as residents lounges and socialising spaces at ground floor including workspaces. These spaces mean that occupiers may spend less time in their individual flats when compared to mainstream residential developments. On this basis the marginal infringement to LDP Policy Des 5 Development Design - Amenity is acceptable.

Planning Advice Note on Noise (PAN 1/2011) advocates a pragmatic approach to the location of new development within the vicinity of existing noise generating uses. On Beaverhall Road opposite the application site is an existing Taxi Club which is a licensed premises and includes a function area with late night use. A Noise Impact Assessment (NIA) has been submitted to assess impact from this source, and other noise sources on habitable windows of the proposed development. Environmental Protection have raised concerns about the potential impact from late night events at the Taxi Club. The area of concern relates to the noise levels created by amplified music and patrons congregating outside the premises.

The Noise Impact Assessment (NIA) submitted with the application includes an assessment of noise levels during an event involving amplified music. The noise levels were not found to breach the required levels with windows open for ventilation. The NIA did not identify any mitigation measures required to be carried out. In relation to noise from patrons outwith the Taxi Club, for example smoking and conversation noise, given that this is an inner city area, these levels of noise sources should be reasonably accepted by future occupants.

In terms of noise source from future occupiers of the proposed Class 4 units and the proposed plant room, revised drawings now include specification details to floors and ceilings to show that this will not impact on future residents.

Given the context of the site, the level of outlook and privacy afforded to future occupiers is acceptable.

Neighbouring Occupiers

The application site is near several residential properties. Representations have been made concerning the development's impact on residential amenity. A Daylight and Sunlight Assessment has been submitted to provide analysis on the impact of the proposed development. Vertical Sky Component (VSC) modelling was used on residential properties directly surrounding the site. The Edinburgh Design Guidance requires this to be more than 27 % or 0.8 of the former value of daylight.

The analysis found that 93% of the 202 windows assessed on existing neighbouring residential properties accord with VSC criteria. For the windows which do not meet the VSC standard, the EDG recommends the use of the Average Daylight Factor (ADF) assessment as an alternative assessment method and this was applied to these 14 rooms, which are spread across four buildings. Following both the VSC and ADF assessments, there are 10 rooms to surrounding properties that do not attain the daylight targets set out in the EDG. Of the remaining 10 rooms, four of them are bedrooms. The BRE notes that daylight to bedrooms is less important than for other room types, due to their nocturnal use pattern. The other six rooms are living/dining spaces attaining ADF values between 0.60% and 1.43%.

Although VSC modelling shows that most existing windows tested satisfy EDG daylight requirements, the ADF assessment shows that development will cause daylight to drop below EDG thresholds in some neighbouring rooms. The proposal is therefore at odds with LDP Policy Des 5. This is largely due to existing daylight levels being already lower than minimum EDG requirements. For example, the rooms to 4 Hatters Lane that do not attain the target sit below a large overhang. This results in the rooms achieving low existing daylight levels and therefore any further small reduction in daylight from the development means that they cannot achieve the target value. The EDG states that the layout of buildings in an area will be used to assess whether the proposed spacing is reasonable, and that achieving reasonable amenity needs to be balanced against achieving good townscape. Considering the relatively high density of the surrounding context and the prevailing character of the existing townscape, this infringement of policy and guidance is not considered significant enough to merit refusal of planning permission.

No gardens or amenity spaces, as defined in the BRE guide, are located close enough to the proposed development to be adversely affected by overshadowing.

Transport

LDP Policies Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) set out the requirement for private car and cycle parking. The Council's Parking Standards for developments are contained in the Edinburgh Design Guidance.

The proposal would accommodate six off-street car parking spaces within an existing parking area of the site, and this complies with the Council's car parking standards. EV charging infrastructure is proposed at each of the parking spaces provided with two of the spaces for blue badge holders.

The site is located quite near to local transport links and has easy access to nearby facilities. The path network in St Mark's Park also provides access to the Warriston Path, a foot and cycle path linking The Shore at Leith with Broughton Road to the west of the proposed development. This path forms part of CEC's Core Path network and National Cycle Network (NCN) Route 75 which locally connects Leith with central Edinburgh and connects with Quiet Routes 11 and 13.

In terms of total numbers, cycle storage provision has been provided in accordance with Edinburgh Design Guidance with a total of 430 spaces provided. A range of internal storage for residents is provided including for standard bikes (72%), cargo bikes (1%) and folding bikes (27%). The main cycle store is located internally towards the rear of the building with access through the parking area or internally via the resident's lounge. Due to the number of cycle parking spaces required, and the relatively limited footprint of the development these are predominantly two tier storage racks. This aspect of the proposals fails to comply with the Edinburgh Street Design Guidance Factsheet C7 Cycle Parking which requires a maximum of 50% of provision to be in the form of two tier racks. However, given the high density of this development as a result of the BTR tenure it is considered that this is an acceptable compromise between the provision of cycle parking spaces, and maintaining an active frontage to Beaverhall Road.

Sheffield stands and lockers for folding bikes are also provided within the covered pend accessing the 'Makers Yard' for the use of visitors and occupiers of the commercial spaces.

The Roads Authority has raised no concern in relation to road safety or cycle parking provision. Given that there are no on street parking spaces proposed, it is not considered appropriate to require the siting of a car club vehicle at this site. Nearby car club spaces are available at two neighbouring sites on Powderhall Road.

The proposal complies with LDP policies Tra 2, Tra 3 and Tra 4.

Sustainability

Policy Des 6 (Sustainability) states permission will be granted for new development where it is demonstrated that: a) current carbon dioxide emissions targets have been met b) features are incorporated to reduce or minimise environmental resource use. A sustainability statement has been submitted including a carbon reduction declaration to confirm the development will comply with current carbon dioxide emissions targets. In addition, low and zero carbon emitting equipment is incorporated including air source heat pumps as a community heating solution and cycle storage to encourage use of a sustainable transport mode. The proposal therefore complies with LDP policy Des 6.

Flooding

LDP Policy Env 21 (Flood Protection) states that planning permission will not be granted for development that would increase flood risk or be at risk of flooding itself.

The site falls within an area which according to SEPA maps is at defined potential risk of surface water flooding. As per the guidance from the Scottish Environment Protection Agency (SEPA), no residential accommodation is located on the ground floor. The first level of residential accommodation is located at 12.1m AOD in line with SEPA requirements.

A Flood Risk Assessment and a Surface Water Management Plan have been provided alongside the associated checklists and certificates required for this scale of development. Flood Prevention has reviewed the information and has confirmed its acceptability.

Scottish Water does not object to the proposals, but has provided advisory notes for the applicant in relation to water and waste water capacity. An informative should be added to any consent requiring coordination with Scottish Water in relation to any required repairs to the network.

Blue/green roof elements and rain gardens are proposed in the open spaces between the building line and footway. In addition, the proposed landscaping within the courtyard performs a surface water attenuation function. An element of below ground cellular storage is proposed within the car parking area to the north which is contrary to the Council's Water Vision. However, given the limited scale of this area, and that this is redevelopment of an existing brownfield site, is considered justified.

Archaeology

LDP Policies Env 8 and Env 9 aim to preserve archaeological remains in situ as a first option and alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be acceptable. It has been identified that this site has potential for unrecorded remains therefore a condition could be attached to ensure a programme of archaeological work is carried out prior to /during development to excavate, record and analysis of any surviving archaeological remains that may occur.

The City Archaeologist has requested a detailed historic building survey of the existing factory including specifically details of the existing Egyptian mural to the east elevation. However, given that this is a relatively recent addition in the history of development on this site, this is not considered a necessary request to preserve the cultural heritage of the area.

Waste

LDP Policy Des 5 (Development Design - Amenity) sets out that planning permission will be granted for development where it is demonstrated that (amongst other matters) refuse and recycling facilities have been sensitively integrated into the design.

The proposals have been designed in line with the Council's Waste Services guidance and there has been an ongoing dialogue between Waste Services and the applicant. Communal refuse storage is provided within the blocks. A condition has been requested regarding the presentation of bins at agreed locations by the agreed factor/housing team of the development. Given that this would not meet the required tests of a condition, should be noted as an informative to the developer.

Education

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) states that proposals will be required to contribute to infrastructure provision including education provision as identified in the plan. Education contributions will be applied in accordance the finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018), supported by the Action Programme updates, including the update in December 2021. The finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018) requires an assessment of the cumulative impact of all new development on education infrastructure having regard to school roll projections and an assumption about potential developments within the area at the time of the assessment.

The Education Actions in the Action Programme Update (December 2021) were based on data from the 2020 Housing Land Audit and 2020 School Roll Projections. The costs to deliver the education actions were increased to reflect increases in construction costs based on the Council's experience awarding contracts to extend and build new schools and to reflect the Council's commitment to deliver low energy, high quality, Passivhaus buildings.

The Education Appraisal (September 2021) combined two contribution zones (Drummond and Leith/Trinity) in order to review the cumulative and cross boundary impacts of new development in the Bonnington area affecting Broughton Primary School, Leith Primary School and Trinity Primary School and the high schools they are aligned to; Drummond High School, Leith Academy and Trinity Academy. Redevelopment of the Bonnington area has been progressing since a development brief for the area was published in 2008 and is expected to continue. The Education Appraisal (September 2021) considers the housing capacity of sites in the Bonnington area that have not previously been assessed.

The proposed development of 205 flats, of which 82 will be greater than one bedroom, are estimated to generate 10 non-denominational primary school pupils, two denominational primary school pupils and five non-denominational secondary school pupils using the latest pupil generation rates set out in the consultation response on behalf of Communities and Families.

The site is in Broughton Primary School and Drummond High School's catchment areas. If considered in isolation, there is capacity in the existing non-denominational catchment schools to serve this development. Broughton Primary School has capacity for 462 pupils over 16 classes and a baseline projected roll, before pupil generation from potential housing developments, of 335 pupils. Drummond High School has capacity for 600 pupils and a baseline projected roll of 534 pupils.

Potential housing developments in Broughton Primary School's catchment area are cumulatively expected to generate an estimated 311 non-denominational primary pupils. Communities and Families have identified a requirement for a new primary school to serve the Bonnington area to serve potential housing developments affecting Broughton, Leith and Trinity primary school catchment areas and a two-class extension to Broughton Primary School, however it is noted that a new primary school's catchment area is likely to capture existing properties that could remove the requirement to extend Broughton Primary School but may increase the size of a new primary school. A statutory consultation will be required to establish a new school and its catchment area and the secondary school it is aligned to.

For this application site, a consultation response from Communities and Families has requested a total contribution towards education infrastructure (primary and secondary) of £645,750 based on the increased level of potential housing output in the wider area. The Council requires this level of contribution in order to deliver the education infrastructure across the wider area, and to address the capacity issues arising from the cumulative impact of all developments coming forward within the area.

The applicant has indicated that it is premature to the examination of City Plan 2030 and ultimate adoption of the new local development plan, to include new housing allocations for consideration within the context of education infrastructure, as none of the City Plan sites are as yet confirmed or can be relied upon. However, the Council has a duty to provide for the pupils resulting from new development, both planned and windfall. The City Plan sites in this area are all brownfield sites. They are allocated to reflect development trends and pressures in the area. They could come forward for housing development under the policies of the existing LDP 2016 and it is therefore appropriate for the Council to plan to accommodate such development in this way.

The applicant has expressed a reluctance to proceed on the basis of a contribution level of £378,266 for primary school and £267,484 for secondary schools. The levels of contribution for this contribution zone as outlined in the finalised Supplementary Guidance was £856 per flat, £70,192 for 82 flats. While it has been practice to exclude studios and one bedroom flats, this was not done in preparing the per unit rates, so it is arguable that even if using the Supplementary Guidance figure, the sum should be higher than the £70,192 figure. However, the cumulative impact of this development has not been previously assessed and the finalised Supplementary Guidance states a cumulative assessment will be carried out having regard to school roll projections and an assumption about potential developments within the area at the time of the assessment and if appropriate revised actions will be applied. Should development arise as anticipated then any shortfall in providing for pupils would have to be addressed by the Council as contributions cannot be sought from development that has already occurred. If development does not arise in the way anticipated, Section 75 agreements make provision for this and in any case the developer can apply to have the planning obligation modified if a case arises.

The applicant acknowledges that the position regarding education infrastructure capacity in the locality of the site has evolved during the processing of the application through work to directly inform the new City Plan 2030. They are therefore content to undertake further dialogue with the education and planning authorities to agree an appropriate level of contribution fairly and reasonably related in scale and kind to the proposed development, and which reflects the actual impacts of and is proportionate to the proposed development, principally the pupil product comprising of approximately 17 pupils.

Notwithstanding this undertaking, it is the recommendation of this report that the £645,750 sum should be secured. If it transpires that through prior to the legal agreement being signed, the sum to be secured is recommended to be substantively lower, a report would be returned to Committee setting out a further recommendation in respect of that.

Healthcare

The site is not within a Healthcare Contribution Zone. The site falls within the catchment for existing GP practices and it is anticipated that the additional patients can be absorbed into these practices and no new actions are required. In this regard, no contribution is required at this time.

Ecology

The site is existing developed land with little opportunity for habitat. Active bat surveys have been carried out and no evidence of current roosting found on the site. It is recommended that further ecological enhancements are carried out in the proposed building and these should be included as informatives.

Contaminated Land

The site has been developed for commercial and industrial uses for a significant time. These uses have the potential to contaminate the site. Should the application be granted, then a condition could be attached to ensure that the site is made safe for the proposed end use.

Conclusion in relation to the Development Plan

On the whole, the proposals are in accordance with the Development Plan associated guidance. The proposals are an acceptable design, scale, height and density are appropriate for the location and there will be an acceptable level of amenity achieved. Access arrangements and the levels of car and cycle parking is acceptable as are the proposed landscaping, surface water, sustainability and waste and recycling arrangements. There are no material considerations which outweigh the proposals accordance with the Development Plan.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations - objections

These issues have been addressed above in sections relating to principle, design, height, amenity, neighbouring occupiers, listed building, transport and education.

- Demolition of the existing building is a waste of resources and a carbon emitter;
- Build to rent should be included as part of a mix of tenures;
- Lack of affordable housing/social rent;
- Loss of existing employment/creative uses;
- Overdevelopment of the site;
- Excessive height;
- Excessive density;
- Excessive concentration of high rise flats in the area;
- Design not in keeping with the character of the surrounding area;
- Architecture should be of a traditional design;
- Adverse impact on skyline views;
- Use of active frontages not suitable for creative studios and workshops.;
- Recommendations made by Urban Design Panel have not been taken on board;
- Security of the development;

- Loss of daylight to neighbours;
- Loss of sunlight to garden ground;
- Loss of privacy to neighbours;
- Increased noise levels;
- Increase in antisocial behaviour from future occupiers;
- Need for junction improvements with Broughton Road;
- Insufficient parking proposed;
- Lack of proposed dropped kerbs;
- Impact on existing road congestion;
- Pressure on nearby greenspace - St Marks Park is already overused;
- Pressure on already poor footpaths and roads;
- Failure to retain existing mural which is part of the areas historic and cultural heritage;
- Insufficient provision for local healthcare facilities which are currently oversubscribed;
- Insufficient school infrastructure provision;
- Impact on the conservation area;
- Impact on the setting of neighbouring listed buildings;

non-material considerations objection

- Loss of view from private property;
- Impact on residents during construction;
- Lack of replacement workshop space during construction period;
- Lack of replacement workshop space elsewhere in the city to mitigate overall loss;
- Lack of provision for existing tenants;
- Adverse impact on local property prices.

Support

- Encourage mixed use nature of the site.

New Town & Broughton Community Council - general comments

- Potential for reuse of existing material following demolition as part of new build;
- Site potential part of wider redevelopment scheme so LDP policy Emp 9 requirements for sites over 1 hectare would be applicable;
- Insufficient wider infrastructure including schools and healthcare provisions;
- Lack of provision of homes for social rent.

Conclusion in relation to identified material considerations

There are no equalities or human rights issues and the proposal complies with the SPP Sustainability Principles. The material considerations do not raise any matters which would result in recommending the application for refusal. Therefore, the application should be granted.

Overall conclusion

Overall, the proposals are in accordance with the Development Plan associated guidance. The proposals are an acceptable design, scale, height and density are appropriate for the location and there will be an acceptable level of amenity achieved. Access arrangements and the levels of car and cycle parking is acceptable as are the proposed landscaping, surface water, sustainability and waste and recycling arrangements. There are no material considerations which outweigh the proposals accordance with the Development Plan.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. The proposed commercial use shown on level 00 (drawing 07b) shall be restricted to Class 4 uses as defined under The Town and Country Planning (Use Classes) (Scotland) Order 1997.
3. Prior to the commencement of construction works on site:
 - a) A site survey (including intrusive investigation where necessary) must be carried out by the applicant 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, must be submitted to and approved in writing by the Planning Authority.
 - 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 for the approval of the Planning Authority.
4. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before above ground work is commenced on site. A full size sample panel of all facade components should be erected at a location agreed with the Planning Authority.
5. No demolition/development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, public engagement, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority

6. The approved soft landscaping scheme shall be fully implemented within the first planting season of the completion of the development. All planting carried out on site shall be maintained by the developer to the satisfaction of the Planning Authority for a period of 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme, as may be submitted to and approved in writing by the Planning Authority.
7. The approved drainage arrangement and SUDs provision shall be implemented prior to first occupation.
8. Prior to the occupation of the proposed development, the EV car chargers as detailed in the approved plans shall be installed and operational.

