

Notice of meeting and agenda

Development Management Sub-Committee

10.00 am Wednesday, 7th December, 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 5 December 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

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| 3.1 | Minutes of Previous Meeting of Development Management Sub-Committee of 9 November 2022 – submitted for approval as a correct record | 25 - 42 |
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| 3.2 | Minutes of Previous Meeting of Development Management Sub-Committee of 23 November 2022 – submitted for approval as a correct record | 43 - 46 |
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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.

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| 4.1 | 14 - 17 Atholl Crescent, Edinburgh, EH3 8HA - Change of Use from office to form 34x residential units with associated works (as amended) - application no. 21/03992/FUL - Report by the Chief Planning Officer | 47 - 72 |
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It is recommended that this application be **GRANTED**.

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| 4.2 | 14 - 17 Atholl Crescent, Edinburgh, EH3 8HA - Internal and external alterations to facilitate change of use from office to residential (as amended) - application no. – 21/03991/LBC - Report by the Chief Planning Officer | 73 - 86 |
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It is recommended that this application be **GRANTED**.

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| 4.3 | Salamander Street/Bath Road, Edinburgh, EH6 7JZ - Demolition of existing buildings and erection of mixed-use development comprising flatted residential, office and commercial floorspace with associated access arrangements, parking, landscaping and ancillary works (as amended scheme 3) - application no. 21/01163/PPP - Report by the Chief Planning Officer | 87 - 124 |
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It is recommended that this application be **GRANTED**.

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| 4.4 | 146 Duddingston Road West, Duddingston, Edinburgh -
Application under Section 75A for the Modification of Planning
Obligations in relation to affordable housing to provide a
commuted sum (As Amended) - application no– 22/02723/OBL -
Report by the Chief Planning Officer | 125 - 136 |
| | It is recommended that this application be ACCEPTED, and the AGREEMENT BE MODIFIED. | |
| 4.5 | 94 Nicolson Street, Davie Street , Edinburgh (Site east of) -
Partial demolition of the existing retail store and construction of
flatted dwellings and associated infrastructure - application no.
22/01355/FUL - Report by the Chief Planning Officer | 137 - 162 |
| | It is recommended that this application be GRANTED. | |
| 4.6 | 2 Oxfangs Path, Edinburgh, EH13 9LX - Demolition of existing
office building and construction of 11x flats with associated
external works (as amended) - application no. 22/02052/FUL -
Report by the Chief Planning Officer | 163 - 174 |
| | It is recommended that this application be GRANTED. | |
| 4.7 | 3F2 13 Parkside Terrace, Edinburgh, EH16 5BL - Form separate
flat with new access, roof lights and skylight (as amended) -
application no. 22/01082/FUL - Report by the Chief Planning
Officer | 175 - 184 |
| | It is recommended that this application be GRANTED. | |
| 4.8 | Pennywell Muirhouse, Pennywell Road, Edinburgh (Approval of
Matters Specified in Conds Regeneration Masterplan) - Proposed
development of a brownfield site for the provision of 94 No. new
residential units for private sale including vehicular access, site
wide drainage and landscaping (As Amended) - application no. | 185 - 206 |

21/06738/AMC - Report by the Chief Planning Officer

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

- 4.9** 36 Regent Street, Edinburgh, EH15 2AX - Replacement of an existing outbuilding at the rear of the garden with a new garden room structure (as amended) - application no. 21/06643/FUL - Report by the Chief Planning Officer 207 - 216

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

- 4.10** 20 West Shore Road, Edinburgh, EH5 1QD - Mixed-use development comprising creative studio and business incubation space, workshop manufacturing and storage with ancillary retail, events space, indoor and outdoor food market, food outlets, leisure uses and associated landscaping - application no. 22/01726/FUL - Report by the Chief Planning Officer 217 - 236

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

- 4.11** 5 Winton Drive, Edinburgh, EH10 7AL - Demolition of the existing building and erection of a 62-bed care home with associated parking and landscaping - application no. 22/02335/FUL - Report by the Chief Planning Officer 237 - 254

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

- 4.12** 55 Woodhall Road, Edinburgh, EH13 0HD - Form new dwelling (as amended) - application no. 21/06189/FUL - Report by the Chief Planning Officer 255 - 274

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

- 4.13** 20 Dublin Street Lane South, Edinburgh, EH1 3PX - Change of use (retrospective) from residential to short term let (sui generis) - application no. 22/03619/FUL - Report by the Chief Planning Officer 275 - 284

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

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| 4.14 | 2 Forrest Hill, Edinburgh, EH1 2QL - Change of use (retrospective) from flat to short-term let (Sui Generis) - application no. 22/04263/FUL - Report by the Chief Planning Officer | 285 - 294 |
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It is recommended that this application be **GRANTED**.

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| 4.15 | 2F1 1 Frederick Street, Edinburgh, EH2 2EY - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01698/FUL - Report by the Chief Planning Officer | 295 - 304 |
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It is recommended that this application be **GRANTED**.

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| 4.16 | 2F2 1 Frederick Street, Edinburgh, EH2 2EY - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01700/FUL - Report by the Chief Planning Officer | 305 - 314 |
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It is recommended that this application be **GRANTED**.

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| 4.17 | 2F3 1 Frederick Street, Edinburgh, EH2 2EY - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01701/FUL - Report by the Chief Planning Officer | 315 - 324 |
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It is recommended that this application be **GRANTED**.

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| 4.18 | 3F1 1 Frederick Street, Edinburgh, EH2 2EY - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01702/FUL - Report by the Chief Planning Officer | 325 - 334 |
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It is recommended that this application be **GRANTED**.

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| 4.19 | 3F2 1 Frederick Street, Edinburgh, EH2 2EY - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01703/FUL - Report by the Chief Planning Officer | 335 - 344 |
| It is recommended that this application be GRANTED . | | |
| 4.20 | 3F3 1 Frederick Street, Edinburgh, EH2 2EY - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01704/FUL - Report by the Chief Planning Officer | 345 - 356 |
| It is recommended that this application be GRANTED . | | |
| 4.21 | 30 Grove Street, Edinburgh, EH3 8AZ - Change of Use (retrospective) from house (residential) to short-term let visitor accommodation (sui generis) - application no. 22/03243/FUL - Report by the Chief Planning Officer | 357 - 364 |
| It is recommended that this application be GRANTED . | | |
| 4.22 | Flat 1 129 High Street, Edinburgh, EH1 1SG - Change of use from residential to short term let (Sui Generis) - application no. 22/01695/FUL - Report by the Chief Planning Officer | 365 - 376 |
| It is recommended that this application be GRANTED . | | |
| 4.23 | Flat 2 129 High Street, Edinburgh, EH1 1SG - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01697/FUL - Report by the Chief Planning Officer | 377 - 388 |
| It is recommended that this application be GRANTED . | | |
| 4.24 | Flat 3 129 High Street, Edinburgh, EH1 1SG - Change of Use (retrospective) from residential to short-term let (Sui Generis) - application no. 22/01682/FUL - Report by the Chief Planning | 389 - 400 |

Officer

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

- 4.25** Flat 4 129 High Street, Edinburgh, EH1 1SG - Change of Use (retrospective) from residential to short-term let (Sui Generis) - application no. 22/01685/FUL - Report by the Chief Planning Officer 401 - 412

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

- 4.26** Flat 5 129 High Street, Edinburgh, EH1 1SG - Change of Use (retrospective) from residential to short-term let (Sui Generis) - application no. 22/01689/FUL - Report by the Chief Planning Officer 413 - 424

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

- 4.27** Flat 6 129 High Street, Edinburgh, EH1 1SG - Change of Use (retrospective) from residential to short-term let (Sui Generis) - application no. 22/01690/FUL - Report by the Chief Planning Officer 425 - 436

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

- 4.28** Flat 7 129 High Street, Edinburgh, EH1 1SG - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01693/FUL - Report by the Chief Planning Officer 437 - 448

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

- 4.29** Flat 8 129 High Street, Edinburgh, EH1 1SG - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01692/FUL - Report by the Chief Planning Officer 449 - 460

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

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| 4.30 | Flat 9 129 High Street, Edinburgh, EH1 1SG - Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01696/FUL - Report by the Chief Planning Officer | 461 - 472 |
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It is recommended that this application be **GRANTED**.

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| 4.31 | Flat 10 129 High Street, Edinburgh, EH1 1SG - Change of Use from residential to short term let (sui-generis) (in retrospect) - application no. 22/01801/FUL - Report by the Chief Planning Officer | 473 - 484 |
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It is recommended that this application be **GRANTED**.

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| 4.32 | Flat 11 129 High Street, Edinburgh, EH1 1SG - Change of Use from residential to short term let (sui-generis) (in retrospect) - application no. 22/01802/FUL - Report by the Chief Planning Officer | 485 - 496 |
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It is recommended that this application be **GRANTED**.

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| 4.33 | Flat 12 129 High Street, Edinburgh, EH1 1SG - Retrospective change of use from residential to Short Term Let (sui-generis) - application no. 22/04537/FUL - Report by the Chief Planning Officer | 497 - 508 |
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It is recommended that this application be **GRANTED**.

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| 4.34 | Flat 13 129 High Street, Edinburgh, EH1 1SG - Retrospective change of use from residential to Short Term Let (sui-generis) - application no. 22/04538/FUL - Report by the Chief Planning Officer | 509 - 520 |
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It is recommended that this application be **GRANTED**.

- 4.35** Flat 1, 5 Hill Street, Edinburgh - Change of use (retrospective) 521 - 530
from residential to short term let (sui-generis) - application no.
22/01729/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.36** Flat 2, 5 Hill Street, Edinburgh - Change of use (retrospective) 531 - 540
from residential to short term let (sui-generis) - application no.
22/01736/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.37** Flat 3, 5 Hill Street, Edinburgh - Change of use (retrospective) 541 - 550
from residential to short term let (sui-generis) - application no.
22/01737/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.38** Flat 4, 5 Hill Street, Edinburgh - Change of use (retrospective) 551 - 560
from residential to short term let (sui-generis) - application no.
22/01738/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.39** Flat 5, 5 Hill Street, Edinburgh - Change of use (retrospective) 561 - 570
from residential to short term let (sui-generis) - application no.
22/01739/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.40** Flat 6, 5 Hill Street, Edinburgh - Change of use (retrospective) 571 - 580
from residential to short term let (sui-generis) - application no.
22/01740/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.