Reasons: -

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to safeguard neighbouring residential amenity and the amenity of future occupiers.
3. In order to protect the development's occupants and human health.
4. In order to enable the Planning Authority to consider this/these matter/s in detail.
5. In order to safeguard the interests of archaeological heritage.
6. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site
7. To ensure the required infrastructure is in place.
8. In the interests of preserving local air quality.

Informatives

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement has been concluded in relation to education and affordable housing, as set out below:

Affordable Housing

The proposal is required 52 units of affordable housing

Education

The proposed development is required to contribute a maximum of £645,750 towards the delivery of those actions in the Drummond Education Contribution Zone.

The legal agreement should be concluded within 6 months of the date of this notice. If not concluded within that 6 month period, a report will be put to committee with a likely recommendation that the application be refused.

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. For the duration of development, between the commencement of development on the site until its completion, a notice shall be: displayed in a prominent place at or in the vicinity of the site of the development; readily visible to the public; and printed on durable material.
5. The drainage drawing highlights that survey of the Scottish Water combined network was not completed due to poor condition of the network. Prior to construction, repairs of the network should be completed to confirm that the network can accommodate the proposed surface water discharge.
6. All waste bins will be presented at the agreed locations for collection by the agreed factor/housing team for the development. The City of Edinburgh Council waste teams or their agreed contractors will not be required to enter the bin stores at any time. Any missed collections due to late presentation or failure to present the bins will be the responsibility of the factor/housing team/residents to deal with/resolve.
7. The applicant should consider developing a Travel Plan including public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport
8. The applicant should be advised that, as the development is located in the extended Controlled Parking Zone, they will be eligible for one residential parking permit per property in accordance with the Transport and Environment Committee decision of 4 June 2013.

See

https://democracy.edinburgh.gov.uk/Data/Transport%20and%20Environment%20Committee/20130604/Agenda/item_77_controlled_parking_zone_amendments_to_residents_permits_eligibility.pdf (Category D -New Build);

9. This consent grants planning permission only. In particular, it does not include advertisement consent.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01-06, 7b- 14b,15, 16, 17a, 18-25, 26a, 27a

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Rachel Webster, Planning Officer
E-mail:rachel.webster@edinburgh.gov.uk

Summary of Consultation Responses

NAME: New Town/Broughton Community Council

COMMENT: General comments;

1. Reuse of existing materials on site following demolition should be considered;
2. Insufficient provision of replacement workspaces uses, potential for site to be part of a wider redevelopment site;
3. Insufficient consideration given to local infrastructure for education and healthcare;
4. Lack of affordable housing for social rent.

DATE: 19 May 2022

NAME: Archaeologist

COMMENT: No objections subject to condition.

The existing building on site is of local archaeological and historic significance and a historic building survey should be completed prior to demolition. The development the site has a rich industrial dating back to the 19th century and potentially earlier with post-medieval industrial remains known from the wider area. A condition is required.

DATE: 28 April 2022

NAME: Affordable Housing

COMMENT: The applicant has made a commitment to provide 25% on site affordable housing and this will be secured by a Section 75 Legal Agreement. This approach which will assist in the delivery of a mixed sustainable community.

DATE: 1 November 2022

NAME: Environmental Protection

COMMENT: Recommendation for refusal. The NIA carried out on behalf of the application does not provide sufficient comfort to guarantee that noise from the taxi club will be inaudible within the application residential properties (with the window partially open for ventilation purposes).

DATE: 1 September 2022

NAME: Flooding

COMMENT: Thank you for providing the additional information. This satisfies our previous consultation response. This application can proceed to determination. We would however recommend adding the following as a condition, if possible.

- The drainage drawing highlights that survey of the Scottish Water combined network was not completed due to poor condition of the network. Prior to construction, repairs of the network should be completed to confirm that the network can accommodate the proposed surface water discharge.

DATE: 18 August 2022

NAME: Education

COMMENT: To mitigate the cumulative impact of development that would be anticipated if this proposal and other urban area sites progressed, the proposed development is therefore required to make a contribution.

Total infrastructure contribution required:

Primary Infrastructure - £378,266
Secondary Infrastructure - £267,484

DATE: 2 August 2022

NAME: SEPA

COMMENT: Based on this information and drawing Access/Egress Strategy Level 05 + Section (2115-SKM-ZZ-05-DR-A-(SK) 153 P02, 30/05/2022), we are satisfied that there is safe pedestrian access/egress to Dunedin Street to the south of the site in a 1 in 200 year event.

The findings of the FRA are comparable with the latest Water of Leith Flood Model Update outputs, which show the Water of Leith remaining in channel in a 1 in 200 year event.

DATE: 1 September 2022

NAME: Scottish Water

COMMENT: No objections. Comment that Scottish Water will not accept any surface water connections into our combined sewer system.

A Flow and Pressure test (F&PT) is required for this development.

DATE: 11 May 2022

NAME: Waste Services.

COMMENT: I am in agreement that a waste strategy has been reached with the below condition.

All waste bins will be presented at the agreed locations for collection by the agreed factor/housing team for the development. The City of Edinburgh Council waste teams or their agreed contractors will not be required to enter the bin stores at any time. Any missed collections due to late presentation or failure to present the bins will be the responsibility of the factor/housing team/residents to deal with/resolve.

DATE: 21 July 2022

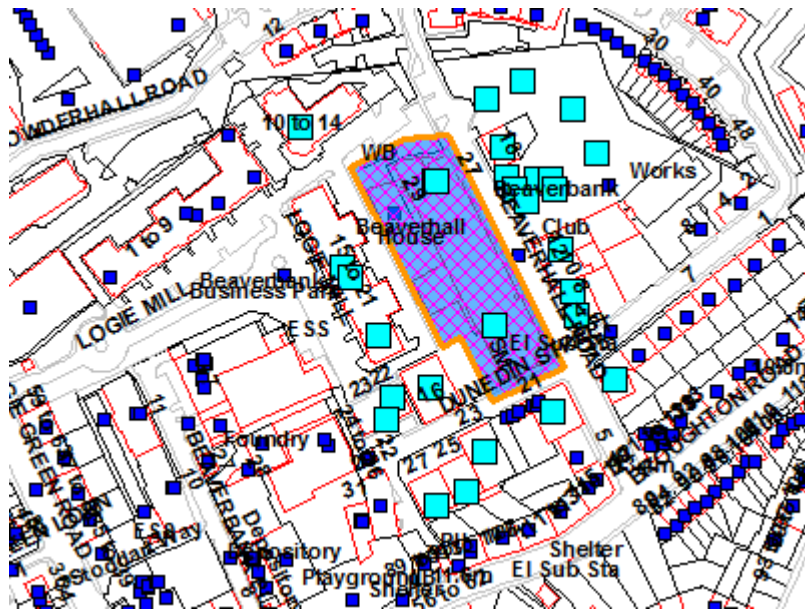
NAME: Transport

COMMENT: No objections subject to appropriate conditions and informatives.

DATE: 1 August 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
29B Blair Street, Edinburgh, EH1 1QR.**

Proposal: Retrospective COU from residential to short-term let visitor accommodation (sui generis).

**Item – Committee Decision
Application Number – 22/02338/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the level of public interest in relation to the issue of short term lets, it is considered appropriate that this application be determined by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site is a basement, two bedroom flat located below other private residences on the western side of Blair Street. The property has its own access to the street.

Blair Street is of mixed character, with a mix of different uses, including leisure and entertainment uses, offices, public houses and residential properties. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 27-31 (ODD NOS) BLAIR STREET (FORMER STATIONARY WORKS), LB28332, 29/04/1977.

The application site is in the Old Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (sui generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a Short Term Let (STL) since 2017.

Supporting Information

- Planning Statement

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 17 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 27 May 2022;

Site Notices Date(s): 24 May 2022;

Number of Contributors: 2

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
- (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the listed building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the conservation area

The proposals are acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering LDP Policies Env 3 and Env 6.

The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved.

The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

Principle of Development

The application site is situated in the Urban Area and City Centre, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

Whilst the properties above the application site are in residential use, the character of Blair Street is one of a very busy thoroughfare, with a considerable pedestrian footfall and ambient noise levels that remain high during the day and night.

The application site is in close proximity to several night clubs, pubs, bars, and other premises that operate into the early hours, resulting in an amenity level for residents that is below that which would be experienced in other, quieter locations within the city centre. Despite the proximity of residential properties above, particularly the ground floor flat that is adjacent to the property's entrance platt, the impact of the STL use would essentially be masked by the background noise levels created by the uses and resultant activities that exist within the vicinity of the application property.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will not adversely affect the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

World Heritage Site

The change of use to an STL does not affect the reasons for the inscription of the Edinburgh World Heritage Site.

The proposal complies with LDP Policy Env 1.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for STLs. Cycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a STL will not be of material detriment to neighbouring amenity and is acceptable in this location within the city centre. It will not harm the listed building or its setting and will preserve the character and appearance of the Old Town Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Negative impact on resident amenity. Addressed in Section C.
- Negative impact of short term lets on communities. Addressed in Section C.
- Negative impact on the world heritage site. Addressed in Section C.
- Lack of economic benefits from STLs. Addressed in Section C.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.
- The applicant has been trading without planning permission since at least 2017. The application is retrospective.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building, or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. There are no conditions attached to this permission.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 16 May 2022

Drawing Numbers/Scheme

01

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

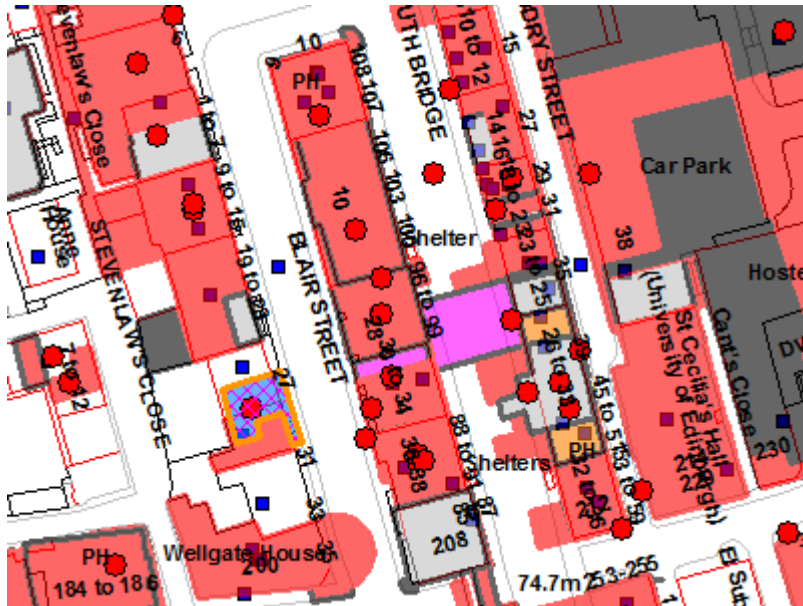
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
3 King's Place, Edinburgh, EH15 1DU.**

Proposal: Proposed alterations and extension of a public house with restaurant.

**Item – Committee Decision
Application Number – 21/05935/FUL
Ward – B17 - Portobello/Craigmillar**

Reasons for Referral to Committee

This planning application requires to be considered by Development Management Sub Committee because there are more than six objections and the recommendation is to grant planning permission.

Recommendation

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

Summary

The proposal complies with the relevant policies within the adopted Edinburgh Local Development Plan. The proposal also complies with the sustainability principles set out in SPP. There are no material planning considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site comprises a triangular shaped, flat roofed, public house located to the rear (northern) boundary of the four storey tenement that fronts King's Road. It is located at the eastern end of King's Road and fronts the promenade (King's Place) beyond which lies the sea wall. The property had an external beer garden that was surrounded by a low level wall. The principal elevation of the building had a variable height of between 4- 3 metres and its external walls were finished in render.

The site currently has a large flat roofed extension to the original building, covering the beer garden and other alterations. These were constructed without planning permission. Planning permission was refused for these works at Development Management Sub Committee under application 19/04018/FUL.

Planning enforcement case, 19/00233/EOPDEV, relating to these unauthorised alterations and extensions, remains open and a planning enforcement notice has been served which requires removal of the unauthorised development by March 2023.

It is now proposed that these unauthorised extensions and alterations be removed and the proposed works be carried out in their place.

While the current proposal, if implemented would resolve the breach of planning control, the ability to progress enforcement action and secure compliance with the notice is not prejudiced by determination of this application.

The surrounding area is mixed in character with residential tenements to the south and commercial garages to the north west.

Planning application 22/00203/FUL, for a smaller extension to the public house was recently granted.

Description Of The Proposal

The application is for planning permission for an extension to the existing public house and alterations to the original building in order to enable a larger restaurant element.

The existing building on the site is single storey, with rendered walls and a large selection of windows. It is proposed that the extension also be single storey and will be a mixture of rendered walls and aluminium dark grey framed glazing. The proposed building will encompass the area of the site and will increase the internal floor area of the building from 73sqm to 295sqm. The extension will have a length of approximately 21.5 metres to its principal elevation, it will have a length of approximately 16 metres to its rear and will have a width of approximately 13 metres. It will have a maximum height of approximately 4.6 metres.

Supporting Information

Surface Water Management Plan and Flood Risk Assessment
Noise Impact Assessment
Sunlight and Daylight analysis

Relevant Site History

08/03541/FUL
3 King's Place
Edinburgh
EH15 1DU
New extension to existing building to form new lounge and bar
Refused
12 November 2009

19/04018/FUL

3 King's Place

Edinburgh

EH15 1DU

New covered raised floor area forming part of existing outdoor dining area (in retrospect).

Refused

21 February 2020

20/03844/FUL

3 King's Place

Edinburgh

EH15 1DU

New public house and restaurant (with staff accommodation) on site of existing. withdrawn

11 March 2021

22/00203/FUL

3 King's Place

Edinburgh

EH15 1DU

Internal and external alterations.

Granted

21 June 2022

Other Relevant Site History

None.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Environmental Protection

Flood Planning

Roads Authority

SEPA

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 22 November 2021

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 26 November 2021;

Site Notices Date(s): Not Applicable;
Number of Contributors: 13

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Design Policies Des 1, Des 10 and Des 12.
- LDP Natural Environment Policies Env 12 and Env 21.
- LDP Housing Policy Hou 7.

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering these policies.

Principle

The application site is located within the urban area, the property is a long established public house/restaurant with a large beer garden. As a result, the extension of the existing pub/restaurant would not constitute a material change of use of the land and is acceptable in principle.

Design

The existing building on the site is a flat roofed, single storey structure, with a varying roof height. It has been adapted and extended at various times, not always sympathetically, and most recently with the unauthorised extensions and alterations which were refused under application 19/04018/FUL. Previously the property had a number of smaller extensions attached to it, including a Upvc conservatory.

The walls of the proposal shall be finished in render to match the original building, whilst large elements of the new extension shall be finished in glazing, with dark grey frames. Large windows with dark grey frames have been utilised on many of the recently approved flatted developments now present along the promenade. The single storey extension is simple, yet elegant, and is acceptable on this site, as it will continue the form of the original building and will minimise any loss of sunlight/daylight to the residential properties which are located near to the site.

The proposal will modernise and refresh the existing building. The development will improve the frontage of the building which faces the water. It will have no impact upon the public access as the works will be located within the land owned by the applicant.

The applicant has confirmed that there are no security or safety barriers proposed at the new opening windows of the extension, as the floor level is to be 600mm above the promenade level. Building Standards has confirmed that barriers would only be required if the edge of the floor was more than 600mm above the level of ground immediately outside an openable window.

The proposal complies with LDP Policies Des 1, Des 10 and Des 12 in terms of the proposals design and form.

Neighbouring Amenity

The applicant has submitted a sunlight and daylight analysis. The daylight and sunlight calculations undertaken confirm that there will be no detrimental impact to the vertical sky component levels for existing neighbouring windows or amenity of sunlight to the gardens of properties at 48-52, 54 and 56 Kings Road.

The building currently has a window in its rear elevation which appears to have been rendered up. No new windows or doors to the rear of the site are proposed. No material loss of privacy shall result from the proposal.

A noise impact assessment was submitted as part of the application. Environmental Protection was consulted and confirmed that it had no objections, subject to the inclusion of a condition relating to the mitigation measures proposed. This has been applied. The land that is to be developed is incidental to the lawful use of the overall site and no planning permission would be required for operations, provided they are ancillary to that use. In such circumstances, the development would not introduce activities that would have any additional impact on residential amenity by virtue of noise and disturbance.

The applicant has shown an area within the building in which waste and recycling shall be stored. Waste and recycling will be picked up by private contractor.

The plans submitted do not show any external seating proposed and the agent has confirmed that there are no plans for external seating related to the proposal. There are no planning restrictions that could be imposed to prevent individuals from sitting outwith the boundary of the site.

The proposal will not result in an unreasonable loss of privacy or light to neighbouring properties. It will not be detrimental to neighbouring amenity or character.

The proposal complies with LDP Policies Des 12 and Hou 7.

Natural Environment

It is noted that there are some trees to the rear of the site, within the gardens of the flatted properties. However, it is likely that root intrusion into the site would be limited given the existing building which is present and the brick boundary wall along the site. None of the trees are covered by a Tree Preservation Order (TPO) and they are not sited within a conservation area. The plans submitted do not show that the trees will need to be removed or pruned.

The application complies with LDP Policy Env 12.

Flood Protection

A Flood Risk Assessment (FRA) was submitted with the application.

The application was assessed by the Council's Flood Planning service. It has confirmed that it has no objections to the proposal. The proposal was also assessed by the Scottish Environmental Protection Agency (SEPA). It also confirmed that it had no objections.

The proposal complies with LDP Policy Env 21.

Transport and Road Safety

The application was assessed by the Roads Authority. It confirmed that it had no objections.

Conclusion in relation to the Development Plan

The proposal complies with the relevant policies contained within the adopted Edinburgh Local Development Plan.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Loss of sunlight/daylight and overshadowing. - this is addressed in section (b) above
- Loss of privacy- this is addressed in section (b) above
- Design, scale and materials inappropriate - this is addressed in section (b) above
- Parking concerns and road safety - This is addressed in section (b) above.
- Noise concerns- This is addressed in section (b) above.
- Storage of waste/recycling- This is addressed in section (b) above.
- -Principle is unacceptable - This is addressed in section (b) above.
- Concerns relating to outdoor seating- This is addressed in section (b) above.

non-material considerations

- Anti-social behaviour- This is not a planning matter.
- Land ownership and burden concerns- The applicant has submitted a signed land ownership certificate which states all works will be carried out on land within their ownership. Any dispute is a civil matter.

material considerations- support

- Proposed single storey design is better, will improve run down site. Noted.
- Noise aspects will be improved with more solid design- Noted.

Non material considerations- support

-Questions over land burdens on the site. This is not a planning issue.

Conclusion in relation to identified material considerations

There are no material considerations which indicate the proposal should be refused.

Overall conclusion

The proposal complies with the adopted Edinburgh Local Development Plan. The proposal also complies with the sustainability principles set out in SPP. There are no material planning considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
3. The noise mitigation measures as shown on drawing No.7b and dated/revised 23rd October 2022 should be installed prior to start of operations on site.

Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In the interests of amenity.
3. In the interests of amenity.

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. This proposal is located within the SEPA Flood Warning Target Area Portobello Esplanade where SEPA operates a flood warning service. We advise that site users sign up to this free service to receive flood warning messages:
<https://floodline.sepa.org.uk/floodingsignup/>.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 18 November 2021

Drawing Numbers/Scheme

01b, 02a, 03a, 04b, 06c, 07b, 08a, 09a, 10,

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Robert McIntosh, Planning Officer
E-mail: robert.mcintosh@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Environmental Protection

COMMENT:

I refer to the above and would advise that Environmental Protection has no objections to the proposed development.

The application proposes alterations and an extension to an existing public house. Residential properties are situated to the south and west with Portobello promenade to the north-east.

A noise impact assessment (NIA) has been provided in support of the application which recommends a number of noise mitigation measures designed to ensure that adjacent residential amenity is not impacted by the extension and intensification of use. A condition is recommended below which ensures the noise mitigation measures outlined within the NIA are implemented prior to the start of operations on site (in order to protect residential amenity).

Therefore, Environmental Protection does not object to the application subject to the following condition:

1. The noise mitigation measures as shown on drawing No.7A and dated/ revised 20th April 2022 should be installed prior to start of operations on site.

DATE: 19 October 2022

NAME: Flood Planning

COMMENT: Thank you for sending through the updated information. Due to the scale of the extension and lower vulnerability of the proposed land use, this application can proceed to determination with no further comments from CEC Flood Prevention. We would however note that the applicant should use flood resilient materials and construction methods to improve the resilience of the extension to flooding.

DATE: 19 October 2022

NAME: Roads Authority

COMMENT: No objections to the application.

DATE: 21 October 2022

NAME: SEPA

COMMENT: Thank you for consulting SEPA on planning application 21/05935/FUL. We have no objection to this planning application on the grounds of flood risk.

The site is outwith the fluvial and coastal functional floodplains based on the SEPA Flood Maps. You can view the SEPA Flood Maps and find out more about them at [Flood Maps | SEPA - Flood Maps | SEPA](#)

The approximate 1 in 200-year flood level is 3.95mAOD based on calculations using the Coastal Flood Boundary Method. This is a still water level which does not account for the effects of wave action, climate change, funnelling or local bathymetry. The recommended sea level rise for the area is 0.86m by 2100 based on the latest UK climate change predictions published in 2018.

This allowance, plus a minimum freeboard allowance of 0.6m to account for uncertainties and the effects of wave action means that we would recommend that all development on the site is limited to land which is higher than 5.41m AOD. The Flood Risk Assessment notes in Section 2.3 that site levels are approximately 5m AOD.

We are satisfied that flood resilience has been considered in the design and the new build area of the unit is to be elevated 0.6m above existing finished floor levels (FFL). The Flood Risk Assessment has provided additional information in the form of surge levels which were found to be higher than the site level.

This proposal is located within the SEPA Flood Warning Target Area Portobello Esplanade where SEPA operates a flood warning service. We advise that site users sign up to this free service to receive flood warning messages:

<https://floodline.sepa.org.uk/floodingsignup/>.

DATE: 19 October 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 1, 140 Princes Street, Edinburgh.**

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

**Item – Committee Decision
Application Number – 22/01744/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site description

The application site is a one bedroom, first floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

- Planning Statement

Relevant Site History

22/01745/FUL

Flat 2 140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01746/FUL

Flat 2A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01747/FUL

Flat 3

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01743/FUL

Flat 4

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01748/FUL

Flat 4A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01750/FUL

Flat 5

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01751/FUL

Flat 6

140 Princes Street

Edinburgh

EH2 4BL

Change of Use (retrospective) from residential to short-term let (sui-generis)

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 26 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): 26 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the Listed Building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation Area Character appraisal states The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, worldclass, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the Conservation Area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the Development Plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application. While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)
- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01A, 3A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Summary of Consultation Responses

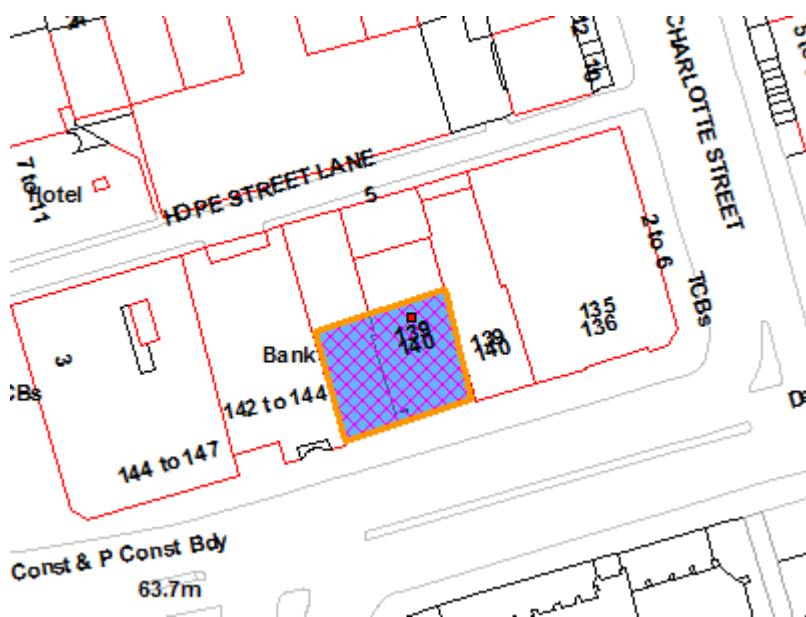
NAME: Historic Environment Scotland

COMMENT: No comment/objection.

DATE: 19 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 2 140 Princes Street, Edinburgh, EH2 4BL.**

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

**Item – Committee Decision
Application Number – 22/01745/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site description

The application site is a two bedroom, first floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

Relevant Site History

22/01744/FUL

Flat 1

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01746/FUL

Flat 2A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01747/FUL

Flat 3

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01743/FUL

Flat 4

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01748/FUL

Flat 4A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01750/FUL

Flat 5

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01751/FUL

Flat 6

140 Princes Street

Edinburgh

EH2 4BL

Change of Use (retrospective) from residential to short-term let (sui-generis)

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 26 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): 26 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the Listed Building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation Area Character appraisal states The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, worldclass, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the Conservation Area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the Development Plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6. The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building, its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)
- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01, 03A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

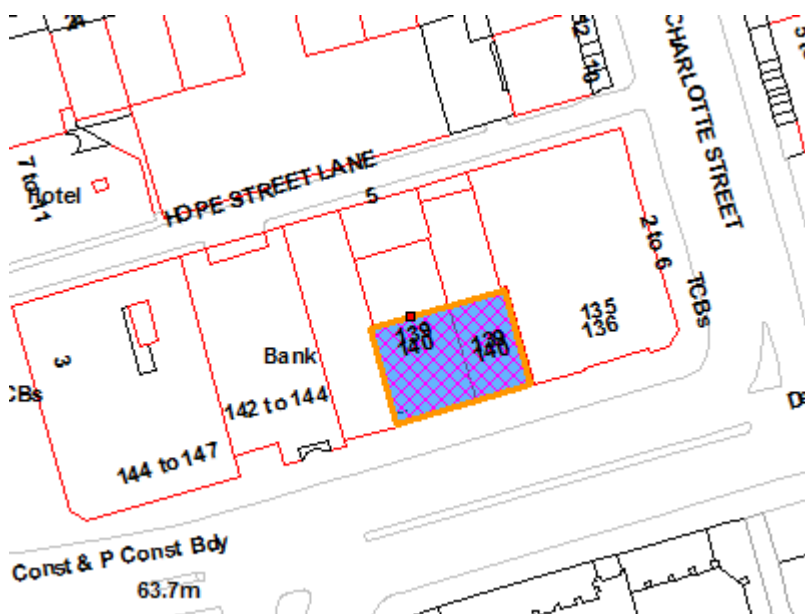
Appendix 1

Summary of Consultation Responses

NAME: HEhistoric Environment Scotland
COMMENT: No objection/comment.
DATE: 24 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 2A, 140 Princes Street, Edinburgh.**

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

**Item – Committee Decision
Application Number – 22/01746/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

The application site is a two bedroom, first floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

- Planning Statement

Relevant Site History

22/01744/FUL

Flat 1

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01745/FUL

Flat 2 140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01747/FUL

Flat 3

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01743/FUL

Flat 4

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01748/FUL

Flat 4A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01750/FUL

Flat 5

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01751/FUL

Flat 6

140 Princes Street

Edinburgh

EH2 4BL

Change of Use (retrospective) from residential to short-term let (sui-generis)

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant site history was identified

Pre-Application process

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 26 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): 26 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

a) The proposals harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the listed building

The proposal harms neither the listed building, its setting or the conservation area. It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the Listed Building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation Area Character appraisal states The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, world class, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the Conservation Area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the Development Plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)
- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01, 03A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

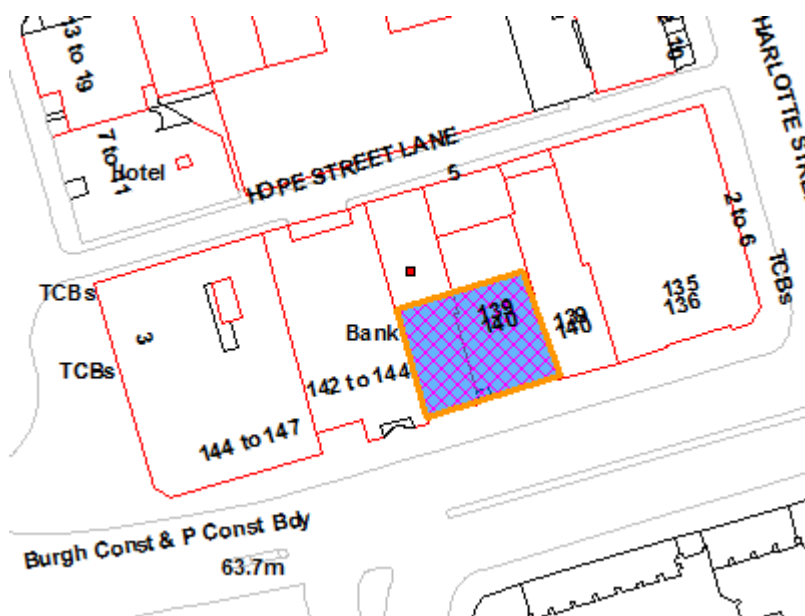
NAME: Historic Environment Scotland

COMMENT: No comment/ objection

DATE: 24 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 3, 140 Princes Street, Edinburgh.**

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

**Item – Committee Decision
Application Number – 22/01747/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site description

The application site is a one bedroom, second floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

- Planning Statement

Relevant Site History

22/01744/FUL

Flat 1

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01745/FUL

Flat 2 140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01746/FUL

Flat 2A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01743/FUL

Flat 4

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01748/FUL

Flat 4A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01750/FUL

Flat 5

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01751/FUL

Flat 6

140 Princes Street

Edinburgh

EH2 4BL

Change of Use (retrospective) from residential to short-term let (sui-generis)

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant planning history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 26 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): 26 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the Listed Building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation Area Character appraisal states The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, world class, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the Conservation Area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the Development Plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)
- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail:james.armstrong@edinburgh.gov.uk

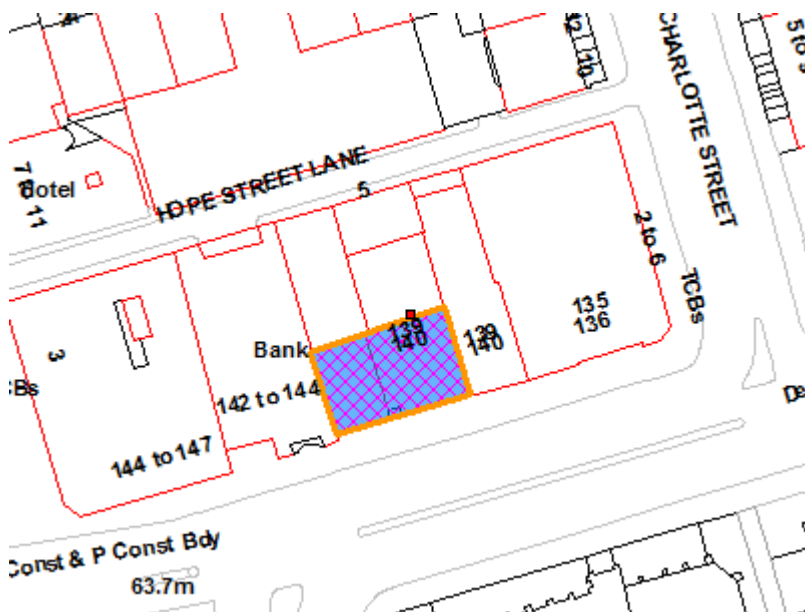
Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland
COMMENT: No comment/objection.
DATE: 24 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 4, 140 Princes Street, Edinburgh.**

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

**Item – Committee Decision
Application Number – 22/01743/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site description

The application site is a two bedroom, second floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area.

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

- Planning Statement

Relevant Site History

22/01744/FUL

Flat 1

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui generis).

22/01745/FUL

Flat 2 140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui generis).

22/01746/FUL

Flat 2A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui generis).

22/01747/FUL

Flat 3

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui generis).

22/01748/FUL

Flat 4A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui generis).

22/01750/FUL

Flat 5

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui generis).

22/01751/FUL

Flat 6

140 Princes Street

Edinburgh

EH2 4BL

Change of Use (retrospective) from residential to short-term let (sui generis)

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 26 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): 26 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the Listed Building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation Area Character appraisal states The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, world class, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the Conservation Area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the Development Plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)
- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building, or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

1, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

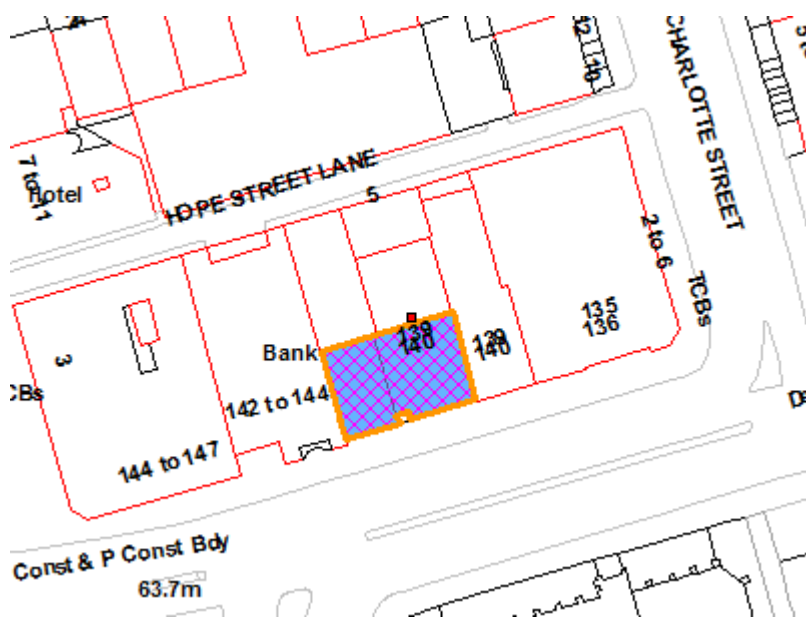
NAME: Historic Environment Scotland

COMMENT: No objection/comment.