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| 4.41 | Flat 7, 5 Hill Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01741/FUL - Report by the Chief Planning Officer

It is recommended that this application be GRANTED . | 581 - 590 |
| 4.42 | Flat 8, 5 Hill Street, Edinburgh - Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01742/FUL - Report by the Chief Planning Officer

It is recommended that this application be GRANTED . | 591 - 600 |
| 4.43 | 5 Melville Street Lane, Edinburgh, EH3 7QB - Retrospective change of use from residential mews to short-term let apartment (Sui Generis) - application no. 22/01939/FUL - Report by the Chief Planning Officer

It is recommended that this application be GRANTED . | 601 - 610 |
| 4.44 | 17 South Charlotte Street, Edinburgh, EH2 4AS - Change of use (retrospective) from flat to short-term let apartment (Sui Generis) - application no. 22/02650/FUL - Report by the Chief Planning Officer

It is recommended that this application be GRANTED . | 611 - 620 |
| 4.45 | 50/2 Thistle Street, Edinburgh - Retrospective COU from residential to short-term let visitor accommodation (sui generis) - application no. 22/02135/FUL - Report by the Chief Planning Officer

It is recommended that this application be GRANTED . | 621 - 630 |
| 4.46 | 50/3 Thistle Street, Edinburgh - Retrospective COU from residential to short-term let visitor accommodation (sui generis) - | 631 - 640 |

application no. 22/02134/FUL - Report by the Chief Planning Officer

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

- 4.47** Flat 1 23 Thistle Street South West Lane, Edinburgh - Proposal: 641 - 650
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01780/FUL - Report by the Chief Planning Officer

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

- 4.48** Flat 2, 23 Thistle Street South West Lane, Edinburgh - Proposal: 651 - 660
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01781/FUL - Report by the Chief Planning Officer

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

- 4.49** Flat 3, 23 Thistle Street South West Lane, Edinburgh - Proposal: 661 - 670
Change of use (retrospective) from residential to short term let (sui generis) - application no. 22/01804/FUL - Report by the Chief Planning Officer

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

- 4.50** Flat 4, 23 Thistle Street South West Lane, Edinburgh - Proposal: 671 - 680
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01785/FUL - Report by the Chief Planning Officer

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

- 4.51** Flat 5, 23 Thistle Street South West Lane, Edinburgh - Proposal: 681 - 690
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01794/FUL - Report by the Chief

Planning Officer

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

- 4.52** Flat 6, 23 Thistle Street South West Lane, Edinburgh - Proposal: 691 - 700
Change of use from residential to short term let (sui-generis) (in retrospect) - application no. 22/01798/FUL - Report by the Chief Planning Officer

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

- 4.53** Flat 7 23 Thistle Street South West Lane, Edinburgh - Proposal: 701 - 710
Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01675/FUL - Report by the Chief Planning Officer

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

- 4.54** Flat 8 23 Thistle Street South West Lane, Edinburgh, EH2 1EW - 711 - 720
Proposal: Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01679/FUL - Report by the Chief Planning Officer

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

- 4.55** Flat 9 23 Thistle Street South West Lane, Edinburgh, EH2 1EW - 721 - 730
Proposal: Change of use (retrospective) from residential to short term let (Sui Generis) - application no. 22/01683/FUL - Report by the Chief Planning Officer

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

- 4.56** Flat 10 23 Thistle Street South West Lane, Edinburgh, EH2 1EW 731 - 740
- Proposal: Change of Use (retrospective) from residential to short-term let (Sui Generis) - application no. 22/01688/FUL - Report by the Chief Planning Officer

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

- 4.57** Flat 11 23 Thistle Street South West Lane, Edinburgh, EH2 1EW 741 - 750
- Proposal: Change of Use (retrospective) from residential to short-term let (Sui Generis) - application no. 22/01691/FUL - Report by the Chief Planning Officer

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

- 4.58** Flat 1 8 Torphichen Street, Edinburgh, EH3 8JQ - Proposal: 751 - 760
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01784/FUL - Report by the Chief Planning Officer

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

- 4.59** Flat 2, 8 Torphichen Street, Edinburgh - Proposal: Change of use 761 - 770
from residential to short term let (sui generis) (in retrospect) - application no. 22/01789/FUL - Report by the Chief Planning Officer

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

- 4.60** Flat 3, 8 Torphichen Street, Edinburgh - Proposal: Change of Use 771 - 780
from residential to short term let (sui-generis) (in retrospect) - application no. 22/01790/FUL - Report by the Chief Planning Officer

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

- 4.61** Flat 4 8 Torphichen Street, Edinburgh, EH3 8JQ - Proposal: 781 - 790
Change of use (retrospective) from residential to short term let (Sui-Generis) - application no. 22/01791/FUL - Report by the Chief Planning Officer

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

- 4.62** Flat 5 8 Torphichen Street, Edinburgh, EH3 8JQ - Proposal: 791 - 800
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01796/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.63** Flat 6 8 Torphichen Street, Edinburgh - Proposal: Change of use 801 - 810
(retrospective) from residential to short term let (sui-generis) - application no. 22/01792/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.64** Flat 7 8 Torphichen Street, Edinburgh, EH3 8JQ - Proposal: 811 - 820
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01797/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.65** Flat 8, 8 Torphichen Street, Edinburgh - Proposal: Change of use 821 - 830
(retrospective) from residential to short term let (sui-generis) - application no. 22/01793/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.
- 4.66** Flat 9, 8 Torphichen Street, Edinburgh - Proposal: Change of use 831 - 840
(retrospective) from residential to short term let (sui-generis) - application no. 22/01795/FUL - Report by the Chief Planning Officer
It is recommended that this application be **GRANTED**.

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| 4.67 | Flat 10, 8 Torphichen Street, Edinburgh - Proposal: Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01786/FUL - Report by the Chief Planning Officer | 841 - 850 |
| | It is recommended that this application be GRANTED . | |
| 4.68 | Flat 11 8 Torphichen Street, Edinburgh, EH3 8JQ - Proposal: Change of use (retrospective) from residential to short term let (sui generis) - application no. 22/01787/FUL - Report by the Chief Planning Officer | 851 - 860 |
| | It is recommended that this application be GRANTED . | |
| 4.69 | Flat 12 8 Torphichen Street, Edinburgh, EH3 8JQ - Proposal: Change of use from residential to short term let (sui-generis) (in retrospect) - application no. 22/01788/FUL - Report by the Chief Planning Officer | 861 - 870 |
| | It is recommended that this application be GRANTED . | |
| 4.70 | Flat 1, 9 South St Andrew Street, Edinburgh - Proposal: Change of Use (retrospective) from residential to short-term let (sui generis) - application no. 22/01752/FUL - Report by the Chief Planning Officer | 871 - 880 |
| | It is recommended that this application be GRANTED . | |
| 4.71 | Flat 2, 9 South St Andrew Street, Edinburgh - Proposal: Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01754/FUL - Report by the Chief Planning Officer | 881 - 890 |
| | It is recommended that this application be GRANTED . | |

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| 4.72 | Flat 3, 9 South St Andrew Street, Edinburgh - Proposal: Change of Use (retrospective) from residential to short-term let (sui generis) - application no. 22/01755/FUL - Report by the Chief Planning Officer | 891 - 900 |
| It is recommended that this application be GRANTED . | | |
| 4.73 | Flat 4, 9 South St Andrew Street, Edinburgh - Proposal: Change of Use (retrospective) from residential to short-term let (sui-generis) - application no. 22/01756/FUL - Report by the Chief Planning Officer | 901 - 910 |
| It is recommended that this application be GRANTED . | | |
| 4.74 | Flat 5, 9 South St Andrew Street, Edinburgh - Proposal: Change of Use (retrospective) from residential to short-term let (sui-generis) - application no. 22/01757/FUL - Report by the Chief Planning Officer | 911 - 920 |
| It is recommended that this application be GRANTED . | | |
| 4.75 | Flat 6, 9 South St Andrew Street, Edinburgh - Proposal: Change of use from residential to short-term let (sui-generis) (in retrospect) - application no. 22/01758/FUL - Report by the Chief Planning Officer | 921 - 930 |
| It is recommended that this application be GRANTED . | | |
| 4.76 | Flat 7, 9 South St Andrew Street, Edinburgh - Proposal: Change of Use from residential to short term let (sui-generis) (in retrospect) - application no. 22/01759/FUL - Report by the Chief Planning Officer | 931 - 940 |
| It is recommended that this application be GRANTED . | | |
| 4.77 | Flat 8 9 South St Andrew Street, Edinburgh, EH2 2AU - Proposal: | 941 - 950 |

Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01760/FUL - Report by the Chief Planning Officer

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

- 4.78** Flat 9 9 South St Andrew Street, Edinburgh, EH2 2AU - Proposal: 951 - 960
Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01762/FUL - Report by the Chief Planning Officer

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

- 4.79** Flat 10 9 South St Andrew Street, Edinburgh, EH2 2AU - 961 - 970
Proposal: Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/05039/FULSTL - Report by the Chief Planning Officer

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

- 4.80** Flat 11 9 South St Andrew Street, Edinburgh, EH2 2AU - 971 - 980
Proposal: Change of use (retrospective) from residential to short term let (sui-generis) - application no. 22/01753/FUL - Report by the Chief Planning Officer

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

- 4.81** 24A York Place, Edinburgh, EH1 3EP - Change of use 981 - 990
(retrospective) from flat to short-term let apartment (Sui Generis) - application no. 22/02533/FUL – Report by the Chief Planning Officer

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

- 4.82** Flat 1, 24 York Place, Edinburgh - Change of use from residential 991 - 1000
(retrospective) to short term let (sui generis) - application number

– 22/01730/FUL - Report by the Chief Planning Officer

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

- 4.83** Flat 2, 24 York Place, Edinburgh, EH1 3EP - Change of use from residential (retrospective) to short term let (sui generis) - application number – 22/01731/FUL - Report by the Chief Planning Officer 1001 - 1010

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

- 4.84** Flat 3, 24 York Place, Edinburgh - Change of use from residential (retrospective) to short term let (sui generis) - application number – 22/01734/FUL - Report by the Chief Planning Officer 1011 - 1020

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

- 4.85** Flat 4, 24 York Place, Edinburgh - Change of use from residential (retrospective) to short term let (sui generis) - application number – 22/01735/FUL - Report by the Chief Planning Officer 1021 - 1030

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

- 4.86** 24 Young Street North Lane, Edinburgh, EH2 4JD - Change of Use (retrospective) from flat to short-term let (sui generis) - application no. 22/02316/FUL - Report by the Chief Planning Officer 1031 - 1040

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 None.

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.

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| 7.1 | 6, New Market Road, Edinburgh (Site 117 Metres Southwest Of) - 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 - Report by the Chief Planning Officer | 1041 - 1090 |
| It is recommended that this application be GRANTED . | | |
| 7.2 | 6, New Market Road, Edinburgh (Site 117 Metres southwest of) - Part demolition and alterations of listed buildings in association with proposed mixed-use development - application no. 22/00671/LBC - Report by the Chief Planning Officer | 1091 - 1108 |
| It is recommended that this application be GRANTED . | | |
| 7.3 | New Parliament House, 5 - 7 Regent Road, Edinburgh - Form | 1109 - 1146 |

new premises for St Mary's Music School including revised layout arrangements, new opening within the West Pavilion and proposed glazed floor light to the external portico (as amended) - application no. 22/02449/FUL - Report by the Chief Planning Officer

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

- 7.4** New Parliament House, 5 - 7 Regent Road, Edinburgh - Form new premises for St Mary's Music School including demolition of later ancillary buildings, new residential, teaching and practice facilities, new landscaped public garden, new basement created under Main Hall to provide foyer and associated ancillary works (as amended) - application no. 22/02450/LBC - Report by the Chief Planning Officer 1147 - 1170

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

- 7.5** Proposed Festival Event Space at , St James Square, Edinburgh - Erection of temporary structures and enclosures, including bar, and other associated works to facilitate use of St James Square as an external events space. Permission sought for one year (2022/23) - application no. 22/04715/FUL - Report by the Chief Planning Officer - Report by the Chief Planning Officer 1171 - 1186

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 9 November 2022

Present:

Councillors Osler (Convener), Beal, Booth, Cameron (items 4.1-4.3, 4.5-4.14, 6.1 and 6.2, 7.1, 7.2 and 7.3), Dalgleish (items 4.1-4.3, 4.5-4.14, 6.1 and 6.2), Gardiner, Hyslop, Jones, McNeese-Mechan (items 4.4, 4.6, 7.1, 7.2 and 7.3), Mowat and O'Neill.