DATE: 24 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 4A, 140 Princes Street, Edinburgh.**

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

**Item – Committee Decision
Application Number – 22/01748/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site description

The application site is a two bedroom, second floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

- Planning Statement

Relevant Site History

22/01744/FUL

Flat 1

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01745/FUL

Flat 2 140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01746/FUL

Flat 2A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01747/FUL

Flat 3

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01743/FUL

Flat 4

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01750/FUL

Flat 5

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01751/FUL

Flat 6

140 Princes Street

Edinburgh

EH2 4BL

Change of Use (retrospective) from residential to short-term let (sui-generis)

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 26 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): 26 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)
- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

1, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

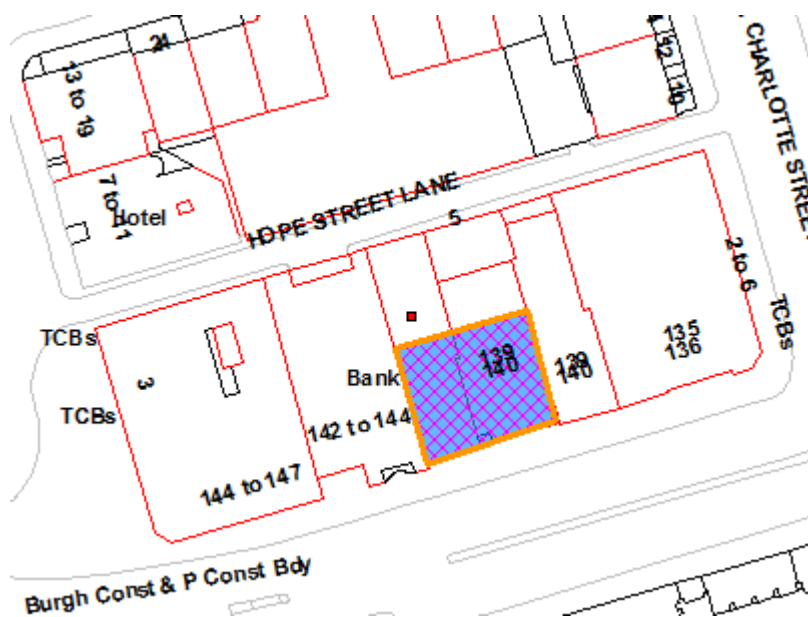
Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland
COMMENT: No comment/objection
DATE: 24 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 5, 140 Princes Street, Edinburgh.**

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

**Item – Committee Decision
Application Number – 22/01750/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site description

The application site is a three bedroom, third floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

-Planning Statement

Relevant Site History

22/01744/FUL

Flat 1

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01745/FUL

Flat 2 140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01746/FUL

Flat 2A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01747/FUL

Flat 3

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01743/FUL

Flat 4

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01748/FUL

Flat 4A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01751/FUL

Flat 6

140 Princes Street

Edinburgh

EH2 4BL

Change of Use (retrospective) from residential to short-term let (sui-generis)

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 26 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 6 May 2022;

Site Notices Date(s): 29 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the Listed Building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation Area Character appraisal states The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, worldclass, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the Conservation Area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the Development Plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6. The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)

- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01, 05

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

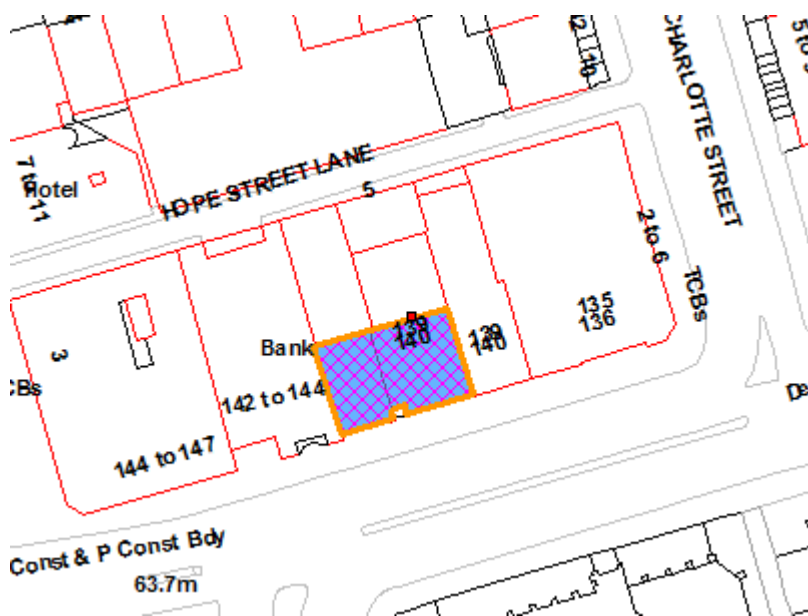
Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland
COMMENT: No comments on the proposal.
DATE: 24 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Flat 6, 140 Princes Street, Edinburgh.**

Proposal: Change of Use (retrospective) from residential to short-term let (sui-generis)

**Item – Committee Decision
Application Number – 22/01751/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the relevant policies with the Edinburgh Local Development Plan and SPP. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site description

The application site is a two bedroom, third floor flat, above commercial premises, located on the north side of Princes Street. The property shares its access to the street via a communal stair. There are seven other flats within the stair, all in short term let use.

There are a mix of uses in the surrounding area including residential, office, retail, cafes/restaurants and tourist attractions. Princes Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall.

The application property is part of a category A listed building (139 and 140 Princes Street and 5 Hope Street Lane, LB30149, 12/12/1974

The application site is in the Old and New Towns of Edinburgh World Heritage Site and in New Town Gardens and Dean Historic Garden Designed Landscape.

The application site is in the New Town Conservation area

Description of the proposal

The application is for a retrospective change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let (STL) since 2015.

Supporting information

- Planning Statement

Relevant Site History

22/01744/FUL

Flat 1

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01745/FUL

Flat 2 140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01746/FUL

Flat 2A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01747/FUL

Flat 3

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01743/FUL

Flat 4

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01748/FUL

Flat 4A

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

22/01750/FUL

Flat 5

140 Princes Street

Edinburgh

EH2 4BL

Change of use (retrospective) from residential to short term let (sui-generis).

18/04500/FUL

141 Princes Street

Edinburgh

EH2 4BL

Conversion and change of use of existing disused offices to form 3 flats

Granted

24 October 2018

18/04501/LBC

141 Princes Street

Edinburgh

EH2 4BL

Conversion of existing disused offices to form 3 flats

Granted

29 October 2018

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 27 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 6 May 2022;

Site Notices Date(s): 29 April 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the Listed Building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the Listed Building

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation Area Character appraisal states The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, worldclass, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the Conservation Area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the Development Plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- Environment Policies, Env 1, Env 3 and Env 6.
- Housing Policy, Hou 7.
- Delivering the Strategy Policy, Del 2
- Transport Policies, Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory guidance for Business is a material consideration when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved. The proposal complies with the objectives of LDP Policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- The nature and character of any services provided.

The application property forms part of a communal stair, sharing access with seven other residential units, each of which has applied retrospectively for planning permission, having been in use as Short Term Lets since 2015.

The combination of residential use and short term use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no nearby neighbours to be impacted, as all the units within the stair are already in short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial, with Princes Street forming a busy thoroughfare, with high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as short term lets. As a sui generis use, this would prevent an individual property from returning to residential use without the benefit of planning permission. As such, the Council can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

Parking standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short-term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building its setting, or the World Heritage Site, and will preserve the character and appearance Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Would negatively impact on residential amenity (addressed in Section C)
- Rising number of short term lets in the area threatens the sense of place and community (addressed in Section C)
- Impact on traffic congestion (addressed in section C)
- Impact on the maintenance of listed buildings and/or buildings in a conservation area (addressed in section C)
- Impact on World Heritage Site's special characteristics of history and place (addressed in section C)
- Lack of integration of refuse and recycling facilities into the design. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the Listed Building or its setting and it will preserve or enhance the character or appearance of the Conservation Area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01, 01A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

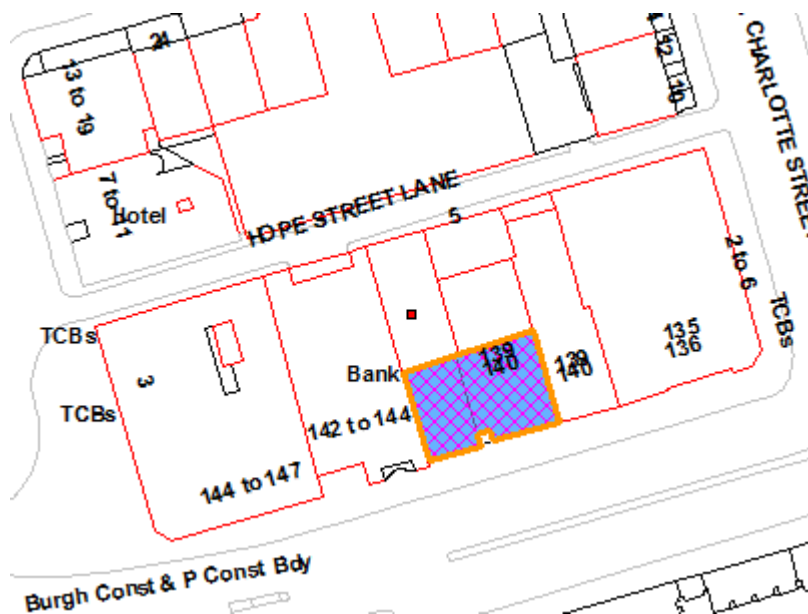
Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland
COMMENT: No comment/ objection.
DATE: 25 May 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee

10.00am, Wednesday 9 November 2022

Protocol Note for Hearing

**Land Adjacent to Former 34 Cramond Road North Edinburgh EH3
6RH – application no. 20/02916/FUL**

Report number	6.1
Wards	B01 - Almond

Nick Smith

Service Director – Legal and Assurance

Contacts: Martin Scott, Committee Services

Email: martin.scott@edinburgh.gov.uk

Summary

Protocol Note for Hearing

Summary

The Council is committed to extending public involvement in the planning process. Hearings allow members of the public to put their views on planning applications direct to the Councillors on the Development Management Sub-Committee.

The Sub-Committee members have a report on the planning application which contains a summary of the comments received from the public. Copies of the letters are available for Councillors to view online.

Committee Protocol for Hearings

The Planning Committee on 25 February 2016 agreed a revised general protocol within which to conduct hearings of planning applications as follows:

- Presentation by the Chief Planning Officer	20 minutes
- Questions by Members of the Sub-Committee	
- Presentation by Community Council	5 minutes
- Presentations by Other Parties	5 minutes, each party
- Questions by Members of the Sub-Committee	
- Presentation by Ward Councillors	5 minutes each member
- Questions by Members of the Sub-Committee	
- Presentation by Applicant	15 minutes
- Questions by Members of the Sub-Committee	
- Debate and decision by members of the Sub-Committee	

Order of Speakers for this Hearing

1	Chief Planning Officer - presentation of report	10.10 - 10.30
2	Representors or Consultees Cramond Community Council Cramond Association Kit Campbell	10.40 - 10.45 10.50 - 10.55 11.00 - 11.05
3	Ward Councillors Councillor Kevin Lang Councillor Norman Work Councillor Louise Young Councillor Lewis Younie	11.15 - 11.20 11.25 - 11.30 11.35 - 11.40 11:45 – 11:50
4	Break	12.00 - 12.10
5	Applicant and Applicant's Agent Caroline Nutsford (Calton Planning and Development) Mike Afshar (AMA) Penny Lochhead (PMR Leisure)	12.10 - 12.25
6	Debate and Decision on Application by Sub-Committee	12.30

Scheduled times are approximate but within this the time limits for speakers will be enforced – speakers will be reminded when they have 1 minute remaining. Speakers should keep to “material planning matters” that the Sub-Committee can take into account. Any visual material must be submitted to Committee Services at least 24 hours before the meeting. Decisions will generally be to approve or refuse. Conditions of approval or reasons for refusal may be considered at a subsequent meeting. If the application is continued for further information, the Hearing will not be re-opened at a later stage and contributors will not be invited to speak again. In such cases, the public can view the meeting via the webcast to observe the discussion.

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Development Management Sub Committee

report returning to Committee - Wednesday 9 November 2022

Application for Planning Permission 20/02916/FUL at land adjacent to former 34, Cramond Road North, Edinburgh.

Section 42 application to vary condition 1 of planning permission reference 13/01843/FUL (which modified consent 05/02947/FUL, which previously modified consent 01/01881/FUL), to extend the proposed timescale for laying out & operating the approved sports pavilion & sports pitches for a further five year period.

Item number

Report number

Wards

B01 - Almond

Recommendations

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

Background information

The application was previously considered on 12 May 2021 by means of a hearing. A further report was presented to the Development Management Sub-Committee on 2 March 2022. Given the time lapse between the original hearing session and the formation of a new Council and subsequent membership of the Development Management Sub Committee it is necessary to hold a new hearing session to consider the application.

The application seeks to vary a condition of a previous planning permissions to allow a further 5 years for laying out and operating an approved sports pavilion and sports pitches for a further five year period. The application was continued by the previous Development Management Sub-Committee to allow further engagement with the community.

The previous reports presented to the Development Management Sub-Committee have been included within the papers appended to this report. Parties that previously attended at the hearing have been invited to attend this new hearing.

Main report

Description of the Proposal

The application is to vary condition one of planning permission: 13/01843/FUL that states:

'Prior to the occupation of the completed housing, the 3.357-hectare area highlighted on drawing number CS-PL-(MP1)100 shall be temporarily seeded to the agreed grass seed mixture for a period of up to 5 years from the date of this approval. Thereafter, the approved sports pavilion and sports pitches shall be laid out and fully operational within 1 year of this end date.'

The application is requesting the condition be amended to allow a further period of five years to deliver the sports pavilion and sports pitches.

Previous Committee Resolution

At the hearing on the 12 May 2021 the Development Management Sub- Committee continued the application to allow the following:

1. The Applicant could enter into either a Good Neighbour Agreement (GNA) or a mediated agreement (following independently chaired mediation) with the Community Councils, Cramond Association, and the other interested parties to this application including local councillors and the school, on a route map to deliver the sports facilities, including incremental sports facilities in a timeous manner.
2. The Applicant, following agreement of either the GNA or mediated agreement, could agree with the Council's Chief Planning Officer a detailed route map for delivery of the sports facilities, including incremental sports facilities.
3. The Council's Chief Planning Officer could investigate further, consulting with the applicant and interested parties, potential conditions in terms of:
 - a. Length of period of any planning permission;
 - b. Timeously remedying the current condition of the land;
 - c. The route map including the option for either the delivery of sport facilities incrementally, or a Plan B fallback approach in the event that gold plated Plan A was not deliverable;
 - d. Examine potential for route map to for part of any permission and see whether it could be put into a phasing condition attached to any Section 42 permission.

Mediation Process

As detailed in the report of 2 March 2022 an independent mediator was appointed to take forward the process. The mediator has held a series of meetings and with all parties both individually and collectively. The following outcomes have evolved as part of the mediation process:

1. Significant research led by the Community Council on the identification of the existing local sports need with the Cramond area.
2. Preparation of a revised route map for the delivery of the sports facilities at Cramond.
3. The applicant has appointed a leading sports consultancy to facilitate and lead on the first section of the Route Map.

The mediation process was founded in the consideration of the Section 42 application and the key outcome for the consideration of the Development Management Sub-Committee is the formal submission of the revised route map. Committee are therefore now asked to consider the application to amend the timescales for the delivery of sports facilities on the application site in light of the submission of the amended Route Map.

Revised Route Map

The applicant submitted a revised route map dated September 2002 for consideration as part of the Section 42 planning application to extend the time period for the delivery of sports facilities at Cramond.

The Route Map has been prepared as part of the outcomes of the mediation process and has involved input from the Chairs of Cramond and Barnton Community Council, The Cramond Association, Brighthouse Residents Association and Councillor Kevin Lang.

The initial phase of the route map seeks to undertake a new options appraisal for the site to investigate current needs across the local community and on a wider regional level. This phase of the process would take 7 months with an outcome review built into the process at month 8. The applicant has actively started this process and has appointed a specialist sports consultant to take forward this appraisal stage of the route map.

The remaining direction of the route map and delivery of facilities is largely dependent on the outcomes of this initial phase. The Route Map sets out further timescale options for the delivery of sports provision depending on the favoured option. This includes timescales embedded within the process for any further requirements for planning permission and associated community consultation as part of the planning process.