1. Minutes

Decision

- 1) To approve the minute of the Development Management Sub-Committee of 21 September 2022 as a correct record.
- 2) To approve the minute of the Development Management Sub-Committee of 26 October 2022 as a correct record.

2. General Applications and Miscellaneous Business

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

Requests for a Presentation:

Councillors Beal requested a presentation in respect of item 4.4 – 27 & 29 Beaverhall Road, Edinburgh, EH7 4JE - application no. 22/01654/FUL

Councillor Booth requested a presentation in respect of item 4.4 – 27 & 29 Beaverhall Road, Edinburgh, EH7 4JE - application no. 22/01654/FUL

Councillor Booth requested a presentation in respect of item 4.6 – 3 King's Place, Edinburgh, EH15 1DU - application no. 21/05935/FUL

Decision

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

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

3. 34 Cramond Road North (At Land Adjacent to Former), Edinburgh

The Chief Planning Officer had identified a 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 at 34 Cramond Road North, Edinburgh (at land adjacent to former) – application no. 20/02916/FUL

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 had held a series of meetings and with all parties both individually and collectively. The following outcomes had 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 had 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 was the formal submission of the revised route map. Committee were 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 had 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 sought 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 had actively started this process and had 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 was largely dependent on the outcomes of this initial phase. The Route Map set out further timescale options for the delivery of sports provision depending on the favoured option. This included 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 were no consented proposals that could be implemented by the developer to expedite the delivery of locally informed facilities. The comments received all focused in on the delivery of local sports facilities and that this was essential to the successful implementation of a scheme on this site. It was 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 was 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 was attached as the fall- back position.

The revised mediated route map was considered to be an acceptable way forward to identifying the appropriate sports facilities which deliver a sustainable future on the site.

(a) Report by the Chief Planning Officer

The application was to vary condition one of planning permission: 13/01843/FUL that stated:

'Prior to the occupation of the completed housing, the 3.357-hectare area highlighted on drawing number CS-PL-(MP1)100 should be temporarily seeded to the agreed grass seed mixture for a period of up to 5 years from the date of the approval. Thereafter, the approved sports pavilion and sports pitches should be laid out and fully operational within 1 year of this end date.'

The application was requesting the condition be amended to allow a further period of five years to the sports pavilion and sports pitches.

As stated, 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 was necessary to hold a new hearing session to consider the application.

The application sought 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 had been included within the papers appended to the report by the Chief Planning Officer. Parties that previously attended at the hearing had been invited to attend this new hearing.

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

[Development Management Sub-Committee - Wednesday, 9th November 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(b) Cramond Community Council

John Loudon addressed the Development Management Sub-Committee on behalf of Cramond Community Council. Mr Loudon thanked the Council for appointing Claire Bloomer as mediator and for her excellent work, Councillor Lang and the other Ward Councillors for their contributions and finally the Sub-Committee for inviting him to the meeting. This was an old and controversial application. After two decades of inaction, there was a high level of local frustration and diversity of views as to what should take place on this campus, which used to provide a wide range of sporting facilities. He was unable to understand why council officials had approved the completion of housing

before sports facilities were built. There was now no point to rehearse the old arguments of missed opportunities, it was necessary to progress the matter in a positive way. The Route Map was a way to progress the matter. Constructive conversations with all the respective parties had commenced and an initial local meeting had been arranged. He referred to the comments of the Chief Planning Officer on page 4 of the report and disagreed with some of the comments as half of the entire site was undeveloped, was a wasteland in a poor state and had a large amount of spoil. Mr Loudon advised Members should check this for themselves. Mr Loudon urged the members to support the recommendations in the report, but to closely monitor progress and ensure that the conditions were adhered to.

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

[Development Management Sub-Committee - Wednesday, 9th November 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(c) Cramond Association

Adam Cumming addressed the Development Management Sub-Committee on behalf of the Cramond Association. Mr Cumming thanked the Sub-Committee for being able to reiterate part of what was said at the last meeting when this was discussed. He explained his position. He thanked the mediator for her excellent work, but also wanted to emphasise the level of frustration of the local residents at the now-derelict site. They used to enjoy sport, but this was no longer the case. This situation had lasted too long and had caused much damage. There was a need for this development to proceed, as the community had worked hard on mediation, which had not been easy and required compromise. The Route Map offered a way to progress matters. This proposal offered both progress and discussion with the community, regarding what they currently wanted and needed. It was necessary to look forward and carry the plan as soon as possible. Progress was now required, both for Cramond and for other areas of the city, to provide a facility for the community. There had been various suggestions, but it was important to agree to go forward as soon as possible and to agree how this should take place, with the necessary constraints. In this way, the proposal would be delivered, having learnt from previous mistakes. It was necessary to monitor this properly, remembering that there was a considerable amount of new building in the area, which meant the existing facilities were overstretched. Although not perfect, the Route Map was a way of going forward. He suggested that the Sub-Committee agreed the officer's report and monitored its implementation, to ensure rapid delivery.

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

[Development Management Sub-Committee - Wednesday, 9th November 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(d) Kit Campbell

Kit Campbell addressed the Development Management Sub-Committee as a consultee.

Mr Campbell outlined clearly identified local needs. Those suggested by council officials included publicly accessible good quality open space of at least 2 H.A. and (Proposed in Open Space Strategy and requirement of draft City Plan 2030) Allotments. Those

needed by local schools and sports clubs included artificial turf hockey pitch (minimum half size), artificial turf football pitch (adult size), cricket ground (8 wicket strips, one artificial), basic support facilities (practice nets, changing, social, storage) and road access and limited parking for school and club use. These facilities would enhance Cramond as an attractive area in which to live, provide over 1,000 local children and teenagers with access to local sports facilities, support the 20-minute neighbourhood concept; reflect the priorities of Council Education and Recreation officials and comply with the views of SportScotland. They would also comply with the planning brief for the site, with the existing planning permission; with the National Planning Framework, with Edinburgh Local Development Plan policies ENV18 and ENV19 (protection of open space and outdoor sports facilities) and not require the vast majority of users to drive to the Campus.

Mr Campbell therefore asked the Committee to agree that local provision was the only acceptable way forward, to re-affirm Condition 13 of the only planning permission in place for the former playing fields and to instruct officials to update the planning brief for the former playing fields area (or draw up clear development principles) to prevent more unacceptable proposals and minimise delay. He also thought they should reject AMA's route map, or at least strike out the provision of city-wide, regional or national facilities and require AMA to draw up a scheme that met the local needs he had identified.

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

[Development Management Sub-Committee - Wednesday, 9th November 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(e) Ward Councillors Lang, Work and Younie

Councillor Lang indicated that Claire Bloomer had done a terrific job as mediator. He explained that some of members were not present when this application was last considered. This community had been let down by bad decisions and it was unacceptable that 20 years later, housing had been built, but there were no community facilities. Therefore, it was now necessary to progress matters. In May 2021, he had addressed the Sub-Committee, expressed his concerns and was not in favour of the proposals. However, now the application was much improved, because of the mediation process. The previous application was basically a 5-year blank cheque for the developer. He was pleased that there was now a much better route map, that the conditions in the report specified a much clearer timetable and by the decision of the developer to take on Penny Lochhead as a sports consultant. Although the developer was a housebuilder and lacked expertise for building sports facilities, the appointment of Ms Lochhead had addressed this. Last year, he was concerned that the application did not then guarantee sufficient consultation, but this Route Map built this into the first stage of the process. The conditions also required bi-monthly updates to the community. This application ensured that although not perfect, this robust Route Map offered a way forward. It was necessary to progress matters and not let down the young people or community by continual delays. The Head Teacher was keen to see progress, most of the interested parties wanted progress and this proposal offered a way forward.

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

Councillor Work indicated that there had been positive contributions from the local community and from Councillor Lang, who had represented the Ward Councillors in the mediation process. This situation had continued for a considerable length of time. In the past, he had been critical of certain aspects of the proposals and previously, there was supposed to be the provision of sporting facilities as well as housing. However, he was pleased to say that after hearing of the mediation, his views had changed. His previous negative attitude to the proposals had altered and he was more positive about this development, especially with the mediation process, the Route Map, the promise of updates and the involvement of the Consultant. He now supported the recommendations in the report.

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

[Development Management Sub-Committee - Wednesday, 9th November 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

Councillor Younie advised that Councillor Young could not contribute to the debate due to a meeting clash, but she had indicated that she was encouraged by the proposals. Councillor Younie thought it was unacceptable that the Council was still looking at proposals for the community that were considered 20 years ago. There had been a consequent reduction in trust by the community, therefore, the Council should ensure that the developers kept its promises to the community. This revised Route Map, with its dedication to engagement and delivery, gave the council the opportunity to regain the trust of the community. He wanted to thank the contributions from the local bodies, Councillor Lang and the other Ward Councillors.

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

[Development Management Sub-Committee - Wednesday, 9th November 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

(h) Applicant and Applicant's Agent

Caroline Nutsford (Calton Planning and Development), Mike Afshar (AMA) and Penny Lochhead (PMR Leisure) were heard in support of the application.

Caroline Nutsford advised that she was Director at Carlton Planning and Development. She was AMA's planning adviser. She reported that AMA has been developing sites in Edinburgh for approximately 40 years and had a track record for delivering high quality developments. At Cramond they had delivered an award-winning residential development and were committed to bringing forward a successful, sporting solution for the remainder of the site. As cited in the Planning Officer's, presentation, a new mediated agreement has been submitted with a revised route-map, for taking forward sports proposals at Cramond. On behalf of AMA, she would like to thank the members of the community, Councillor Kevin Lang and the mediator for their involvement in the mediation process. AMA were pleased to reach the mediative agreement with the Chair of Cramond and Barnton Community Council, the Cramond Association, Brighthouse Residents' Association and Councillor Kevin Lang, on a route map as a way forward for

Cramond, and for this to be reported to this Committee. The revised route map sought to take on board feedback, which had been received from the previous committee and from discussions during the mediation process. This sought out a revised process and timeline to take forward sports provision on the site. They considered that the route-map set out a realistic timeframe for assessing current sporting needs and to progress matters forward. It also reflected statutory timeframes and requirements, should they be needed to take revised proposals through a new planning application process.

To progress matters, AMA had appointed PMR Leisure, a leading sports and leisure consultant. It was proposed at the outset that PMR Leisure undertook an eight-month appraisal needs-analysis to fully appraise current sporting needs. This would consider all possible supporting options including local, Edinburgh, regional and national opportunities to ensure all possible options were assessed at the outset. They considered that this provided the best possible way of finding a viable and sustainable solution for the site, at the earliest opportunity.

PMR Leisure would engage closely with the local community as part of this process and early engagement was already underway. Alongside PMR's work, AMA would also test the market for possible supporting commercial elements, which might sit alongside and assist in bringing forward maintaining the sport provision. This was the same principle as in the three earlier "minded to grant permissions" for the site. In doing so, these uses could provide additional services and opportunities to meet the other local needs of the Cramond community. This would be in line with the Council and Scottish government's 20-minute neighborhood strategy, to help people access more of their daily needs closer to home. They heard the community's frustrations that it had not been possible to realise a sports provision to date. They considered that approving this extension and following the proposed route map, offered the best solution to deliver sports provision on the site. With PMR Leisure now on board, this process was now fully ready and they looked forward to engaging further with the community organisations and the wider community to progress matters.

Finally, Ms Nutsford would like to add that since last Committee, AMA had undertaken steps to improve the appearance of the site, including the removal of the porta cabins at the site entrance. AMA recognised its obligation to maintain the site, while a solution was being found and was committed to improving its visual appearance. Related to this, she would like to confirm that AMA had instructed that the grass would be cut in the next two weeks. She would now hand over to Penny Lochhead from PMR Leisure to explain more about her work to date and the proposed next stages.

Penny Lochhead advised that she was a director of PMR Leisure and had been appointed by them to take a fresh look at the campus site and to bring forward a renewed and updated mediated appraisal for sport and recreation across the site. Her company PMR Leisure had operated in the city and throughout Scotland for the last 32 years and she was one of the leading sports consultants in the industry. Her client base covered both the voluntary, public and private sector. She was currently the Lead Consultant on the Sports and Green Space Development and community engagement in

the ward adjacent to Almond and the West Lothian Ward of Winchburgh. This meant working with Winchmore Developments. She was therefore fully aware of the challenges facing the West of Edinburgh communities, regarding community facilities that delivered 20-minute neighborhoods, along with living on housing need. To give some context, in the City, she had been the Lead Advisor on the Science Committee Football Academy, so residents in the north of the City would know that facility well and she had been involved since the outset over 15 years ago. This was heralded as one of the best examples of a community-led social enterprise environment, using commercial and charitable activities, to deliver a huge community impact across the North of Edinburgh. For residents in the south of the City, she helped fully develop the Inch Park Community Sports Club project, which was home for the cricket football and rugby and was currently at the heart of Inch Park.

Ms Lochhead was also currently working with one of the Super Six Rugby Clubs and had worked with other football, gymnastics and basketball clubs across the City. All of her work had included working with council officers and Edinburgh Leisure, through those processes. Her depth of experience came from working with 27 of the 32 local authorities and she was proud to see in operation the local, regional and national level facilities she had been involved with. These had delivered across Scotland, helping many young people lead better and healthier sporting lives.

AMA approached her earlier in 2022 to join as their advisor into the Council-appointed mediation process and she had remained objective and listened over recent months to all parties involved in the process. She was asked to give her thoughts on the various route maps that were previously put forward. Then, she was required to find a way to find a positive conclusion for sporting facilities to be delivered the campus site. She believed the site was significant and being approximately 15 acres in size, it had the potential of addressing not only the sporting needs of the community, but which could offer other community infrastructure needs. This would assist the growing Cramond Barnton community becoming a true 20-minute neighbourhood.

Should the members approve the route map, all elements of community need would be assessed, with the priority being sporting infrastructure. However, there was an acceptance this could sit alongside commercial infrastructure, to help support and maintain the sporting site going forward. Previous applications have been covered as Caroline Nutsford, which included assisted living, retail and health provision. These would be re-assessed and other needs would come forward from the community. The final need has to be a sustainable outcome for Cramond. Over this period, she had a continuous dialogue with SportScotland. They had seen and agreed the route map as it stood, which was submitted to the Council. They fully concurred that there had to be a full analysis and discussion with all governing bodies of sport, to assess if they have any wider, national or regional needs, that could sit comfortably on this site. Any facilities, if appropriate, for the site should naturally serve the whole community. SportScotland had confirmed to her that, contrary to what had been suggested, that the work required to be undertaken and specified in the Route Map, and they would wish to see this undertaken as a full piece of work. The view was that they lived in an ever-changing post-covid times

and the needs of governing bodies and their sports were changing in line with that. They now wished to see that clubs and sport was delivered and needs would be assessed in this process. SportScotland would not wish to see Edinburgh or the West Community of Edinburgh missing an opportunity to be part of the wider sporting infrastructure, if new thinking was being put in place by others. It was obvious that they wished to see community delivered needs most importantly. They would work closely with her throughout this process.

The Route Map, and mediation process, concluded with a joint statement which was supplied to all members of the Committee on Monday 7 November for information. The statement had already been circulated by social media to the community and it would be used by her as part of her introduction, as she moved forward.

Ms Lochhead had met with the Chairs of the three key organisations and the Local Councillors, who had been part of the mediation process on a one-to-one basis, and she had a full understanding of their positions. More importantly, she believed she was beginning to earn their trust in how she would undertake this process. They had shared with her their own ideas for the site and she saw that they thought there was a great opportunity to ensure that the site provided a range of opportunities and, importantly, connected other parts of Cramond and contributed towards active travel across the area.

Ms Lochhead had been provided a comprehensive list of local organisations and would be building her database in the coming weeks. She intended to meet with head teachers and parent councils but, most importantly, taking pupils' consultations in the primary and secondary schools. There was no doubt that any new facilities at the campus would enhance their curriculum, but she would also discuss with them what was being done to help them with their school facility needs on site, through council statutory processes. There had to be an overall understanding and a strategy of what was needed and who should be providing it. The Kirk was a key community asset which seemed extremely well-used for a huge range of activities. Working with a Kirk administrator and the Session, she would discuss their own future planning to ensure no replication and displacement occurred at the campus site. The community organisations had kindly offered to host a meeting on 28 November, for her to have a platform to meet the community, explain to them the work she would be undertaking and to start her community conversation.

Ms Lochhead welcomed Claire Bloomer, the appointed mediator, offering to chair that meeting to enable the community associations to remain objective on that evening. She did not underestimate the feeling of the community regarding this site. However, she was also aware there were many households and families who did not have any understanding of the history, and the most important aspect would be to have discussions about what could come onto the site in the future, not what did not take place in the past.

Ms Lochhead would be setting up a website which would add to the portal for people to provide their views confidentially. It was recognised in the work she did that not

everybody liked to speak in a public forum. Her e-mail address and phone number were publicly available. She would be taking the opportunity offered by the community organisations and local councils to send out information about planned drop-in sessions, weekends and evenings as they went forward. She would be fully accessible. The voices of the community would be listened to and they should agree collectively to look forward, not back. As communities grew and needs changed, she asked for open dialogue and an open mind as they moved forward. It may bring forward ideas no-one had thought of. Nothing was off the table and it was necessary to allow ideas to flow and be considered. Convener and Councillors, she hoped they heard today what sounded slightly new and refreshing and showed a positive commitment from AMA by the appointment of PMR Leisure to deliver the recreation of sport on site. She hoped the present Committee voted to support the Route Map presented and approved the extension, to enable the process to begin. She thanked the members for their time and would be happy to take any questions that they might have.

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

[Development Management Sub-Committee - Wednesday, 9th November 2022 at 10:00am - City of Edinburgh Council Webcasts \(public-i.tv\)](#)

Decision

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

(References – Development Management Sub- Committee of 12 May 2021 (item 1) and 2 March 2022 (item 2); report by the Chief Planning Officer, submitted.)

4. 27 and 29 Beaverhall Road, Edinburgh

Details were provided of an application for planning permission for proposed 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) at 27 & 29 Beaverhall Road, Edinburgh – application no. 22/01654/FUL

The Chief Planning Officer gave details of the proposals and the planning considerations involved and recommended that the application be granted.

Motion

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

- moved by Councillor Osler, seconded by Councillor Gardiner.

Amendment

To **REFUSE** planning permission as the proposals were contrary to Edinburgh Local Development Plan Policies Des 5a, Des 5e and Tra 3 and Tra 4.

- moved by Councillor Booth, seconded by Councillor O'Neil.

Voting

For the motion: - 7 votes

For the amendment: - 2 votes

(For the motion: Councillors Beal, Gardiner, Hyslop, Jones, McNeese-Mechan, Mowat and Osler.)

(For the amendment: Councillors Booth and O'Neil.)

Decision

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

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

Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.		
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	To note the key issues at this stage.
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	To note the key issues at this stage.
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. 22/03180/PAN	To note the key issues at this stage.

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
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	To GRANT planning permission subject to the conditions, reasons, informatives and legal agreement set out in section C of the report by the Chief Planning Officer. (On a division)
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	To GRANT planning permission.
4.6 – 3 King's Place, Edinburgh, EH15 1DU	Proposed alterations and extension of a public house with restaurant – application no. 21/05935/FUL	To GRANT planning permission subject to the conditions, reasons and informatives set out in section C of the report by the Chief Planning Officer.
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	To GRANT planning permission.
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	To GRANT planning permission.

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
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	To GRANT planning permission.
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	To GRANT planning permission.
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	To GRANT planning permission.
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	To GRANT planning permission.
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	To GRANT planning permission.
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	To GRANT planning permission.

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<u>6.1 – 34 Cramond Road North, Edinburgh (at land adjacent to former)</u>	Protocol Note by the Interim Executive Director of Corporate Services	Noted.
<u>6.2 – 34 Cramond Road North, Edinburgh (at land adjacent to former)</u>	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	To GRANT planning permission subject to the conditions and reasons, set out in the report by the Chief Planning Officer.
<u>7.1 – East Princes Street Gardens, Princes Street, Edinburgh</u>	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	<p>To GRANT planning permission subject to the conditions and reasons set out in section C of the report by the Chief Planning Officer subject to amending condition 1 to read:</p> <p>“Notwithstanding the application the proposals are restricted to a period of one year for 2022/2021 and all structures be removed from the site within 2 weeks from 4th January 2023.”</p> <p>Reason:</p> <p>In recognition of the temporary nature of the proposal and to limit the impact on heritage aspects.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>7.2 – Christmas Market, George Street, Edinburgh</p>	<p>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) - application no. 22/04920/FUL</p>	<p>1) To GRANT planning permission subject to the conditions and reasons set out in section C of the report by the Chief Planning Officer subject to amending condition 1 to read:</p> <p>“Notwithstanding the application the proposals are restricted to a period of one year for 2022/2021 and all structures be removed from the site within 2 weeks from 4th January 2023.”</p> <p>Reason:</p> <p>In recognition of the temporary nature of the proposal and to limit the impact on heritage aspects.</p> <p>2) An additional condition that the Star Flyer will not be sited on George Street.</p> <p>3) An additional condition that prior to the operational commencement, a plan is provided with details regarding the provision of a cycle lane along the northern extent of George Street and details of the loading/unloading access provisions.</p>

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
<p>7.3 - West Princes Street Gardens, Princes Street, Edinburgh</p>	<p>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</p>	<p>To GRANT planning permission subject to the conditions and reasons set out in section C of the report by the Chief Planning Officer subject to amending condition 1 to read:</p> <p>“Notwithstanding the application the proposals are restricted to a period of one year for 2022/2021 and all structures be removed from the site within 2 weeks from 4th January 2023.”</p> <p>Reason:</p> <p>In recognition of the temporary nature of the proposal and to limit the impact on heritage aspects.</p>

Minutes

Development Management Sub-Committee of the Planning Committee

10.00am, Wednesday 23 November 2022

Present:

Councillors Osler (Convener), Beal, Booth, Cameron, Dalglish, Gardiner (Items 4.4 & 4.6), Jones, O'Neill, McNeese-Mechan and Mowat.