Without the initial analysis/ appraisal phase and engagement with the community there are no consented proposals that could be implemented by the developer to expedite the delivery of locally informed facilities. The comments received all focus in on the delivery of local sports facilities and that this is essential to the successful implementation of a scheme on this site. It is therefore appropriate to support this phase of the Route Map to allow the full appraisal of the options for the site.

Under all of the Route Maps options there would be an outcome of commencement of works for the delivery of the agreed scheme within 23 months. The timescales for implementation and delivery of any revised proposals would need to be considered as part of any subsequent planning application, but it is not possible to control this through the current planning application, suffice to say, a condition requiring the laying out and operating of the approved sports pavilion and sports pitches is attached as the fall- back position.

The revised mediated route map is considered to be an acceptable way forward to identifying the appropriate sports facilities which deliver a sustainable future on the site.

Chief Planning Officer Investigation

- a. Length of period of any planning permission;

The application seeks permission to extend the timescale to complete the sports pavilion as granted by permission 01/01881/FUL to a further 5 years. Through the mediation process the submitted Route Map indicates that by month 23 of the process the appraisal process will be complete and planning permission should be in place for the option to be taken forward. Whilst the outcome of a potential forthcoming planning application cannot be predetermined it is an appropriate approach to limit the time period for this permission to 2 years. This allows the progression of the options to be focused with a clear timescale. Any timescale for the delivery of any revised sports facilities would be embedded in any new planning permission for that use. Although limited due to the nature of the Section 42 application there would now be a requirement that the application returns with a revised Section 42 application for delivery of the already "gold plated" scheme or with a planning application for an alternative proposal.

- b. Timeously remedying the current condition of the land;

The initial seeding of a grassed area within the site was carried out and the applicant has submitted photographs within the planning statement which shows this. However, over time there was some building materials stored on the southern extent of the site. The developer has cleared up this area of the site. Due to the time passed the area has become overgrown and there are a number of informal paths across the site. The condition of the land would not justify the serving of an amenity notice, this would also require to be considered separately to the process of the Section 42 application.

- c. The route map including the option for either the delivery of sport facilities incrementally, or a Plan B fallback approach in the event that gold plated Plan A was not deliverable;

The route map is now submitted for agreement as part of the submission of the proposal. This represents the mediated position between the applicants and the community group. It is recognised that the inclusion of the "gold plated" option has caused some frustration within the community. However, it is appropriate to include all options within the appraisal and the process now set out will bring together all options.

- d. Examine potential for route map to for part of any permission and see whether it could be put into a phasing condition attached to any Section 42 permission.

The route map is embedded within the permission and conditions are proposed to link directly to the outcomes contained within the route map. The limiting of the permission to 2 years also links directly to the timescales within the route map.

Other Material Considerations

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A further period of neighbour notification was carried out and a further 23 representations have been received. The original comments within the report of 12th May 2021 remain valid to the determination of the application.

Material Comments

- Further period not supported too many extensions granted in the past.
- Mediation process still leaves uncertainty if sports facilities will be delivered.
- Developer has provided no valid reason why facilities have not been delivered.
- timescale is not tight enough
- developer granted permission on the basis sports facilities would be delivered and they have failed on this
- A minimum condition to extend time period should be that the developer should improve and maintain two informal paths through the site.
- Investigation of National Facilities should be removed from the route map as there is no identified national user and the demand is for local facilities.
- Local football club in need of new facilities ' focus must not been on national/ city wide facilities but local use.

Support Comment

- the proposal to look a fresh at the situation and consult about the best mix of recreational uses is welcome.
- Route Map may offer a way forward but essential local community requirements are integrated into the proposals.
- Need to move on from the past and deliver locally informed sports facilities -5 years seems long.

Non Material Comments

- The Council should purchase the site and deliver the sports facilities.
- A number of operational options put forward for the Council stepping in to deliver the facilities.
- The developer has spent any profit investigating sports facilities but hasn't delivered anything

Cramond and Barnton Community Council

The Community Council considers that the Route Map presents a possible way forward for achieving much needed greenspace, sports and informal recreation for the local community on a site that has been largely abandoned and unsightly for around 20 years. The Community Council considers that an extension to the time period being sought should be limited to 2 years to coincidence with the progress outlined within the Route Map. They also outline a number of suggestions to ensure positive progress including a new planning brief for the site, an open and transparent process, substantive and community engagement and a statement of intent to impose and Amenity Order should the Route Map not be adhered to.

Conclusion

Development on the residential element of the scheme is complete and the original planning application remains live. The proposal in this term complies with the policies in the Edinburgh Local Development Plan and the Edinburgh Design Guidance.

Following a mediation process a revised Route Map has been submitted which tracks a revised position on the timescales for the delivery of sports facilities on the site. It is considered appropriate to set a number of revised conditions on the permission in light of the mediation process and to support the process of delivery of sports facilities on the site.

It is therefore recommended that the application be granted subject to the following conditions.

Conditions:-

1. The development to which this permission relates in terms of the maintenance of a grassed area as identified drawing number CS-PL-(MP1) 100 shall be maintained for a maximum of 2 years. The construction on the approved sports facilities must commence within 2 years of the date of this permission.

Reason: - To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. As part of the mediated Route Map the applicant shall provide bi- monthly updates to the parties identified within the mediation process, including the Council as Planning Authority.

Reason: - In the interest of the delivery of sports facilities.

3. The sports pavilion and sports pitches approved under application 01/01881/FUL and amended under this permission shall be laid out and fully operational within 3 years for the date of this permission.

Reason :- In the interest of visual amenity and to ensure the timely delivery of sporting facilities on the site.

Links

Policies and guidance for this application

LDPP, LDEL01, LDES01, LDES02, LDES03, LDES04, LDES05, LDES07, LDES08, LEN18, LEN22, LHOU01, LHOU02, LHOU03, LHOU06, LTRA01, LTRA02, LTRA03, LEN03, LEN06, NSG, NSGD02,

A copy of the original and previous returning Committee reports can be found in the list of documents at

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=QDRA4HEWFU700>

Or Council Papers online

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The City of Edinburgh Council

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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
East Princes Street Gardens, Princes Street, Edinburgh**

Proposal: Temporary use of public gardens/hardstanding for big wheel associated rides/attractions (5 No.) including carousels, fun flyer, techno base, food, craft concession stall, public toilet, waste facilities, entrance features, boundary treatment, ancillary offices, stores info signage. Maintenance of pedestrian routes. Temporary recurring for 5 years.

**Item – Committee Decision
Application Number – 22/04917/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because the application is of the wider public interest.

Recommendation

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

Summary

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would result in minor harm to the setting of neighbouring listed buildings for the temporary period of time in which the development would exist on site. Notwithstanding, it is considered that there are significant economic and cultural benefits to the city resulting from the Christmas Market, which arise principally because of it being located within the city centre where high footfall land uses are encouraged. The Christmas Market will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre.

On balance, these benefits, which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposals comply with the Edinburgh Local Development Plan. The proposal, subject to the conditions stated, is considered to be acceptable. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site forms part of East Princes Street Gardens (EPSG) comprising parts of the top (northern) tier of the gardens and extends to include the paved hardstanding of the Mound Plaza. Waverley Bridge lies to the east of the site. The remainder of East Princes Street Gardens with the tree lined embankment with Market Street beyond bounds the site to the south. The Royal Scottish Academy is located to the west of the site.

The site is irregular shaped. The site includes the Category A listed Adam Black Monument (Listed Building: LB27842). The site is adjacent to the Old Town Conservation Area. The site is also adjacent to several listed buildings, structures and monuments:

Category A Listed:

- Royal Scottish Academy (listed Building reference LB27744);
- Scott Monument with railings and steps (listed building reference LB27829);
- National Gallery of Scotland with Railings (listed building reference: LB27679);
- Livingston Monument (Listed building reference: LB27864);
- John Wilson Monument (Listed building reference: LB27881);
- Police Box at Royal Scottish Academy (Listed building reference: LB30243); and
- Waverley Station, 4 Waverley Bridge, Former Parcels Office (17 Waverley Bridge) and Waverley Bridge (Excluding Steps) (Listed building reference LB30270).

Category B Listed:

- Waverley West Signal Box at Princes Street Gardens (Listed building reference: LB52052); and
- Market Street and Waverley Bridge Police Box (Listed building reference: LB30239).

- The site is located within the Old and New Towns of Edinburgh World Heritage Site; the New Town Conservation Area; the Historic Garden Designed Landscape Inventory Site New Town Gardens; Special Landscape Area - Princes Street Gardens and a Local Nature Conservation Site.

Description OF THE Proposal

The application is for the temporary change of use and the erection of Christmas market stalls, fairground rides, box offices, associated site offices, stores and ancillary facilities. Permission is sought from the 4th November 2022 to 4th January 2023. The market and attractions would be operational between the hours of 10am and 10pm. The proposals would be focused between the Scottish National Gallery and Waverley Bridge on top terrace of East Princes Street Gardens.

The application is one of three separate applications for Christmas events proposed by the applicant in the city centre.

The proposals within East Princes Gardens incorporate the following:

- Five theme park attractions including a Big Wheel, Techno Power and Funhouse;
- Food /craft concession stall;
- Waste facilities;
- Public Toilets;
- Entrance features;
- Boundary treatment;
- Ancillary offices /stores;
- Generator and
- Information signage

The application is for an annual temporary permission recurring for 5 years.

Access to the event is for pedestrians only. Any servicing requirements would be via the existing access between The Royal Scottish Academy and The National Gallery.

The applicant informs that waste collection is to be managed by a certified sub-contractor. Separate waste facilities are to be made available for members of the visiting public and stall holders/staff.

Decommissioning is programmed to take place over a maximum of 14 days. Remediation works are to be undertaken by the Council with the costs met by the applicant.

Detailed drawings including a site layout plan, a Design Statement and a covering letter providing an overview of the proposal have been submitted with the application. These documents are available to view on the Planning and Building Standards online Services.

Relevant Site History

21/04953/FUL
East Princes Street Gardens
Princes Street
Edinburgh

Erection of Edinburgh's Christmas at East Princes Street Gardens and the Mound Precinct including Christmas market stalls, fairground rides associated site office, stores and ancillary facilities (proposed for 1 year 2021-2022 and variation on Ref: 20/03707/FUL).

Granted
16 November 2021

Other Relevant Site History

This application is part of a wider proposal including 22/04921/FUL and 22/04920/FUL.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Parks and Greenspaces

Edinburgh World Heritage

Historic Environments Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 4 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 7 October 2022;

Site Notices Date(s): 4 October 2022;

Number of Contributors: 4

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
- (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change - Setting

Listed Building and Setting

The Managing Change guidance states setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance.

Setting extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

The proposed market facilities and fairground rides would be located immediately adjacent to many listed buildings including those that are category A listed. A number of stalls are located on the paved area adjacent to the A-listed Royal Scottish Academy. The Big Wheel would be placed on the upper level of the Garden beside the A-listed Scott Monument. Attractions would also be adjacent to the A-listed Livingston Monument. Stalls would be positioned adjacent to the A-listed John Wilson Monument and the A-listed Adam Black Monument. The scale, positioning, form and design of the temporary structures would have a detrimental impact on the setting of the A-listed Royal Scottish Academy, the A-listed Scott Monument, the A listed Livingston Monument, the A listed John Wilson Monument and the A-listed Adam Black Monument.

Owing to the size, scale, form and design of the proposal, it would have a minor impact on the setting of the other neighbouring listed buildings as they are located further away from the proposal. Previous iterations of the Christmas market, which have included the "big wheel" (East Princes Street Gardens) have operated on the site adjacent to these listed buildings for a number of years during the festive season and has become characteristic of the setting of those listed buildings during the festive season. The proposal is for a temporary period of a known duration and the impact on the setting of these neighbouring listed buildings would be short term.

Dividing the event into 3 separate locations in the city has diminished the concentrated scale of the current proposal. The impact on a single environment has been reduced from previous years and consequently the impact on the heritage assets is not as profound as in previous years.

Given that there would be harm to the setting of neighbouring listed buildings, consideration is required to be given to whether there are significant material considerations that justify the development in this location; and if so, does this outweigh any adverse impacts.

Historic Environment Scotland (HES) has stated that "The design and siting of the installation, in an area of historically open garden grounds, will inevitably cause some harm to the setting of these assets, particularly the landscape, and will also have some impact on the OUV of the WHS. However, these impacts will be short-lived, and limited to the market's seasonal operation".

HES further concluded "the proposals do not raise historic environment issues of national significance and therefore we do not object."

It is considered that there are significant economic and cultural benefits to the city resulting from the Christmas market, which arise because of it being located within the city centre where high footfall land uses are encouraged. The Christmas market will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute very positively to the life of the city and the vibrancy of the city centre. It is likely to draw people to the city centre who might not otherwise go there and therefore there will be economic benefit to surrounding businesses.

On balance, these benefits, which are significant material considerations, outweigh the temporary adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site.

The application has not presented a monument protection plan within its application. A condition has been applied to the approval that a monument protection plan must be submitted prior to development commencing on the site, the operator shall write to the Planning Authority confirming that the monument protection measures have been submitted.

Conclusion in relation to the listed building

The proposal would have a minor temporary adverse impact on the setting of the neighbouring listed buildings. As the proposal is temporary and the development is non-permanent it is therefore acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Conservation Area

The scale of the proposed temporary development is considerably smaller than past Christmas market that operated solely within East Princes Street Gardens. More recently the development has been divided between three locations which has seen the effect of development being ameliorated. This has seen the size and form of development within an individual site reduce through spreading the market across three locations.

Between the reduction in scale and form and the temporary nature of the development, the cumulative impact on the character and appearance of the conservation area is not significant enough to refuse planning permission.

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area.

Conclusion in relation to the conservation area

Overall, the proposal would have a minor temporary adverse impact on the character and appearance of the New Town Conservation Area. As this effect is minor and temporary it is therefore acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Delivering the LDP policies Del 2
- LDP Design policies Des 1, Des 4 and Des 5;
- LDP Environment policies Env 1, Env 3, Env 6, Env 7, Env 11, Env 12 and Env 18 and
- LDP Shopping and Leisure policies Ret 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

Listed Buildings

The impact on surrounding listed buildings and the conservation area has been assessed above and complies with LDP Policies Env 3 and Env 6.

Conservation Area

As discussed, the effect on the New Town Conservation Area would be detrimental, however this effect is mitigated through the temporary nature of the development. Therefore, the cumulative impact on the character and appearance of the conservation area is not significant enough to refuse planning permission.

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area, allowing it to comply with Env 6.

World Heritage Site

The Local Development Plan states that "development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh... as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted."

Edinburgh World Heritage was consulted and noted that "Whilst we support the Winter Festivals and the beneficial impact on local economy and communities in principle, the current proposals will result in a level of harm to the World Heritage Site's OUV". The consultation further commented that the proposal "increases the intensity of structures, in particular the fairground rides, which are not in keeping with the historic public realm characterized by its purposefully designed and high-quality open space. The proposals are detrimental to character of the designed landscape, setting of listed buildings, in particular the Scott Monument". Edinburgh World Heritage

Due to the size, scale, positioning, form and the design and appearance, the proposal would temporarily impact on key views within the World Heritage Site. Notwithstanding, by splitting the event into 3 separate events in the city the scale of the proposal is relatively small and consequently the impact on the heritage assets is not profound. Given this and the fact that the proposal is for a temporary period of a known duration, the impact on the OUV of the World Heritage Site would be short term and not significantly detrimental.

In addition to the other two Christmas markets currently proposed by the applicant in other parts of the city centre and other known developments in the city centre, owing to its size, form and temporary nature the cumulative impact on the character and appearance of the OUV of the WHS is not significant.

Therefore, given the temporary nature of the proposal and the contribution to the City's cultural offering and economic recovery, it is considered to comply with LDP Policy Env 1.

Historic Gardens and Designed Landscapes

The Princes Street Gardens are protected as Designed Landscape, Historic Gardens and Special Landscape Area within the Local Development Plan to preserve the fabric of the city's historic green spaces and landscaping. Owing to the proposal's size, scale, positioning, form and their design and appearance, the temporary structures would disrupt key views within the Designed Landscape, Historic Gardens and thus would harm the character and appearance of the Designed Landscape and Historic Gardens.

The application does not include measures to protect monuments/statues within the site from damage. A condition has been attached to the permission requiring these measures to be in place prior to development taking place on site and to remain until all the temporary structures/installations have been removed following decommissioning.

On balance, the benefits discussed prior, which are significant material considerations, outweigh the temporary adverse impact that the proposal will have on the Historic Gardens and Designed Landscapes, justifying the proposal be granted for planning permission at this site.

A condition is attached to the approval that stipulates the applicant must implement the necessary historic protection measures are taken before development on site begins. With this condition it is considered that the proposal protects the policy requirements of Env 11 and Env 13 as it will help retain and protect the fabric of the city's historic green spaces and designed landscaping.

Alternative Locations

As the proposal is for a Christmas Market within Edinburgh, it is appropriate that it is located in the city centre. Given its proximity to bus routes, bus station, tram and train, there are few locations with better connectivity. For example, the Meadows or George Square do not have such connectivity. Other locations in the city centre, given the large number of listed buildings throughout the city centre, are likely to give rise to similar impacts on other listed buildings. Therefore, the benefits realised by the market can only realistically be delivered at its proposed location of West Princes Street Gardens.