1. General Applications and Miscellaneous Business

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

Requests for a presentation:

Councillor Gardiner - Item 4.4 – 1&4 Gilmerton Station Road, Edinburgh - application no. 21/05498/AMC

Councillor O'Neill - Item 4.4 – 1&4 Gilmerton Station Road, Edinburgh - application no. 21/05498/AMC

Councillors Booth - Item 4.6 – 1 Linksvie House, 26 Tolbooth Wynd, Edinburgh - application no. 18/08051/FUL

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
Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.		
4.1 – Report for forthcoming application by Artisan Real Estate. For Proposal of Application Notice at 525 Ferry Road, Edinburgh	Proposed demolition of office building and development of residential development with associated commercial and ancillary uses, landscaping and parking – application no. 22/05019/PAN	To note the key issues at this stage.
4.2 – Report for forthcoming application by Dundas Estates & Development Company Limited for Proposal of Application Notice at 499 Gorgie Road, Edinburgh	Demolition of yard buildings and 16 no. garages serving existing tenement properties, construction of replacement parking court comprising 12 no. garages and 4 no. parking spaces to serve existing tenement properties and erection of 63 new homes with associated access, landscaping, parking and services – application no. 22/04983/PAN	To note the key issues at this stage.
4.3 – 143 Buccleuch Street, Edinburgh	Retrospective change of use from residential to short-term let visitor accommodation (Sui Generis) – application no. 22/03026/FUL	To GRANT planning permission.
4.4 – 1&4 Gilmerton Station Road, Edinburgh	Approval of Matters Specified in Conditions (amsc) Application for the Discharge of Conditions 1a, b, c, d, e, f, g, h, I and j, condition 3, condition 4, condition 6, condition 7, condition 9, condition 10 and condition 11 associated with Planning Consent: 19/02122/PPP (phase 1) (as amended) – application no. 21/05498/AMC	To APPROVE the application for Matters Specified in Conditions subject to the conditions, reasons and informatives in section C of the report by the Chief Planning Officer.
4.5 – 18 Grindlay Street, Edinburgh	Retrospective change of use from residential to short-term let visitor accommodation (Sui Generis) – application no. 22/03025/FUL	To GRANT planning permission subject to the conditions and reasons as set out in section C of the report by the Chief Planning Officer.

<p>4.6 – 1 Linksview House, 26 Tolbooth Wynd, Edinburgh</p>	<p>Demolition of single storey and three storey blocks of flats, 25 garage lock ups and plinth area with under croft parking. The construction of 35 new build residential units and amenity space, communal externa; space with associated roads, footpaths and landscaping which includes updated public space/landscaping in the surrounding area. Alterations to be made to the base of the Grade A listed Links View House (as amended) – application no. 18/08051/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, with the following additional conditions and informatives:</p> <ol style="list-style-type: none"> 1) To submit details showing step free access ground floor flats to meet statutory requirements regarding the Planning Act in conjunction with the Equality Act 2010. 2) To re-submit proposals for landscaping and car parking to the North of Linksview House following consultation with Transport Officers to improve Active Travel Routes in this area. 3) To review the placement in buildings and uniformity in width of paths, ramps and stairs in order to avoid a botte neck.
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<p>7.1 – Land South of 26 Cleikiminrig, Edinburgh</p>	<p>Residential development with associated landscaping, SUDS, infrastructure, engineering works including removal of on-site material, and other ancillary works – application no. 22/03291/PPP</p>	<p>To GRANT planning permission in principle subject to the conditions, reasons and informatives as set out in section C of the report by the Chief Planning Officer, and the replacement of condition 4 with the following Coal Authority condition:</p> <p>‘Prior to the submission of the detailed stage (applications for matters specified in condition(s)):</p> <ul style="list-style-type: none"> * The applicant or his/her successors undertake a scheme of intrusive site investigations, designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (shallow mining / mine entries); * As part of the detailed stage (submission of applications specified in condition(s) the applicant or his/her successors shall submit a report of findings arising from the intrusive site investigations and any remedial and / or measures necessary, including the submission of the proposed layout plan which identifies the location of any on-site mine entries (if found present) including appropriate zones of influence for all mine entries, and the definition of suitable 'no-build' zones; <p>Prior to the commencement of development, remedial works shall be approved by the Council, as planning authority in consultation with the Coal Authority and implemented thereafter.</p> <p>Reason- in order to ensure that the site is appropriate for the development hereby approved given the previous mining history</p>
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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
14 - 17 Atholl Crescent, Edinburgh, EH3 8HA.**

**Proposal: Change of Use from office to form 34x residential units
with associated works (as amended).**

**Item – Committee Decision
Application Number – 21/03992/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

This application has been referred to the Development Management Sub-Committee because there are developer contributions with financial contributions over £250,000. 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

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

The proposal broadly complies with relevant policies set out in the Local Development Plan (LDP). The proposal will not have a detrimental impact on the character, appearance or special historic interest of the listed buildings or the conservation area. The level of private greenspace provided represents an infringement of LDP Policy Hou 3 (Private Green Space in Housing Development). An infringement is acceptable in this case given the limited space in this established city centre area and the presence of good quality public greenspace in close proximity. The level of cycle parking provided meets the requirements of the Parking Standard. However, this number is achieved exclusively through the use of two tier racks. This is acceptable in this case given the proposal is a conversion and there is limited space within this location. A satisfactory residential environment can be achieved in this area, in line with the level of amenity experienced by neighbours.

Developer contributions will be required in relation to education and the provision of off-site affordable housing. Subject to the completion of an appropriate Section 75 agreement the proposed scheme is acceptable in this regard.

Overall the proposals are acceptable and there are no material considerations which outweigh the conclusion above.

SECTION A – Application Background

Site Description

The application site is a series of four conjoined former townhouses which are currently vacant having previously been in use as offices. The buildings are category A listed built in 1825 by Thomas Bonnar (designated 14 December 1970, reference: LB28260). They are 3 storeys with attic and basement built in typical Georgian symmetrical style. The four townhouses were latterly interconnected and used as offices, with a link to the modern mews building to the rear also created at 15 Atholl Crescent. A courtyard area is located between the Townhouses and the existing mews, this serves as a car park with access taken from Atholl Crescent Lane. The site is neighboured by an office at 18 Atholl Crescent and a residential dwelling at 13 Atholl Crescent. Atholl Crescent and Atholl Crescent Lane to the rear are characterised by a mix of residential and uses.

The application site is located within the New Town Conservation Area and the World Heritage Site.

Description of the Proposal

The application is for the conversion of the existing offices into 34 residential units and includes the removal of the rear link to the existing mews building. The proposal includes 23 flats within the existing townhouses and 11 units within the mews building. The units consist of a mix of 10 three/four bedroom, 12 two bedroom, 11 one bedroom and 1 studio apartment.

A general overview of the main proposed works is outlined below:

- Removal of double lift core and reinstatement of original stair between ground and third floor in 15 Atholl Crescent. This will include a Cupola/rooflight reinstated above staircase.
- Reinstatement of original party walls to remove connections between townhouses formed as part of historic alterations.
- Reinstatement of original townhouse entrance to 16 Atholl Crescent with non-original railings blocking external steps removed and original railing positions reinstated.
- Original entrance lobby at 16 Atholl Crescent created internally.
- Link bridge structure connecting townhouses to mews removed with rear facades of both buildings made good. Replacement stone and repairs will be carried out.
- Full renovation of non original sash and case windows with repair of original Georgian windows.
- Renovation of basement level, second and third floor levels including subdivision of spaces. Limited alterations also proposed at ground and first floor levels.
- Removal of non-original partitions and historic alterations. Where possible damaged historic features will be reinstated.

The proposal includes a courtyard area between the townhouses and mews with an approximate area of 620 square metres. This includes six private gardens and six car parking spaces with EV charge points. A secure bike store is provided within the mews building providing space for 78 bikes. Access to the mews and parking area will be taken from Atholl Crescent Lane. Access to the rear facing basement level apartments within the existing Townhouses can also be taken From Atholl Crescent Lane. Access to the 23 units within the existing Townhouses can also be taken from Atholl Crescent. A bin store is proposed within the mews building to the rear.

Revised Scheme

- The scheme has been revised to refine the approach taken to the refurbishment and upgrade of windows. The original scheme included the full replacement of all windows. In the revised scheme the majority of windows are retained and repaired.
- Amendments to fenestration at the rear of the existing townhouses. Stripping back of roof materials to upgrade insulation. Existing slate retained, with selective use of Spanish Heavy Cupa 3 as required. No change to roof profile proposed.
- Original internal doors retained and pinned. Layout of rear room in 14 Atholl Crescent amended and suspended ceiling introduced.
- Suspended ceiling introduced to rear room of 16 Atholl Crescent.
- Timber fascias of dormer windows stripped back and replaced with zinc.
- One car parking space removed.
- One parking space designated for disabled users.
- Basement level doors replaced at principal elevation.
- Rooflight formed at 15 Atholl Crescent.

Supporting Information

- Affordable Housing Statement
- Design and Access Statement
- Financial Viability Statement (dated July 2021) and Update (dated 23 September 2021)
- Heritage Statement
- Planning Statement
- Window Survey
- Window Condition Report and Photos

Relevant Site History

96/12636/LBC

14-16 Atholl Crescent

Edinburgh

EH3 8HA

Form new openings at ground & third floor between 13 & 14

Granted

13 February 1997

98/01163/LBC
14-16 Atholl Crescent
Edinburgh
EH3 8HA
Install independent air conditioning units
Granted
27 July 1998

01/03134/LBC
14-16 Atholl Crescent
Edinburgh
EH3 8HA
Alterations to entrance vestibule doors
Refused
6 December 2001

21/03991/LBC
14 - 17 Atholl Crescent
Edinburgh
EH3 8HA
Internal and external alterations to facilitate change of use from office to residential (as amended).

Other Relevant Site History

No other relevant site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Transport Planning

Communities and Families

Archaeology

Affordable Housing

Environmental Protection

Historic Environment Scotland

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

Publicity and Public Engagement

Date of Neighbour Notification: 15 September 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 23 September 2022; 6 August 2021;

Site Notices Date(s): 20 September 2022; 3 August 2021;

Number of Contributors: 9

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: Doorways
- Managing Change in the Historic Environment: Interiors
- Managing Change in the Historic Environment: Roofs
- Managing Change in the Historic Environment: Setting
- Managing Change in the Historic Environment: Windows

Consultation with Historic Environment Scotland has identified a number of elements of the proposed scheme which will have a positive impact on the character of the listed buildings including the reintroduction of a main door to 16 Atholl Crescent, the reintroduction of a main stair to 15 Atholl Crescent and the removal of the rear link to the mews building. The reinstatement of individual houses, removing linkages between the buildings and the removal of security bars to basement level windows will also positively contribute to the character and appearance of the listed buildings.

The application also proposes the reconfiguration of the number of internal spaces to allow the conversion of the spaces for residential use. Historic Environment Scotland's guidance document entitled Managing Change in the Historic Environment: Interiors states that whilst it is advisable to avoid the amalgamation of rooms, and an 'open-plan' layout, within a historic building, with an important cellular plan form, there may be scope to make significant interventions within areas of secondary importance. The guidance also emphasises the contribution that original decorative feature such as panelling, and cornices make to the character of listed building. It outlines a strong presumption for the retention of original staircases and doors.

In this case the most significant areas of change are limited to the basement level, second and third floors and the modern mews located to the rear. In terms of the hierarchy of Georgian Townhouses these are typically the areas of secondary importance. The basement level was typically used by staff associated with the house and is typically plain in nature. Principal rooms within a townhouse are typically located at ground and first floor level, to the front of the property. Decorative schemes in these parts of the house are typically more elaborate. The placement of doors within rooms is important. Hallways at ground floor level were also typically highly decorative. Upper levels of Georgian Townhouses are typically plain in nature. The second floor would have historically provided guest accommodation and children's bedrooms whilst the upper floor was typically used for staff accommodation.