Trees and soft landscaping

Given the scale of the Christmas event that operated in the Garden in 2019/2020 there was extensive repair required to grassed areas within it over a lengthy period before the Garden could reopen. The current site area comprises significantly less areas of grass within the Garden than Christmas markets prior to 2020. Consequently, less soft landscaping restoration/remediation will be necessary at the end of the decommissioning phase than was required in previous years and moreover the duration of restoration/remediation should be considerably less. The ground to be restored/remediated will be unsightly and inaccessible to the public only temporarily. However, the effects are reversible and not considered to be significantly detrimental to amenity including visual amenity. The Council as landowner through non-planning related consents, including terms and conditions of a grant of a lease to the operator, would ensure that at the end of the decommissioning stage the land is restored expeditiously to a required specification. This would include the reinstatement of soft landscaping and the repair/replacement of any damaged kerbs and footways being made good at no cost to the Council.

Therefore, there is no requirement to secure restoration/remediation works through a planning condition for soft landscaping.

In regard to tree protection, a number of structures have been proposed within the site plan in close proximity to trees. Within the proposal the applicant has not provided a tree survey or protection plan. It is also unclear how the structures will be secured to the ground.

The only comment received by the applicant within the design statement was in association to Site Construction and Decommission Phases that states "Wherever practically possible, a pedestrian barrier will also be placed around trees to ensure safe working distances from trees and canopies and along the grass on the south side of the grass to protect trees/hedgerow". Further to this statement the applicant submitted drawings of the 'typical protection during build' and 'typical tree surround seating structure'. Neither of the drawings or the statement are sufficient or are currently suitable to comply with the Local Development Plan Policy Env 12.

Without a comprehensive tree survey and tree protection plan the proposed development could cause significant harm to ecology or biodiversity. A condition is attached to the planning permission, that stipulates the applicant must implement tree protection measures before development on site begins. With this condition it is considered that the proposal will comply with LDP Policy Env 12.

Use

The site is located within the City Centre in the Local Development Plan. It is considered the proposal can be well integrated into the surrounding environment. The proposal is located within a central location which is considered easily accessible by various sustainable modes of transport and no parking will be provided.

The Edinburgh Local Development Plan (LDP) supports a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. Development which lies within the City Centre will be supported which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city.

There are no development plan policies or non-statutory guidelines that directly relate to proposals for outdoor markets/attractions.

The proposal would not prevent the continued existing use of the public garden or the remainder of Princes Street Gardens. The effect of the proposed development on the leisure value and enjoyment of the part of the Gardens comprising the site and the Mound Plaza as a civic space is not permanent and is reversible. The temporary change of use of the site would not result in the permanent loss of open space provision in the locality and does not conflict with the key principles of Policy Env 18 (Open Space Protection).

The principle of development is considered acceptable given the temporary nature of the proposal and is supported in this location. The proposal will help the city centre fulfil its role as a capital city. Given that the proposed Christmas market/attractions are temporary they do not conflict with the key principles of Policy Del 2. The development is considered acceptable given the temporary nature of the proposal and is supported in this location. The proposal complies with LDP Policy Ret 7.

Amenity

Due to the nature of the proposal, there will be amplified music and a large number of people attending, including in the evening. The site is however within a city centre location and the proposal is for a temporary period. The Council's Environmental Protection Section have previously advised that if any complaints about noise were received, they would address this directly with the event organiser.

The proposals would not give rise to significant harm to the amenity of neighbouring properties including residences.

The applicant has confirmed that a private waste collection service, will be in place for the development. Waste will be collected daily, at pre-arranged times as agreed with the Council. Waste will be streamed on site into waste, mixed recycling and glass.

The applicant has also confirmed they will be streaming general waste, mixed recycling and glass, as part of their usage.

It is considered that the proposal complies with LDP Policy Env 5.

Transport

No roads are required to be closed to facilitate the proposed development. The proposal raises no road safety or pedestrian safety issues including in respect of the number and location of entrance and exit points and access for wheelchair users. Access to the remainder of the gardens including for pedestrians and wheelchair users will be maintained.

The site is exceptionally well placed for public transport and is located next to a local centre where high footfall land uses are encouraged. Consequently, the proposal does not raise any significant parking issues or public transport issues.

Archaeology

No groundworks are required to facilitate the proposal and therefore there is no potential for impacts on underground archaeology

Conclusion in relation to the Development Plan

Overall the proposals comply with the Local Development Plan and given the temporary nature of the proposal, is supported in this location. There are no material considerations that would outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

The application received three public objections. A summary of those objections;

material considerations

- Princes Street Gardens is a vital green space for the residents of the immediate area. During the Christmas Festivals the space becomes unusable for physical and mental well-being. The scale of the events proposed would disrupt the amenity of residents for the duration of the permission. The effect of the amenity is discussed within section 'B' of the report.
- It would be preferred that Princes Street Gardens was not used for the Christmas Festival. It is also objectionable that common good land is used for commercial gain. Given that some form of Christmas Festival using Princes Street Gardens is inevitable. The effect of the amenity and the use of the city centre for mix use is discussed within section 'B' of the report.

- The application has not followed Council guidance on tree protection. The Council cannot grant permission for a development which ignores Council guidance, is contrary to its wider environmental commitments and which has no tree protection plan in place. This has been addressed within section 'B' and a condition has been attached to the permission making the applicant to meet the council's guidance before any development of any kind can take place on site.
- The application proposes to erect stalls and attractions positioned in close proximity to structures with listed building protection. This will have a detrimental impact on the setting of the listed structures. Listed building setting has been discussed within section 'A'.
- Soft landscaping is damaged each year by the Christmas Market. This has been discussed within section 'B'

non-material considerations

- Conditions should be imposed on the number, size and location of all temporary structures and associated cabling, barriers. Any breach of the condition, by adding more, or bigger, or more intrusive structures, would be enforced, even to the removal of the licence. This is a non-material comment as an application must be considered on the proposed development itself.
- A stall shown on the site plan is situated on Princes Street itself and is therefore not within the typical area occupied by the Christmas Market.
- Significant concerns that the proposal extends the area for market stalls to include the Remembrance Garden.
- The application should be limited to one year. This would allow a more in-depth discussion in early 2023 between the new provider (potentially Unique Assembly) and key stakeholders to develop and agree a sensible and supportable site plan and operating strategy for subsequent years.
- The immediate area surrounding the Scott Monument is not appropriate for the Ferris Wheel, Star Flyer and market stalls, or other attractions."
- Waverley Bridge should be considered as an alternative to the soft landscape areas of East Princes Street Gardens. This would avoid damaging the soft surfaces (grassed area) and permit the Remembrance Garden to be enjoyed for a longer period.
- If permission was to be granted for the Edinburgh Christmas Market in 2022/23, we would hope that additional conditions would be attached to ensure that remediation and reinstatement is not allowed to extend significantly from the decommissioning date; a period of 1 month, perhaps 2 months maximum given the time of year, would seem appropriate. It has been agreed that the council will complete remediation works, with the cost being met by the applicant.

Conclusion in relation to identified material considerations

The proposal with the conditions attached fully addresses the material considerations as set out above.

Overall conclusion

The proposal is acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with the development plan.

The development will have a minor temporary effect on the immediate listed buildings and further conservation area. The Christmas markets, rides and associated kiosks will bring an interesting additional feature to the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre.

On balance, these benefits; which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings, historic green spaces and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposals comply with the Edinburgh Local Development Plan. The proposal, subject to the conditions stated, is considered to be acceptable.

The proposed temporary nature of the development is considered acceptable in this location. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. Planning permission is hereby granted for the proposal for the period between the 4th November 2022 and the 4th January 2023, recurring on the 4th of November until the 4th of January annually for 5 consecutive years, until January 2027.
2. The temporary market and other attractions hereby approved shall only be operational between the hours of 10am and 10pm on the dates specified in condition 1.
3. The temporary buildings, attractions, installations and associated temporary structures and plant hereby approved shall be removed from the site in their entirety by no later than two weeks after expiry of the temporary planning period each year, the 18th of January.

4. No development on site may begin without the applicant supplying a Monument Protection plan and written response that gives consent from Edinburgh Council Planning Authority. At least 3 days written notice shall be given to the Planning Authority of the date of commencement of the development on site.

Access shall be made available to officers of the Edinburgh Council Planning Authority or a representative authorised by them, to carry out site visit to monitor the monument protection measures being carried out.

5. Prior to the commencement of development tree protection measures shall be agreed with the Council's Parks and Greenspace team and shall be implemented prior to the installation of any structures within the vicinity of the trees. Confirmation of agreement shall be submitted to the Council as Planning Authority.

Access shall be made available to the officers of the Council's Parks and Greenspace Team or a representative authorised by them, to carry out site survey/ monitoring checks of the tree protection measures.

6. Prior to development commencing on the site the operator shall submit a boundary strategy to the Planning Authority.

Reasons:-

1. In recognition of the temporary nature of the proposal.
2. In the interests of safeguarding the amenity of neighbouring noise sensitive properties.
3. In recognition of the temporary nature of the proposal.
4. In the interests of safeguarding listed monuments/statues from damage.
5. In the interests of safeguarding trees which make a significant contribution to the character and amenity of the area. To comply with the Local Development Plan policy Env 12.
6. In the interests of public safety.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 3 October 2022

Drawing Numbers/Scheme

01, 02 A, 03 - 10

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Parks and Greenspaces

COMMENT: Given the last-minute nature of this application the Parks and Greenspace have some concerns regarding the current layout and propose that if planning permission is granted it is for one year only (2022/23).

DATE: 28 October 2022

NAME: Edinburgh World Heritage

COMMENT: We recommend that approval of the application, should it be given, is subject to further consultation and refinement relating to heritage impact, for years two to five of that period.

DATE: 31 October 2022

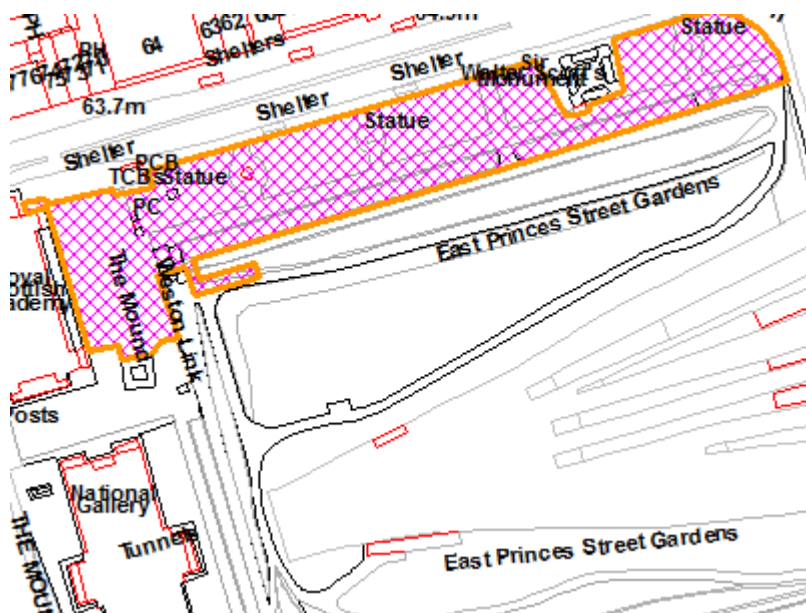
NAME: Historic Environments Scotland

COMMENT: The proposals do not raise historic environment issues of national significance and therefore we do not object.

DATE: 1 November 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
Christmas Market, George Street, Edinburgh.**

Proposal: Erection of ice rink including viewing /seating, sculpture, star flyer, bar and covered seating area, 5 food trader stalls, offices, first aid area and toilets, ancillary storage and generator. Pedestrian walkway retained to southern edge of site. Temporary Period (5 Years).

**Item – Committee Decision
Application Number – 22/04920/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because the application is of the wider public interest.

Recommendation

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

Summary

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would result in minor harm to the setting of neighbouring listed buildings for the temporary period of time in which the development would exist on site. Notwithstanding, it is considered that there are significant economic and cultural benefits to the city resulting from the Christmas Market, which arise principally because of it being located within the city centre where high footfall land uses are encouraged. The Christmas Market will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre.

On balance, these benefits, which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposals comply with the Edinburgh Local Development Plan. The proposal, subject to the conditions stated, is considered to be acceptable. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is located on the public road of George Street on the section which runs between Charlotte Square and Castle Street. The site is bound to the north and south by the properties located on George Street and to the east by the junction of George Street and Castle Street and to the west by Charlotte Square.

The site is adjacent to a number of listed buildings, structures and monuments:

- 33-39 Charlotte Square and 142-146 George Street with railing and lamp standards (Category A), LB28506;
- 40-46 Charlotte Square and 143 George Street with railing and lamp standards (Category A), LB28507;
- 112 George Street with railings and lamp standards (Category A), LB28883;
- George Street and Castle Street, Statue of Dr Chalmers (Category A), LB27847; and
- 97-105 (Odd Nos) George Street, Bank of Scotland (Category A), LB28850.

The site is located within the Old and New Towns of Edinburgh World Heritage Site and the Historic Garden Designed Landscape Inventory Site - New Town Gardens.

The site is within the New Town Conservation Area.

Description of the Proposal

The application is for the temporary planning permission, for the use of the adopted public road at George Street to erect and install a covered Ice Rink (including viewing and seating areas) on the eastern portion of the site. Installation of two attractions on the western part of the site; erection of a Bar and Covered Seating Area; erection of 5 Food Trader Stalls; installation of Offices First Aid Area and Toilets; ancillary storage and generator facility. The pedestrian walkway is to be retained to northern and southern edge of site with an access road to the north to be maintained for emergency access.

The application is one of three separate applications for Christmas events proposed by the applicant in the city centre.

The application is for 5 years, for a temporary period annually.

Relevant Site History

20/03708/FUL
Christmas Market
George Street
Edinburgh

Erection of Edinburgh's Christmas at George Street and Castle Street, including Christmas Market Stalls, Ice Rink, Plant and Boot Room, Around the Corner Bar, Box Office, Associated Site Offices, Stores and Ancillary Facilities (amended application for festive period 2021- 2022).

Granted
13 November 2020

Other Relevant Site History

This application is part of a wider proposal including 22/04921/FUL and 22/04917/FUL.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Edinburgh World Heritage

Historic Environments Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 4 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 7 October 2022;

Site Notices Date(s): 4 October 2022;

Number of Contributors: 3

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) **The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change - Setting

Listed Building and Setting

The Managing Change guidance states setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance.

Setting extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

The proposal includes two fairground rides that would be located immediately adjacent to many listed buildings including those that are category A listed. The covered ice rink and associated attractions are to be placed on George Street between a collection of A-listed structures. The scale, positioning, form and design of the temporary structures would have a detrimental impact on the setting of the A-listed buildings.

Owing to the size, scale, form and design of the proposal, it would impact on the setting of the additional neighbouring listed buildings in the wider vicinity. However, the impact on them would not be reduced due to these buildings being located further away from the proposal. Previous iterations of the Christmas market, which have included an ice rink and similar attractions which have operated in this location over the festive season and has become characteristic of the setting. The proposal is for a temporary period of a known duration and the impact on the setting of these neighbouring listed buildings would be short term.

Dividing the event into 3 separate locations in the city has diminished the concentrated scale of the current proposal. The impact on a single environment has been reduced from previous years and consequently the impact on the heritage assets is not as profound as in previous years.

Historic Environment Scotland (HES) has stated that "the design and siting of the installation within a historically open streetscape will inevitably cause some harm to the setting of these assets, and will also have some impact on the OUV of the WHS. However, these impacts will be short-lived, and limited to the market's seasonal operation. The design of the market is clearly focussed on its use, and quick and straightforward installation, although pre-app discussion may have allowed scope for improvements, if perhaps limited ones".

HES further concluded "do not raise historic environment issues of national significance and therefore we do not object."

Given that there would be harm to the setting of neighbouring listed buildings, consideration is required to be given to whether there are significant material considerations that justify the development in this location; and if so, does this outweigh any adverse impacts.

It is considered that there are significant economic and cultural benefits to the city resulting from the Christmas market, which arise because of its location within the city centre, where high footfall land uses are encouraged. The Christmas Market will be an interesting additional feature to the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and improve the vibrancy of the city centre. It is likely to draw people to the city centre who might not otherwise go there and therefore there will be economic benefit to surrounding businesses.

On balance, these benefits, which are significant material considerations, outweigh the temporary adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site.

Conclusion in relation to the listed building

The proposal would have a minor temporary adverse impact on the setting of the neighbouring listed buildings and their setting. As the proposal is temporary and the development is non-permanent it is therefore acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

Conservation Area

The scale of the proposed temporary development is considerably smaller than past Christmas markets that operated solely within East Princes Street Gardens. More recently the development has been divided between three locations which has seen the effect of development being mitigated. This has seen the size and form of the development within an individual site reduce through dividing the market across three locations.

Between the reduction in scale and form and the temporary nature of the development, the cumulative impact on the character and appearance of the conservation area is not significant enough to refuse planning permission.