In this case the basement level, second floor level and third floor level of all the townhouses has undergone significant alteration associated with the conversion of the buildings to form offices in the 1980s. No decorative features remain, and a number of spaces have been unsympathetically subdivided and altered. HES has expressed no concern relating to the proposed alterations of these spaces. Given that these spaces would be expected to have little in the way of decorative features and given the significant level of previous alteration that has already occurred, the proposed changes in this case will not impact the character of the listed buildings.

The same is true of proposed internal changes to the mews building. The mews is a modern construction and has been significantly altered to support the previous office use. Changes to the interior of the mews will not impact the character of listing.

At ground floor level the entrance halls at 14 Atholl Crescent and 17 Atholl Crescent remain intact with highly decorative plasterwork and views of the original timber staircase. The entrance hall to 16 Atholl Crescent has been compromised by the removal of the original entrance door and the formation of an office to the front of the property. The original timber staircase is retained in this property. The entrance to 15 Atholl Crescent has been compromised by the removal of the original staircase and the formation of lifts. The proposal scheme will see the reintroduction of a door and entrance hall to 16 Atholl Crescent and the reintroduction of a staircase at 15 Atholl Crescent. This will have a significant positive impact on the character of these buildings. The hallways to 14 and 17 Atholl Crescent and all original decorative features are retained. The original scheme proposed the removal of a number of internal doors and infilling of the entrances. The scheme has been amended to ensure that original doors and entrances from the hallway are retained and pinned to ensure the intention of these spaces remains legible. HES is supportive of this amendment.

Limited subdivision of the ground floor rear rooms at 14, 15 and 16 Atholl Crescent is proposed to allow the formation of new bathrooms. At 16 and 15 Atholl Crescent these rooms have already been subject to significant alteration and the proposed subdivision will not impact the character of the buildings. The rear room of 14 Atholl Crescent has also previously been altered and extended. However, HES has noted that the early twentieth century decorative scheme, including cornice and timber panels contribute and an arched recess to the north wall do contribute to the character of the building. In response the scheme has been amended, a suspended ceiling is proposed to allow limited subdivision whilst retaining the cornice. Given the level alteration to this room through the twentieth century and that the cornice is not original, subdivision of this space is acceptable. The introduction of a limited suspended ceiling allows the retention of the cornice, limiting the loss of historic material. The proposed layout of this space has also been amended to retain the existing buffet recess. Given that the decorative features are retained and that this room has already been altered, the proposed change is acceptable.

The first floors, as the principal drawing room level and with the greatest number of intact rooms and surviving decorative schemes, undoubtedly forms the most significant space within each of the townhouses. Subdivision and alteration at this level is therefore limited. Three quarter height bathroom pods are proposed within 14 Atholl Crescent and 17 Atholl Crescent. Subdivision of the rear room at 15 Atholl Crescent is proposed, however this space has been subject to earlier alterations and subdivision will not harm the character of the building in this case. HES has raised some concern about the proposed subdivision of the rear rooms in 16 Atholl Crescent, due to the remaining cornice and the seemingly intact floor plan. However, a review of plans from the 80s and from the early 1900s it is clear that the existing rooms are not original in form. The rear rooms have had spine walls removed and relocated and the rooms have also been subject to previous subdivision. The cornice is unlikely to be original. Given the extensive level of intervention in this space, subdivision is acceptable. The revised scheme introduces a suspended ceiling to allow the retention of the existing cornice, limiting the loss of historic material.

Revised interior plans show the retention of original doors, particularly at ground and first floor level, original cornices are retained as are original staircases. The proposed scheme will not have a negative impact on the character of the interiors of the listed buildings.

Guidance outlined in Managing Change in the Historic Environment: Doorways notes the important role doorways, and their associated features, such as entrance steps and platts, can make to the character and physical integrity of some historic buildings. In this case all original doorways on the townhouses are retained. No changes are proposed to the external stairs located on Atholl Crescent which make an important contribution to the character of the listed buildings and the Conservation Area. New modern aluminium doors are proposed on the street facing elevation of the mews building looking onto Atholl Crescent Lane. Existing doors and windows associated with this building are not original and do not contribute to the character of the listed building. Although modern in appearance the new doors proposed are still in keeping with the appearance of Lane and will not detract from the character of the building which is already modern in appearance.

Managing Change in the Historic Environment: Windows outlines a string presumption in favour of the retention of original historic windows, with replacement typically only supported where windows are beyond repair. Glass type, glazing patterns, method of opening and materials are all important considerations in assessing changes to windows. The introduction of double glazing can be acceptable, though it is expected that original frames are retained, and narrow profile glazing is used with a cavity not exceeding 6 mm. New windows openings and the conversion of windows to doors can be acceptable on secondary elevations and where there is not a strong glazing pattern.

The proposals are supported by a window survey and condition report. Retrofitting of double glazing is proposed for all windows. Only two windows are deemed beyond repair with complete replacement proposed. These are not original Georgian windows. HES has noted the contribution that the original Georgian windows make to the character of the townhouses, particularly at lower levels. HES recommends that further consideration should be given to the overhaul and upgrading of the original Georgian sashes in repairable condition. It is recommended that a condition is included requiring further information is submitted to the Planning Authority for further consideration and approval before any Georgian sashes are replaced. The proposal also includes the replacement of the timber fascias and cladding of the dormer windows of the townhouses with zinc. The windows are in poor condition and not original. Zinc is an acceptable material in historic settings and can be coloured to match the existing windows. The proposed alteration will not affect the character of the buildings.

To the rear of the townhouses, one window is to be infilled and new windows are to be formed where the glazed link is removed. The proposal also includes the introduction of external cast iron fall barriers on upper level windows and the conversion of three lower level windows to doors. The rear elevation is a secondary elevation and will not be visible from public view points. The removal of the existing link bridge will improve the appearance of this elevation. The cast iron fall barriers are a sympathetic addition to the elevation. HES has not objected to this addition. The proposal also includes the replacement of all windows of the mews building to the rear. None of the existing windows are historic. The modern windows do not contribute to the character of the listed buildings or their setting.

Managing Change in the Historic Environment: Roofs notes that the significance of a historic roof is derived from a number of factors including its age, functional performance, shape and pitch, profile, and the qualities of its supporting structure, covering materials and associated features. The proposals in this case include removing all roof coverings to decking and rafters to allow new insulation to be installed. The roof profile will be unchanged and the existing slates are to be reused where possible. If slate is found to be damaged, Scot Slate will be prioritised on visible elevations with the use of Spanish Cupa 3 slate where required. Spanish slate is an acceptable substitute for Scots slate.

Conclusion in relation to the listed building

The proposal will not have a detrimental impact on the character or special historic interest of the listed buildings. A number of elements of the scheme, including the reintroduction of an entrance door and the removal of the rear link bridge will have a positive impact on the character of the buildings. The proposal includes extensive subdivision to achieve the desired layout to support the conversion. These subdivisions are largely limited to areas of secondary importance with no original decorative features. The scheme has been amended to retain decorative features in line with comments from HES. The subdivision of the rear room on the ground floor of 14 Atholl Crescent and the rear room on the first floor of 16 Atholl Crescent is acceptable given the previous level of intervention in these spaces.

The proposal is acceptable in terms of 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?

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

The New Town Conservation Area Character Appraisal notes the 'Georgian elegance' of Coates and Atholl Crescent, noting that Atholl crescent has remained largely unchanged. The group of buildings borders the principal approach to the city from the west and forms a grand prelude to the streets of James Craigs New Town.

The formal Georgian setting of the townhouses makes the most significant contribution to the New Town Conservation Area. Atholl Crescent remains largely as planned. The removal of original doorway at 16 Atholl Crescent has had a negative impact on the setting of the street and the Conservation Area. Security bars at the basement level also detract from the character and appearance of the Conservation Area. Although the rear of the buildings is screened from view and makes a limited contribution to the appearance of the Conservation Area, the link bridge between 15 Atholl Crescent and the mews does erode the character of the Conservation Area.

The proposal includes limit external changes. The removal of security bars at basement level, the reintroduction of a door to 16 Atholl Crescent and the removal of the link bridge to the rear will contribute positively to character and appearance of the Conservation Area. The return of the buildings to residential use will be compatible with the original character of the conservation area.

A limited number of original Georgian windows remain and it is expected that those which can be repaired are retained. The window report provided indicates that any repairs will follow the original pattern. The proposed retrofit of windows with double glazing will have no visual impact. Proposed alterations to the fenestration to the rear elevation of the townhouses will not be visible from public viewpoints and will not impact the character or appearance of the conservation area. The replacement of windows located on the mews buildings will be in keeping with other modern window units which are visible on Atholl Crescent Lane and will not detract from the appearance of the area.

The proposal also includes removing all roof coverings to decking and rafters to allow new insulation to be installed. The roof profile will be unchanged, and the existing slates are to be reused where possible. If slate is found to be damaged, Scot Slate will be prioritised on visible elevations with the use of Spanish Cupa 3 slate where required. Spanish slate is an acceptable substitute for Scots slate. This will not impact the character or appearance of the Conservation Area.

Conclusion in relation to the conservation area

The proposals will not adversely impact on the character or appearance of the conservation area. The proposals comply with 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 Environment Policies Env 1, Env 3, Env 4, Env 6 and Env 9
- LDP Housing Policies Hou 1, Hou 3, Hou 4, Hou 5 and Hou 6
- LDP Delivery Policy Del 1
- LDP Employment Policy Emp 9
- LDP Design Policy Des 5
- LDP Transport Policies Tra 2 and Tra 3

The Council's non-statutory Listed Buildings and Conservation Area Guidance, Edinburgh Design Guidance, Affordable Housing Guidance and Developer Contributions & Infrastructure Delivery Supplementary Guidance are material considerations relevant when considering the policies above. RICS Guidance Note Valuation of Development Property, 1st Edition, 2019 has also been considered in relation to Policy Hou 6.

Impact on Listed Buildings and Impact on Conservation Area

This has been assessed in sections a) and b) and the proposals comply with LDP Policies Env 3, Env 4 and Env 6.

Impact on the World Heritage Site

LDP Policy Env 1 states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

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

The proposals will reinstate a residential use within the World Heritage Site. The proposal will have no adverse impact on the Outstanding Universal Value of the Edinburgh World Heritage Site and complies with LDP policy Env 1.

Principle of Development

Policy Hou 1 (Housing Development) supports new residential development on sites in the Urban Area, provided the proposals are compatible with other policies in the Local Plan.

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 proposal will introduce a residential development in an area with a mix of uses. Whilst a number of properties on Atholl Crescent remain in office use, there are several properties which have been successfully converted back to residential use. The Proposed Development will result in the conversion of the former townhouses back to their original use, which given the level of separation from surrounding commercial buildings will not prejudice or inhibit the activities of those uses.

Policy Hou 5 (Conversion to Housing) of the Edinburgh Local Development Plan (LDP) states that planning permission will be granted for the change of use of existing buildings in non-residential use to housing provided that a satisfactory residential environment can be achieved; housing would be compatible with nearby uses; appropriate open space, amenity and car and cycle parking standards are met; and the change of use is acceptable having regard to other policies in the plan. These are assessed below:

Residential amenity and open space

Policy Des 5 Development Design (Amenity) states that planning permission will be granted for development that ensures future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

LDP Policy Hou 3 (Private Green Space in Housing Development) states that planning permission will be granted for development which makes adequate provision for green space to meet the needs of future residents.