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area.

Conclusion in relation to the conservation area

Overall, the proposal would have a minor temporary adverse impact on the character and appearance of the New Town Conservation Area. As this effect is minor and temporary it is therefore acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Delivering the LDP policies Del 2
- LDP Design policies Des 1, Des 4 and Des 5;
- LDP Environment policies Env 1, Env 3 and Env 6; and
- LDP Shopping and Leisure policies Ret 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

Listed Buildings

The impact on surrounding listed buildings and the conservation area has been assessed above and complies with LDP Policies Env 3 and Env 6.

Conservation Area

As discussed, the effect on the New Town Conservation Area would be detrimental, however this effect is mitigated through the temporary nature of the development. Therefore, the cumulative impact on the character and appearance of the conservation area is not significant enough to refuse planning permission.

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area, allowing it to comply with Env 6.

World Heritage Site

The Local Development Plan states that "development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh... as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted."

Edinburgh World Heritage noted that "the proposals will result in a level of harm to the World Heritage Site's OUV - infilling of public realm specifically designed for high quality open space, with structures which are not in keeping with the character of their environment; in particular, the imposing, long, covered structure housing the ice rink and skate facilities". The consultation further commented that the proposal could be improved by reducing the massing of the tent structure allowing both pedestrians and users access to the streets open vistas rather than constructing "long, narrow 'alleys'" on either side of the development. Due to the size, scale, positioning, form and the design and appearance, the proposal would temporarily impact on key views within the World Heritage Site. Notwithstanding, by splitting the event into 3 separate events in the city the scale of the proposal is relatively small and consequently the impact on the heritage assets is not profound. Given this and the fact that the proposal is for a temporary period of a known duration, the impact on the OUV of the World Heritage Site would be short term and not significantly detrimental.

In addition to the other two Christmas markets currently proposed by the applicant in other parts of the city centre and other known developments in the city centre, owing to its size, form and temporary nature the cumulative impact on the character and appearance of the OUV of the WHS is not significant.

Therefore, given the temporary nature of the proposal and the contribution to the City's cultural offering and economic recovery, it is considered to comply with LDP Policy Env 1.

Alternative Locations

As the proposal is for a Christmas Market within Edinburgh it is appropriate that it is located in the city centre. Given its proximity to bus routes, bus station, tram and train, there are few locations with better connectivity. For example, the Meadows or George Square do not have such connectivity. Other locations in the city centre, given the large number of listed buildings throughout the city centre, are likely to give rise to similar impacts on other listed buildings. Therefore, the benefits realised by the market can only realistically be delivered at its proposed location at George Street.

Use

The site is located within the City Centre in the Local Development Plan. It is considered the proposal can be well integrated into the surrounding environment with minimal impact on the historic environment. The proposal is located within a central location which is considered easily accessible by various sustainable modes of transport and no parking will be provided.

The Edinburgh Local Development Plan (LDP) supports a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. Development which lies within the City Centre will be supported which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city.

There are no development plan policies or non-statutory guidelines that directly relate to proposals for outdoor markets/attractions.

The proposal would be a temporary change to the normal use of this part of George Street for a limited duration of time only. The temporary use of George Street for Christmas markets and public events is long standing and established. The Christmas market and attractions have become a familiar presence within the city centre during the festive season.

The principle of development is considered acceptable given the temporary nature of the proposal and is supported in this location. The proposal complies with LDP Policy Ret 7. The proposal would not prevent the continued existing use of the public access to George Street and its pedestrian use. The proposal will help the city centre fulfil its role as a capital city. Given that the proposed Christmas market/attractions are temporary they do not conflict with the key principles of Policy Del 2.

Amenity

A site and plant compound are proposed on the western most section of the application site, including a site office, generator and first aid centre. This is in close proximity to 35-39 Charlotte Square (The Roxburghe Hotel). In 2017 a generator and refrigeration plant were positioned at this location in association with an 'Ice Kingdom Display' and no complaints were received by the Council. However, given the high noise levels the ice-rink refrigeration plant will generate, there is a concern with potential for noise nuisance to occupiers of the hotel. In order to mitigate noise nuisance from the plant it should be made a condition of a grant of planning permission that the exact positioning of the plant and generators on the site and the acoustic containment of the plant is such that an acoustic attenuation of NR35 is achieved within the guest bedrooms of the hotel between 23:00 hours and 07:00 hours with the windows closed.

Due to the nature of the proposal and its location, there will be amplified music and a large number of people attending, including in the evening. As the site is situated within the city centre it is acceptable as it promotes a diverse uses in a way that promotes vitality and engagement with the City Centre. The Council's Environmental Protection Section have previously advised that if any complaints about noise were received, they would address this directly with the event organiser.

The applicant has confirmed that a private waste collection service, will be in place for the development. Waste will be collected daily, at pre-arranged times as agreed with City Edinburgh Council. Waste will be streamed on site into waste, mixed recycling and glass.

It is considered that the proposal complies with LDP Policy Env 5.

Transport

To facilitate the proposal the western part of George Street would have to be closed to both eastbound and westbound traffic. The temporary closure of the road does not raise any transportation concerns. A permit to close the road would be required to be obtained from the Council in advance of its closure. The proposal does not raise any road safety concerns.

There will be no restrictions to pedestrian flow on the pavements adjacent to the site. The proposal raises no pedestrian safety concerns.

The site is exceptionally well placed for public transport and is located next to a local centre where high footfall land uses are encouraged. Consequently, the proposal does not raise any significant parking issues or public transport issues.

Pedestrian Access

Whilst the proposal would reduce the available area for pedestrians' access within the centre of George Street for a temporary period, the ice rink and associated stools and entertainment would become a focal point and bring additional vibrancy to become a well utilised area of public realm. The existing pavement to the north and south of George Street will see no development.

Conclusion in relation to the Development Plan

Overall, the proposals comply with the Local Development Plan and given the temporary nature of the proposal, is supported in this location. There are no material considerations that would outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

The application received three public contributions, one objection and two general comments. A summary of those comments;

material considerations

- The proposal harms the amenity of immediate businesses with unnecessary noise, which should be restricted between business hours. The effect of noise has been discussed within section 'B' of the report.
- Vehicle access should be maintained on the northern side of the carriage way. Vehicle and pedestrian access has been discussed within section 'B' of the report.

- No information on the management of support infrastructure is provided. We are concerned with the impact of generators, etc on the immediate environment. A noise condition is attached to the granted permission mitigating noise associated with the event.
- Objections to bars being proposed within the application as they would create unnecessary competition with local businesses. This has been discussed within section 'B'.

non-material considerations

- Concerns re impact to wifi signal and more business interruption.
- Concerns about unnecessary waste of electricity to power fun fair machinery.
- Fails to respect the terms and conditions of occupational tenancy with our landlord.
- This area is a business district.
- A local economic study should be required as part of any consent (should it be given) to quantify the level of local economic value and of economic spillage outside the city. Greater need to support local businesses is required, 65% of traders should be local to Edinburgh to support the local economy.
- It is suggested that the event be further divided to further mitigate its detrimental effect on the city and rather creating a Christmas Trail using a string of sites across the city, which would include existing markets such as Stockbridge, Castle Terrace and Grassmarket.
- The application should be limited to one year to allow an improved application to be submitted next year. The application does not comprehensively articulate the impact that the development will have on Edinburgh's heritage assets and listed buildings. Nor does it give detailed locational information on stalls, rides etc... or the associated management of crowds.
- There is no way of ascertaining the impact on the neighbouring businesses or listed buildings and Conservation Area without them, and strongly advise that no consent be issued until this information has been submitted. It is essential that any development here respects the qualities of George Street and the World Heritage Site.
- Concerned with the lengthy periods required for set up and take down of the temporary structures and the disruption that this will cause for pedestrians and businesses alike.

Conclusion in relation to identified material considerations

The proposal fully addresses the material considerations as set out above.

Overall conclusion

The proposal is acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with the development plan.

The development will have a minor temporary effect on the immediate listed buildings and further conservation area. The ice rink and associated stalls will bring an interesting additional feature to the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre.

On balance, these benefits; which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposals comply with the Edinburgh Local Development Plan. The proposal, subject to the conditions stated, is considered to be acceptable.

The proposed temporary nature of the development is considered acceptable in this location. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. Planning permission is hereby granted for the proposal for the period between the 4th November 2022 and the 4th January 2023, recurring between 4th November and 4th of January annually for 5 consecutive years, until January 2027.
2. The temporary ice rink, associated rides and kiosks approved shall only be operational between the hours of 10am and 10pm on the dates specified in condition 1.
3. The temporary buildings, attractions, installations and associated temporary structures and plant hereby approved shall be removed from the site in their entirety by no later than two weeks after expiry of the temporary planning period each year, the 18th of January.
4. Prior to the commencement of development, the applicant must provide a boundary strategy to ensure the public safety in and around the site. Prior to development commencing on the site the operator shall submit a boundary strategy the Planning Authority. At least 3 days written notice shall be given to the Planning Authority of the date of development. If it is deemed that the strategy is acceptable the applicant will receive a written response from Edinburgh Council Planning Authority allowing development to begin.

5. Notwithstanding the location of the George Street ice rink plant and generators delineated on drawing 03 A - Site Plan and the detailed of them specified on other application drawings, the positioning of them on the site and the acoustic containment/enclosures installed/erected around them shall achieve an acoustic attenuation of NR35 within the neighbouring hotel at 35-39 Charlotte Square or any residential property between 22:00 hours and 07:00 hours. The noise measurements shall be taken within any affected hotel bedroom/ residential bedroom with the windows closed.

Reasons: -

1. In recognition of the temporary nature of the proposal.
2. In the interests of safeguarding the amenity of neighbouring noise sensitive properties.
3. In recognition of the temporary nature of the proposal.
4. In the interests of public safety.
5. In the interest of amenity protection.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 3 October 2022

Drawing Numbers/Scheme

01, 02, 03 A, 05, 07

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Edinburgh World Heritage

COMMENT: The current application is for a Temporary Period of 5 years. We recommend that approval of the application, should it be given, is subject to further consultation and refinement relating to heritage impact, for years two to five of that period. We can support Planning Department colleagues in encouraging earlier pre-application discussions relating to heritage impact in the future.

DATE: 31 October 2022

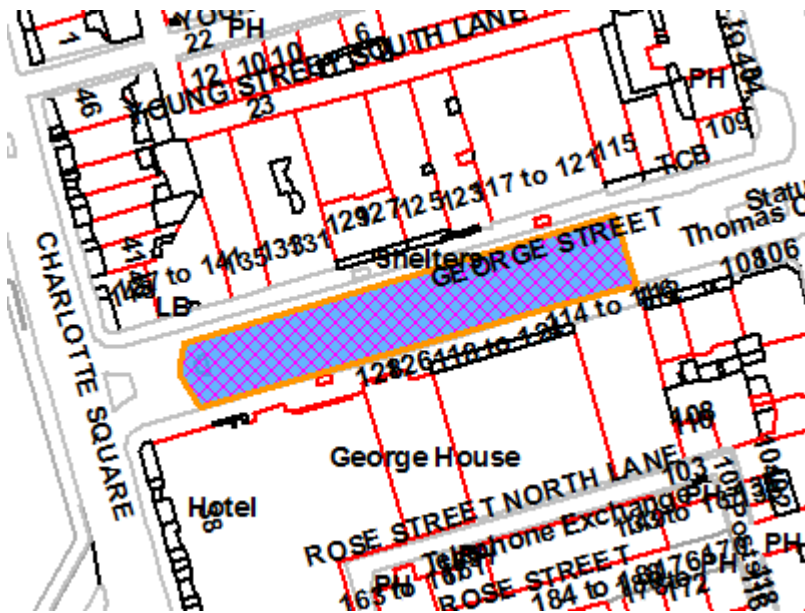
NAME: Historic Environments Scotland

COMMENT: The proposals do not raise historic environment issues of national significance and therefore we do not object.

DATE: 1 November 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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Development Management Sub-Committee Report

Wednesday 9 November 2022

**Application for Planning Permission
West Princes Street Gardens, Princes Street, Edinburgh.**

Proposal: Temporary change of use and siting of performance units, catering units and other associated moveable structures for Edinburgh's Christmas Festival. Recurring Period of 5 Years.

**Item – Committee Decision
Application Number – 22/04921/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because the application is of the wider public interest.

Recommendation

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

Summary

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would result in minor harm to the setting of neighbouring listed buildings for the temporary period of time in which the development would exist on site. Notwithstanding, it is considered that there are significant economic and cultural benefits to the city resulting from the Christmas Market, which arise principally because of it being located within the city centre where high footfall land uses are encouraged. The Christmas Market will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre.

On balance, these benefits, which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposals comply with the Edinburgh Local Development Plan. The proposal, subject to the conditions stated, is considered to be acceptable. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site forms part of West Princes Street Gardens (WPSG) comprising the hard standing area of the red blaise adjacent to the Ross Fountain and areas of soft landscaping along the southern edge of the gardens. The site is bounded by the remainder of the gardens with the Ross Bandstand located to the east of the application site. St Cuthbert's Church and graveyard are located to the west.

There are a number of category A listed buildings within proximity to the site:

- Ross Fountain (listed building reference LB27911);
- Robert Louis Stevenson Memorial (listed building reference LB48255); and
- St Cuthbert's Church, Churchyard and Monuments and Boundary walls (listed building reference LB27339).

Edinburgh Castle lies beyond the rail line to the south and is a Scheduled Monument.

- The site is located within the Old and New Towns of Edinburgh World Heritage Site; the New Town Conservation area; the Historic Garden Designed Landscape Inventory Site New Town Gardens; Special Landscape Area - Princes Street Gardens and a Local Nature Conservation Site.

Description of the Proposal

The application is for the temporary change of use and the erection of Christmas market stalls, fairground rides, box offices, associated site offices, stores and ancillary facilities. Permission is sought from the 4th November 2022 to 4th January 2023. The market and attractions would be operational between the hours of 10am and 10pm.

The application is one of three separate applications for Christmas events proposed by the applicant in the city centre including East Princes Street Gardens and George Street.

The proposals within West Princes Gardens incorporate the following:

- A collection of fairground ride attractions;
- Food /craft concession stall;
- Waste facilities;
- Public Toilets;
- Entrance features;

- Boundary treatment;
- Ancillary offices /stores;
- First Aid / Generator and
- Information signage.

The application is for an annual temporary permission recurring for 5 years.

Access to the event is for pedestrians only. Any servicing requirements would be via the existing access through the graveyard to the west of the site.

The applicant informs that waste collection is to be managed by a certified sub-contractor. Separate waste facilities are to be made available for members of the visiting public and stall holders/staff.

Decommissioning is programmed to take place over a maximum of 14 days. Remediation works are to be undertaken by the Council with the costs met by the applicant.

Detailed drawings including a site layout plan, a Design Statement and a covering letter providing an overview of the proposal have been submitted with the application. These documents are available to view on the Planning and Building Standards online Services.

Relevant Site History

21/04954/FUL
West Princes Street Gardens
Princes Street
Edinburgh

Erection of Edinburgh's Christmas at West Princes Street Gardens including Christmas market stalls, fairground rides, Santa's grotto, Christmas tree maze, Associated site offices, stores, and ancillary facilities (Proposed for one year 2021 - 2022).
Granted
15 November 2021

Other Relevant Site History

This application is part of a wider proposal including 22/04920/FUL and 22/04917/FUL.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Parks and Greenspaces

Edinburgh World Heritage

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 4 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 7 October 2022;

Site Notices Date(s): 4 October 2022;

Number of Contributors: 4

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change - Setting

Listed Building and Setting

The Managing Change guidance states setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance.

Setting extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

The proposed market facilities and fairground rides would be located immediately adjacent to many listed buildings including those that are category A-listed. The application is primarily located between two category A-listed structures the Ross Fountain and St Cuthbert's Church. The scale, positioning, form and design of the temporary structures would have a detrimental impact on the setting of these A-listed structures.

Owing to the size, scale, form and design of the proposal, it would have a minor impact on the setting of the other neighbouring listed buildings which are located further away from the proposal. Previous iterations of the Christmas market, which have included the "big wheel" (East and West Princes Street Gardens) have operated on the site adjacent to these listed buildings for a number of years during the festive season and has become characteristic of the setting of those listed buildings during the festive season. The proposal is for a temporary period of a known duration and the impact on the setting of these neighbouring listed buildings would be short term.

Dividing the event into 3 separate locations in the city has diminished the concentrated scale of the current proposal. The impact on a single environment has been reduced from previous years and consequently the impact on the heritage assets is not as profound as in previous years.

Given that there would be harm to the setting of neighbouring listed buildings, consideration is required to be given to whether there are significant material considerations that justify the development in this location; and if so, does this outweigh any adverse impacts.

Historic Environment Scotland (HES) stated that "The design and siting of the installation, in an area of historically open garden grounds, will inevitably cause some harm to the setting of these assets, particularly the landscape, and will also have some impact on the OUV of the WHS. However, these impacts will be short-lived, and limited to the market's seasonal operation.

In this particular case the proposed site is relatively confined within a small portion of the lower level of the gardens and any impacts will be more limited".