The Edinburgh Design Guidance sets out minimum internal floorspace requirements for new residential development and guidance in relation to sunlight, daylight and privacy expectations.

All proposed residential units meet or exceed the minimum internal floorspace requirements set out in Edinburgh Design Guidance (EDG) with the exception of two one bed units. The minimum internal floor area recommended for one bed flats is 52 square metres. In this case one unit will have floor area of 50.8 square metres (sqm) and another will have a floor area of 50.6 sqm. This represents an infringement of guidance. However, as this is a conversion of a listed building an infringement is acceptable in this case. 22 of the 34 units proposed are dual aspect representing 65% of the units proposed. This exceeds the 50% recommendation set out in EDG. 12 units would be suitable for growing families, with three or more rooms and exceeding 91 sqm. This represents 35 % of the total units provided and exceeds the 20% recommended in guidance. In total 47% of the units proposed exceed 91 square metres. The site is centrally located with good access to public transport. The density achieved is comparable with other townhouse conversions in the surrounding area.

In terms of open space, the courtyard to the rear is approximately 620 square metres which is 36% of the site. Residents of the rear basement level flats will have access to private gardens as will occupants of the proposed townhouse units in the mews building. The garden space equates to approximately 161 sqm which is 9.5% of the site. Six private gardens are identified on plans, ranging in size between 12 sqm - 25 sqm. A limited area of 34 sqm of greenspace is located to the rear of the site which would be communal. Effectively, 28 of the new units will therefore be reliant on public greenspace around Atholl Crescent, including Princes Street Gardens which is a five minute walk away. It is not uncommon for city centre residents to have no private greenspace and this has been accepted in previous applications for conversions in the surrounding area. Given that the application is for a conversion within an established historic layout and given it is within walking distance of a large, good quality area of public space, an infringement of LDP Policy Hou 3 is acceptable in this case.

The proposed scheme does not have a lift in converted townhouses and given the significant loss of historic material this would entail it is unlikely this could be accommodated without damaging the character of the listing. Universal access is possible to the rear of the site. The converted mews building will have an entrance lobby which will be universally accessible and the 11 residential units in this building will be served by a lift. Universal access to the basement level flats within the converted townhouses will also be provided to the rear.

Environmental Protection recommended further investigation of the garages opposite the site on Canning Street Lane to establish whether they are in commercial use. These garages appear to be used exclusively for parking cars and not for any wider commercial activity. No Noise Impact Assessment was required. Although Atholl Crescent is a busy road, the area is residential and the level of amenity provided to future occupants will be in keeping with this.

Nearby uses

The surrounding has a mix of residential and commercial uses. The proposed residential use will be compatible with the established character of the area.

Parking

LDP Policies Tra 2 (Car Parking) and Tra 3 (Cycle Parking) of the LDP sets out the requirement for private car and cycle parking. The proposal includes six car parking spaces, which complies with Parking Standards set out in guidance. A low level of car parking provision is supported in this case due to the accessibility of the site by public transport and cycling. All spaces have electric charge points. One space is allocated for users with disabilities. Car access will be taken from Atholl Crescent Lane. Public comments noted that the lane does not have a pavement. The Roads Authority has raised no concern in relation to pedestrian safety. Several garages are present on the lane and given the low level of parking proposed it is not expected the scheme will result in a significant increase in traffic on the lane. The proposal complies with Tra 2.

The proposal includes 78 cycle parking spaces in an internal store to the rear of the site. Cycle Parking Standards require a minimum of 77. Edinburgh Street Design Guidance recommends a maximum of 80 % of cycle parking is covered by one type. In this 100% of the provision is from two tier racks. Guidance recommends a 50/50 split of two tier racks combined with other forms of parking. In order to achieve the minimum numbers of parking required on-site in a constrained setting, the use of two tier racks is necessary. As the proposal is a conversion, an infringement of guidance is acceptable in this case.

A satisfactory residential environment can be achieved.

Neighbouring Amenity

LDP Policy Des 5 states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected.

The buildings are existing and are being converted back to their original residential use. The proposal does not include the extension of the existing buildings and will raise no issues in relation to loss of sunlight to neighbouring amenity space or loss of daylight to neighbouring windows.

Edinburgh Design Guidance states that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances. This means that there may be higher expectations for separation in suburban areas than in historic areas such as the Old Town and the New Town. There will be a distance of approximately 6.8 metres between the windows of the converted mews building to the rear and neighbouring properties on the south-east side of Atholl Crescent Lane. However, the mews buildings are an intrinsic part of the established spatial pattern of the area. On balance it is considered this arrangement would be consistent with existing development in the area.

A bin store is proposed within the converted mews building to the rear. The existing bins serving the office building are located within a pend on Atholl Crescent Lane. Noise from an internal bin store separated from the street will not impact neighbouring amenity.

This element of the proposal complies with LDP Policy Des 5.

Developer Contributions

LDP Policy Del 1 states that proposals will be required to contribute to infrastructure provision where relevant and necessary to mitigate any negative additional impact (either on an individual or cumulative basis) and where commensurate to the scale of the proposed development.

Education Contributions

The application site is located within the Boroughmuir/James Gillespie's Education Contribution Zone, Sub Area BJ-1. Additional secondary school capacity is required in this area to support population growth associated with new development. Communities and Families has outlined a requirement for an education contribution in this case. Based on 20 flats exceeding one bedroom and two townhouses a contribution of £32,672 is required. This is based on a rate of £980 per flat and £6,536 per house. A Section 75 agreement is recommended to secure this amount.

Affordable Housing

Policy Hou 6 (Affordable Housing) states that planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. For proposals of 20 or more dwellings, the provision should normally be on-site.

Affordable Housing Guidance states that the payment of commuted sums in lieu of on-site provision will only be acceptable where the total number of dwellings is below 20, or there are exceptional reasons to avoid on-site provision. Such reasons could include the site being poorly located for affordable provision, where conversions do not lend themselves to affordable provision, where it is evidenced to be unviable or unfeasible or where there are other advantages to the Council in accepting a commuted sum such as achieving more, higher quality or better-located affordable units elsewhere.

The applicant is not proposing to deliver any on-site affordable homes. An Affordable Housing Statement has been submitted which sets out three reasons why the applicant considers the delivery of on-site affordable housing would not be a suitable option including:

- there is not an opportunity for an entire stair or building to be allocated as affordable;
- ongoing maintenance costs will be higher than a purpose-built affordable housing development;
- the costs associated with this development are very high due to the nature of the conversion and partial demolition.

The applicant also originally did not propose to pay a commuted sum in lieu of on-site provision and in support of this stance provided two separate Financial Viability Assessments (FVA). The first FVA is dated July 2021, with an updated FVA dated September 2021. The financial viability case put forward by the applicant stated that the development is not financially viable when contributions are sought for affordable housing or education. The applicant put forward that there is a viability deficit and that the payment of developer contributions relating to education and affordable housing would result in a profit below 15% which represents a level of profit below industry standard and represents a high level of risk.

Following extensive discussion on this matter the applicant has confirmed to the Planning Authority that they are willing to enter into a legal agreement to pay the required Section 75 obligations in relation to affordable housing and education.

At the request of the applicant the Council instructed the Valuation Office Agency to set a commuted sum based on industry standards. This process was concluded in September 2022. The District Valuer calculated a residual value for the proposed development of £2,870,000. Following an assessment of cost plans provided by the applicant and in line with policy the District Valuer has set a commuted sum requirement of £717,502. This equates to £84,412 per unit. It is recommended this sum is secured by Section 75 agreement.

Tram Contributions

The proposed development is within the Edinburgh Trams Contribution Zone, the application was assessed for a tram contribution. The development is within Zone 1 of the contribution zone, and a development of 34 residential units would attract a tram contribution of £91,000. In line with the approved policy, the previous use (class 4 offices) is to be deducted, being 2,857 sq. m which equates to £261,764. Therefore, no tram contribution is due.

Subject to the conclusion of suitable legal agreement to pay a commuted sum of £717,502 toward the provision of off-site affordable housing and an education contribution of £32,672 the proposal complies with LDP Policies Del 1 and Hou 6.

Archaeology

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out requirement for the development of sites of archaeological significance. The City Archaeologist was consulted on the scheme and has concluded that given the significant alterations made to the buildings throughout the twentieth century there are no known significant archaeological impacts nor implications in relation to the proposed scheme.

The proposal complies with LDP Policy Env 9.

Conclusion in relation to the Development Plan

The proposal broadly complies with relevant Policies set out in the Local Development Plan (LDP). The proposal will not have a detrimental impact on the character, appearance or special historic interest of the listed buildings or the conservation area.

The level of private greenspace provided represents an infringement of LDP Policy Hou 3. An infringement is acceptable in this case given the limited space in this established city centre area and the presence of good quality public greenspace in close proximity. The level of cycle parking provided meets the requirements of the Parking Standard. However, this number is achieved exclusively through the use of two tier racks. This is contrary to guidance. This is acceptable in this case given the proposal is a conversion and there is limited space within this location. A satisfactory residential environment can be achieved in this area, in line with the level of amenity experienced by neighbours.

Developer contributions will be required in relation to education and the provision of off-site affordable housing. Subject to the completion of an appropriate Section 75 agreement the proposed scheme is acceptable in this regard.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 - Original Scheme

- Windows to be replaced; this is addressed in section (a).
- Non traditional doors to the rear of the townhouses, external fall guards and non traditional elements to rear of mews; this is addressed in section (a).
- Too many units; this is addressed in section (c).
- Lack of pavement on Atholl Crescent Lane; this is addressed in section (c).
- Privacy; this is addressed in section (c).
- Inadequate car parking provision; this is addressed in section (c).

Objections to revised scheme

- Parking provision; this is addressed in section (c).
- Noise from bin collection; this is addressed in section (c).
- No affordable housing or commuted sum proposed; this is addressed in section (c).
- No access for disabled users; this is addressed in section (c).

Neutral Comments

- Supports conversion to residential; this is addressed in section (c).
- Concerns regarding parking provision; this is addressed in section (c).

non-material considerations

- Impact on businesses from loss of office space; this is not a planning matter.
- No public EV charge points for public in the surrounding area; this is not a planning matter.
- Construction Noise; this is not a planning matter.
- Private waste collection not suitable; this is not a planning matter.

Conclusion in relation to identified material considerations

There are no material considerations which outweigh the conclusion outlined above.

Overall conclusion

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

The proposal broadly complies with relevant policies set out in the Local Development Plan (LDP). The proposal will not have a detrimental impact on the character, appearance or special historic interest of the listed buildings or the conservation area.

The level of private greenspace provided represents an infringement of LDP Policy Hou 3 (Private Green Space in Housing Development). An infringement is acceptable in this case given the limited space in this established city centre area and the presence of good quality public greenspace in close proximity. The level of cycle parking provided meets the requirements of the Parking Standard. However, this number is achieved exclusively through the use of two tier racks. This is acceptable in this case given the proposal is a conversion and there is limited space within this location. A satisfactory residential environment can be achieved in this area, in line with the level of amenity experienced by neighbours.

Developer contributions will be required in relation to education and the provision of off-site affordable housing. Subject to the completion of an appropriate Section 75 agreement the proposed scheme is acceptable in this regard.

Overall the proposals are acceptable and there are no material considerations which outweigh the conclusion above.