HES further concluded "the proposals do not raise historic environment issues of national significance and therefore we do not object."

It is considered that there are significant economic and cultural benefits to the city resulting from the Christmas market, which arise because of its location within the city centre, where high footfall land uses are encouraged. The Christmas Market will be an interesting additional feature to the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and improve the vibrancy of the city centre. It is likely to draw people to the city centre who might not otherwise go there and therefore there will be economic benefit to surrounding businesses.

On balance, these benefits, which are significant material considerations, outweigh the temporary adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site.

The application has not presented a monument protection plan within its application. A condition has been applied to the approval that a monument protection plan must be submitted prior to development commencing on the site, the operator shall write to the Planning Authority confirming that the monument protection measures have been submitted.

Conclusion in relation to the listed building

The proposal would have a minor temporary adverse impact on the setting of the neighbouring listed buildings. As the proposal is temporary and the development is non-permanent it is therefore acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Conservation Area

The scale of the proposed temporary development is considerably smaller than past Christmas markets that operated solely within East Princes Street Gardens. More recently the development has been divided between three locations which has seen the effect of development being mitigated. This has seen the size and form of the development within an individual site reduce through dividing the market across three locations.

Between the reduction in scale and form and the temporary nature of the development, the cumulative impact on the character and appearance of the conservation area is not significant enough to refuse planning permission.

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area.

Conclusion in relation to the conservation area

Overall, the proposal would have a minor temporary adverse impact on the character and appearance of the Old and New Town Conservation Area. As this effect is minor and temporary it is therefore acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Delivering the LDP policies Del 2
- LDP Design policies Des 1, Des 4 and Des 5;
- LDP Environment policies Env 1, Env 3, Env 6, Env 7, Env 11, Env 12 and Env 18; and
- LDP Shopping and Leisure policies Ret 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

Listed Buildings

The impact on surrounding listed buildings and the conservation area has been assessed above and complies with LDP Policies Env 3 and Env 6.

Conservation Area

As discussed, the effect on the New Town Conservation Area would be detrimental, however this effect is mitigated through the temporary nature of the development. Therefore, the cumulative impact on the character and appearance of the conservation area is not significant enough to refuse planning permission.

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area, allowing it to comply with Env 6.

World Heritage Site

The Local Development Plan states that "development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh... as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted."

Edinburgh World Heritage noted that "Whilst we support the Winter Festivals and the beneficial impact on local economy and communities in principle, the current proposals will result in a level of harm to the World Heritage Site's OUV". The consultation further commented that the proposal "encroaches on the designed landscape of the Gardens, which was specifically designed to provide high quality open space and garden monuments, with temporary structures which are not in keeping with the character of their environment. The proposals cause physical wear on the public realm. While this temporary in nature, it is regular and impacts on this important space for a significant period of the year".

Due to the size, scale, positioning, form and the design and appearance, the proposal would temporarily impact on key views within the World Heritage Site. Notwithstanding, by splitting the event into 3 separate events in the city the scale of the proposal is relatively small and consequently the impact on the heritage assets is not profound. Given this and the fact that the proposal is for a temporary period of a known duration, the impact on the OUV of the World Heritage Site would be short term and not significantly detrimental.

In addition to the other two Christmas markets currently proposed by the applicant in other parts of the city centre and other known developments in the city centre, owing to its size, form and temporary nature the cumulative impact on the character and appearance of the OUV of the WHS is not significant.

The nature of the proposals are considered to provide a juxtaposition to the local setting and character allowing the historic fabric of the area to maintain prominence.

Therefore, given the temporary nature of the proposal and the contribution to the City's cultural offering and economic recovery, it is considered to comply with LDP Policy Env 1.

Historic Gardens and Designed Landscapes

The Princes Street Gardens are protected as Designed Landscape, Historic Gardens and Special Landscape Area within the Local Development Plan to preserve the fabric of the city's historic green spaces and landscaping. Owing to the proposal's size, scale, positioning, form and their design and appearance, the temporary structures would disrupt key views within the Designed Landscape, Historic Gardens and thus would harm the character and appearance of the Designed Landscape and Historic Gardens.

The application does not include measures to protect monuments/statues within the site from damage. A condition has been attached to the permission requiring these measures to be in place prior to development taking place on site and to remain until all the temporary structures/installations have been removed following decommissioning.

On balance, the benefits discussed prior, which are significant material considerations, outweigh the temporary adverse impact that the proposal will have on the Historic Gardens and Designed Landscapes, justifying the proposal be granted for planning permission at this site.

A condition is attached to the approval that stipulates the applicant must implement the necessary historic protection measures are taken before development on site begins. With this condition it is considered that the proposal protects the policy requirements of Env 11 and Env 13 as it will help retain and protect the fabric of the city's historic green spaces and designed landscaping.

Alternative Locations

As the proposal is for a Christmas Market within Edinburgh, it is appropriate that it is located in the city centre. Given its proximity to bus routes, bus station, tram and train, there are few locations with better connectivity. For example, the Meadows or George Square do not have such connectivity. Other locations in the city centre, given the large number of listed buildings throughout the city centre, are likely to give rise to similar impacts on other listed buildings. Therefore, the benefits realised by the market can only realistically be delivered at its proposed location of West Princes Street Gardens.

Trees and soft landscaping

Given the scale of the Christmas event that operated in the Garden in 2019/2020 there was extensive repair required to grassed areas within it over a lengthy period before the Garden could reopen. The current site area comprises significantly less areas of grass within the Garden than Christmas markets prior to 2020. Consequently, less soft landscaping restoration/remediation will be necessary at the end of the decommissioning phase than was required in previous years and moreover the duration of restoration/remediation should be considerably less. The ground to be restored/remediated will be unsightly and inaccessible to the public only temporarily. However, the effects are reversible and not considered to be significantly detrimental to amenity including visual amenity. The Council as landowner through non-planning related consents, including terms and conditions of a grant of a lease to the operator, would ensure that at the end of the decommissioning stage the land is restored expeditiously to a required specification. This would include the reinstatement of soft landscaping and the repair/replacement of any damaged kerbs and footways being made good at no cost to the Council.

Therefore, there is no requirement to secure restoration/remediation works through a planning condition for soft landscaping.

Within the proposal is a demarcated area for back of house (BOH), within the BOH area there should be no development of any structure upon soft landscaping.

In regard to tree protection, a number of structures have been proposed within the site plan in close proximity to trees. Within the proposal the applicant has not provided a tree survey or protection plan.

The only comment received by the applicant within the design statement was in association to Site Construction and Decommission Phases that states "Wherever practically possible, a pedestrian barrier will also be placed around trees to ensure safe working distances from trees and canopies and along the grass on the south side of the grass to protect trees/hedgerow". Further to this statement the applicant submitted drawings of the 'typical protection during build' and 'typical tree surround seating structure'. Neither of the drawings or the statement are sufficient or are currently suitable to comply with the Local Development Plan Policy Env 12.

Without a comprehensive tree survey and tree protection plan the proposed development could cause significant harm to ecology or biodiversity. A condition is attached to the planning permission, that stipulates the applicant must implement tree protection measures before development on site begins. With this condition it is considered that the proposal will comply with LDP Policy Env 12.

Use

The site is located within the City Centre in the Local Development Plan. It is considered the proposal can be well integrated into the surrounding environment. The proposal is located within a central location which is considered easily accessible by various sustainable modes of transport and no parking will be provided.

The Edinburgh Local Development Plan (LDP) supports a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. Development which lies within the City Centre will be supported which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city.

There are no development plan policies or non-statutory guidelines that directly relate to proposals for outdoor markets/attractions.

The proposal would not prevent the continued existing use of the public garden or the remainder of Princes Street Gardens. The effect of the proposed development on the leisure value and enjoyment of the part of the Gardens comprising the site and the Mound Plaza as a civic space is not permanent and is reversible. The temporarily change of use of the site would not result in the permanent loss of open space provision in the locality and does not conflict with the key principles of Policy Env 18 (Open Space Protection).

The principle of development is considered acceptable given the temporary nature of the proposal and is supported in this location. The proposal will help the city centre fulfil its role as a capital city. Given that the proposed Christmas market/attractions are temporary they do not conflict with the key principles of Policy Del 2. The development is considered acceptable given the temporary nature of the proposal and is supported in this location. The proposal complies with LDP Policy Ret 7.

Amenity

Due to the nature of the proposal, there will be amplified music and a large number of people attending, including in the evening. The site is however within a city centre location and the proposal is for a temporary period. The Council's Environmental Protection Section have previously advised that if any complaints about noise were received, they would address this directly with the event organiser.

The proposals would not give rise to significant harm to the amenity of neighbouring properties including residences.

The applicant has confirmed that a private waste collection service, will be in place for the development. Waste will be collected daily, at pre-arranged times as agreed with City Edinburgh Council. Waste will be streamed on site into waste, mixed recycling and glass.

It is considered that the proposal complies with LDP Policy Env 5.

Transport

No roads are required to be closed to facilitate the proposed development. The proposal raises no road safety or pedestrian safety issues including in respect of the number and location of entrance and exit points and access for wheelchair users. Access to the remainder of the Garden including for pedestrians and wheelchair users will be maintained.

The site is exceptionally well placed for public transport and is located next to a local centre where high footfall land uses are encouraged. Consequently, the proposal does not raise any significant parking issues or public transport issues.

Archaeology

No groundworks are required to facilitate the proposal and therefore there is no potential for impacts on underground archaeology

Conclusion in relation to the Development Plan

Overall the proposals comply with the Local Development Plan and given the temporary nature of the proposal, is supported in this location. There are no material considerations that would outweigh this conclusion.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

The application received three public objections and one neutral comment. A summary of those comments;

material considerations

- Princes Street Gardens is a vital green space for the residents of the immediate area. During the Christmas Festivals the space becomes unusable for physical and mental well-being. The scale of the events proposed would disrupt the amenity of residents for the duration of the permission. The effect of the amenity is discussed within section 'C' of the report.
- The application has not followed Council guidance on tree protection. This has been discussed within section 'B' and a condition has been attached to the permission making the applicant to meet the council's guidance before any development of any kind can take place on site.
- Creating competition with local traders. This has been discussed within section 'C' of the report.
- Concern of the damage done to soft surfaced areas especially in areas of high footfall associated with attractions. All development on soft surfaced areas should be avoided with all development contained in areas of hard surface.
- Concern of how the Christmas Market will be segregated from the generally civic functionality of the park and what effect that will have on the park an open green space. A condition has attached to the permission regarding a boundary plan be submitted, without sign off the applicant is unable to start development on site.

non-material considerations

- Conditions should be imposed on the number, size and location of all temporary structures and associated cabling, barriers. Any breach of the condition, by adding more, or bigger, or more intrusive structures, would be enforced, even to the removal of the licence. This is a non-material comment as an application must be considered on the proposed development itself.
- A five year permission period which conflicts with the Council's intention to review the contract after two years.
- Christmas is not a Scottish tradition and Christmas markets are a relatively new invention which cities and towns throughout the UK now have.
- A local economic study should be required as part of any consent (should it be given) to quantify the level of local economic value and of economic spillage outside the city. Greater need to support local businesses is required, 65% of traders should be local to Edinburgh to support the local economy.
- It is suggested that the event be further divided to further mitigate its detrimental effect on the city and rather creating a Christmas Trail using a string of sites across the city, which would include existing markets such as Stockbridge, Castle Terrace and Grassmarket.

- The application should be limited to one year to allow an improved application to be submitted next year. The application does not comprehensively articulate the impact that the development will have on Edinburgh's heritage assets and listed buildings. Nor does it give detailed locational information on stalls, rides etc... or the associated management of crowds.
- Suggestion that existing permanent stools be incorporated into the walk between East and West as point of interest.
- The use of St Cuthbert's Graveyard for operational servicing should be avoided.
- It would be preferred that Princes Street Gardens was not used for the Christmas Festival. It is also objectionable that common good land is used for commercial gain. Given that some form of Christmas Festival using Princes Street Gardens is inevitable.

Conclusion in relation to identified material considerations

The proposal with the conditions attached fully addresses the material considerations as set out above.

Overall conclusion

The proposal is acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with the development plan.

The development will have a minor temporary effect on the immediate listed buildings and further conservation area. The Christmas markets, rides and associated kiosks will bring an interesting additional feature to the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre.

On balance, these benefits; which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings, historic green spaces and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposals comply with the Edinburgh Local Development Plan. The proposal, subject to the conditions stated, is considered to be acceptable.

The proposed temporary nature of the development is considered acceptable in this location. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. Planning permission is hereby granted for the proposal for the period between the 4th November 2022 and the 4th January 2023, recurring annually between 4th November and 4th January for 5 consecutive years, until January 2027.
2. The temporary market and other attractions hereby approved shall only be operational between the hours of 10am and 10pm on the dates specified in condition 1.
3. The temporary buildings, attractions, installations and associated temporary structures and plant hereby approved shall be removed from the site in their entirety by no later than two weeks after expiry of the temporary planning period each year, the 18th of January.
4. No development on site may begin without the applicant supplying a Monument Protection plan and written response that gives consent from Edinburgh Council Planning Authority. At least 3 days written notice shall be given to the Planning Authority of the date of commencement of the development on site.

Access shall be made available to officers of the Edinburgh Council Planning Authority, or a representative authorised by them, to carry out site visit to monitor the monument protection measures being carried out.

5. No development on site may begin without written consent from Edinburgh Council Planning Authority. At least 3 days written notice shall be given to the Planning Authority of the date of commencement of the tree protection measures to be carried out. Following the completion of the tree protection measures and prior to development commencing on the site the operator shall write to the Planning Authority confirming that the tree protection measures have been completed. No development shall commence on site unless and until an arboricultural specialist from the Council's Parks and Greenspace Section or a representative authorised by them, has inspected the completed tree protection measures and subsequently written confirmation has been received from the Planning Authority that the completed tree protection measures are acceptable.

Access shall be made available to officers of the Council's Parks and Greenspace Section or a representative authorised by them, to carry out site survey/monitoring checks of the tree protection measures being carried out.

6. Prior to the commencement of development, the applicant must provide a boundary strategy to ensure the public safety in and around the site. Prior to development commencing on the site the operator shall submit a boundary strategy the Planning Authority. At least 3 days written notice shall be given to the Planning Authority of the date of development. If it is deemed that the strategy is acceptable the applicant will receive a written response from Edinburgh Council Planning Authority allowing development to begin.

Reasons:-

1. In recognition of the temporary nature of the proposal.
2. In the interests of safeguarding the amenity of neighbouring noise sensitive properties.
3. In recognition of the temporary nature of the proposal.
4. In the interests of safeguarding listed monuments/statues from damage.
5. In the interests of safeguarding trees which make a significant contribution to the character and amenity of the area. To comply with the Local Development Plan policy Env 12.
6. In the interests of public safety.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 3 October 2022

Drawing Numbers/Scheme

01 A, 02 A, 03 - 06

Scheme 2

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Parks and Greenspaces

COMMENT: Given the last-minute nature of this application the Parks and Greenspace have some concerns regarding the current layout and propose that if planning permission is granted it is for one year only (2022/23).

DATE: 28 October 2022

NAME: Edinburgh World Heritage

COMMENT: The application submission date has not allowed adequate time to consider, consult, comment and collaborate with the Applicant to amend the proposals. The current application is for a Temporary Period of 5 years. We recommend that approval of the application, should it be given, is subject to further consultation and refinement relating to heritage impact, for years two to five of that period.

DATE: 31 October 2022

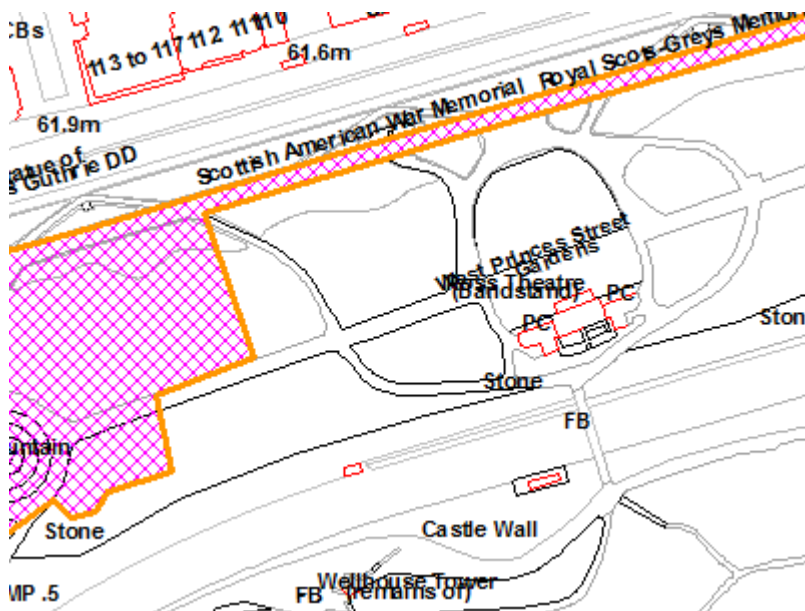
NAME: Historic Environment Scotland

COMMENT: The proposals do not raise historic environment issues of national significance and therefore we do not object.

DATE: 1 November 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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