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 replacement of any element of an original Georgian window, as identified in the report provided by Edinburgh Sash & Case (May 2022) must be justified with the provision of further written information to the satisfaction of the Planning Authority.
4. All replacement windows must match the glazing pattern of the original windows.
5. EV charging points shall be provided in accordance with the parking standards in the Edinburgh Design Guidance and implemented prior to the occupation of the development hereby granted.

Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to enable the planning authority to consider this/these matter/s in detail.

3. In order to safeguard the character of the statutorily listed building.
4. In order to safeguard the character of the statutorily listed building.
5. To ensure sustainable access to the site.

Informatives

It should be noted that:

1. LEGAL AGREEMENT -

Planning permission shall not be issued until a suitable legal agreement relating to education infrastructure and affordable housing has been concluded and signed. The legal agreement shall include the following:

Education

The application site is within Boroughmuir/James Gillespie's Education Contribution Zone, Sub Area BJ-1. The developer is required to contribute the sum of £32,672. This is based on a rate of £980 per flat and £6,536 per house with more than one bedroom. 20 flats x £980 and 2 houses x £6,536.

Affordable Housing

A commuted sum of £717,502 is required for the provision of off-site affordable housing. This is based on a rate of £84,412 per unit. 8.5 units x £84, 412.

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. In support of the Council's LTS Cars1 policy, the applicant should contribute the sum of £7,000 (£1,500 per order plus £5,500 per car) towards the provision of car club vehicles in the area.

5. In accordance with the Council's LTS Travplan3 policy, the applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), visitor cycle parking, 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.
6. The applicant should be advised that as the development is located in Zones 1 to 8, 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 B - Newly sub-divided or converted);
7. One parking space to be designated for disabled users.
8. All disabled persons parking places should comply with Disabled Persons Parking Places (Scotland) Act 2009. The Act places a duty on the local authority to promote proper use of parking places for disabled persons' vehicles. The applicant should therefore advise the Council if they wish the bays to be enforced under this legislation. A contribution of £2,000 will be required to progress the necessary traffic order but this does not require to be included in any legal agreement. All disabled persons parking places must comply with Traffic Signs Regulations and General Directions 2016 regulations or British Standard 8300:2009 as approved.
9. Noise from nearby mechanical plant (including any possible plant introduced for this application) must meet NR25 within the living apartments of the proposed residences, with windows partially open for ventilation.
10. Noise from proposed lift machinery to meet NR20 when assessed in the nearest habitable rooms.
11. Private waste collection is proposed for inhabitants within the converted mews to the rear. Private collection is also proposed for converted townhouses looking onto Atholl Crescent until street bin hub becomes operational. The applicant should contact Waste Services to agree terms of a waste strategy.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 2 August 2021

Drawing Numbers/Scheme

01, 02A, 01, 02A-08A, 09B, 10A, 11A, 12B, 13B, 14A-18A19B, 20A, 22-34

Scheme 3

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Christopher Sillick, Planning Officer
E-mail: christopher.sillick@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Transport Planning

COMMENT: No objections to the application subject to the following being included as conditions or informatives as appropriate:

1. In support of the Council's LTS Cars1 policy, the applicant should contribute the sum of £7,000 (£1,500 per order plus £5,500 per car) towards the provision of car club vehicles in the area;

2. In accordance with the Council's LTS Travplan3 policy, the applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), visitor cycle parking, 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;

3. The applicant should be advised that as the development is located in Zones 1 to 8, 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 B - Newly sub-divided or converted);

4. One parking space to be designated for disabled users;

5. All disabled persons parking places should comply with Disabled Persons Parking Places (Scotland) Act 2009. The Act places a duty on the local authority to promote proper use of parking places for disabled persons' vehicles. The applicant should therefore advise the Council if they wish the bays to be enforced under this legislation. A contribution of £2,000 will be required to progress the necessary traffic order but this does not require to be included in any legal agreement.

All disabled persons parking places must comply with Traffic Signs Regulations and General Directions 2016 regulations or British Standard 8300:2009 as approved;

6. Electric vehicle charging outlets should be considered for this development including dedicated parking spaces with charging facilities and ducting and infrastructure to allow electric vehicles to be readily accommodated in the future.

DATE: 17 September 2021

NAME: Communities and Families

COMMENT: Assessment based on:

32 Flats

2 Houses

This site falls within Sub-Area BJ-1 of the 'Boroughmuir / James Gillespie's Education Contribution Zone'.

The Council has assessed the impact of the proposed development on the identified education infrastructure actions and current delivery programme.

The education infrastructure actions that are identified are appropriate to mitigate the cumulative impact of development that would be anticipated if this proposal progressed.

The proposed development is therefore required to make a contribution towards the delivery of these actions based on the established 'per house' and 'per flat' rates for the appropriate part of the Zone.

If the appropriate infrastructure contribution is provided by the developer, as set out below, Communities and Families does not object to the application.

Total infrastructure contribution required:
£44,432

Note - all infrastructure contributions shall be index linked based on the increase in the BCIS Forecast All-in Tender Price Index from Q4 2017 to the date of payment.

DATE: 17 August 2021

NAME: Archaeology

COMMENT: Having assessed the proposals and Montagu Evan's report I concur that the buildings have significantly been affected by their 20th century conversions into a college and offices from their original domestic uses. Given this, I agree with their conclusions regarding the minimal significant impacts of this scheme and have concluded that there are no known significant archaeological impacts nor implications in relation to these applications.

DATE: 26 August 2021

NAME: Affordable Housing

COMMENT: This application is not viable for onsite affordable housing. A commuted sum is recommended as the affordable housing contribution for the following reasons:

1. The development is a conversion of listed building, which can mean onsite affordable housing is not practical or feasible.
2. Onsite affordable housing delivery is not financially viable due to high construction cost, which are around £100,000 more per home than a RSL would be able to pay.
3. The applicant has engaged in an open book assessment, and construction costs have been independently verified
4. The District Valuer has provided a commuted sum value, calculated using the methodology set out in the Council's Affordable Housing Guidance
5. There is a strong programme of affordable housing being delivered across Edinburgh. The commuted sum would be used to support affordable housing delivery in the same or an adjacent ward.

We support the District Valuers recommendation of a commuted sum totalling £717,502. If Committee is minded to grant this application, the commuted sum would be secured through a Section 75 Legal Agreement.

DATE: 17 November 2022

NAME: Environmental Protection

COMMENT: We have some concerns relating to noise which may negatively impact the amenity of the proposed residential occupiers.

Therefore, before we can consider this application we would need the applicant to submit a Noise Impact Assessment demonstrating that:

- Noise from nearby mechanical plant (including any possible plant introduced for this application) meets NR25 within the living apartments of the proposed residences, with windows partially open for ventilation.
- A review should be carried out of the usage of the commercial garage directly opposite the proposed residential properties at Atholl Crescent Lane. Signage indicates that access is needed at all hours. We would have concerns about noise disturbance affecting the amenity of residents during night hours (23.00 - 07.00).
- In relation to road traffic at the Atholl Crescent facade:
Internal levels of the proposed dwellings should not breach the following (closed windows are acceptable):

Bedrooms - 30dB LAeq, T and 45dB LAfmax
Living Rooms - 35 dB LAeq, D

T - Night-time 8 hours between 2300 - 0700

D - Daytime 16 hours between 0700 - 2300

DATE: 19 September 2021

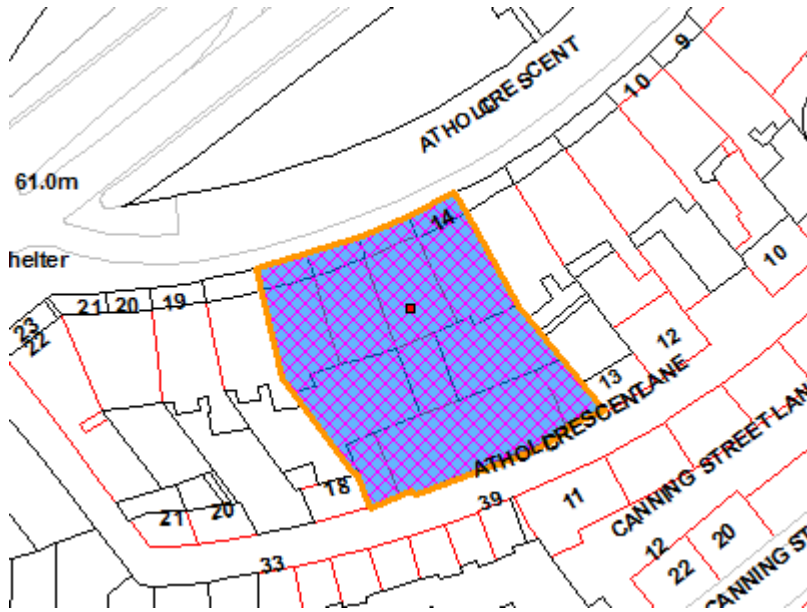
NAME: Historic Environment Scotland

COMMENT: We have assessed the application for planning permission and do not have any comments to make for this consultation.

DATE: 29 September 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 7 December 2022

**Application for Listed Building Consent
14 - 17 Atholl Crescent, Edinburgh, EH3 8HA.**

**Proposal: Internal and external alterations to facilitate change of use
from office to residential (as amended).**

**Item – Committee Decision
Application Number – 21/03991/LBC
Ward – B11 - City Centre**

Reasons for Referral to Committee

This application is linked to planning application 22/00147/FUL which requires to be considered by Development Management Sub Committee because there are developer contributions with financial contributions over £250,000. In the public interest and to enable a holistic approach to considering the proposed development, this Listed Building Consent application will also be considered by Development Management Sub Committee.

Recommendation

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

Summary

The proposals are acceptable in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 The proposals comply with the development plan and there are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a series of four conjoined former townhouses which are currently vacant having previously been in use as offices. The buildings are category A listed built in 1825 by Thomas Bonnar (designated 14 December 1970, reference: LB28260). They are 3 storeys with attic and basement built in typical Georgian symmetrical style. The four townhouses were latterly interconnected and used as offices, with a link to the modern mews building to the rear also created at 15 Atholl Crescent. A courtyard area is located between the Townhouses and the existing mews, this serves as a car park with access taken from Atholl Crescent Lane. The site is neighboured by an office at 18 Atholl Crescent and a residential dwelling at 13 Atholl Crescent. Atholl Crescent and Atholl Crescent Lane to the rear are characterised by a mix of residential and uses.

The application site is located within the New Town Conservation Area and the World Heritage Site.

Description of the Proposal

The application is for the conversion of the existing offices into 34 residential units and includes the removal of the rear link to the existing mews building. The proposal includes 23 flats within the existing townhouses and 11 units within the mews building. The units consist of a mix of 10 three/four bedroom, 12 two bedroom, 11 one bedroom and 1 studio apartment.

A general overview of the main proposed works is outlined below:

- Removal of double lift core and reinstatement of original stair between ground and third floor in 15 Atholl Crescent. This will include a Cupola/rooflight reinstated above staircase.
- Reinstatement of original party walls to remove connections between townhouses formed as part of historic alterations.
- Reinstatement of original townhouse entrance to 16 Atholl Crescent with non-original railings blocking external steps removed and original railing positions reinstated.
- Original entrance lobby at 16 Atholl Crescent created internally.
- Link bridge structure connecting townhouses to mews removed with rear facades of both buildings made good. Replacement stone and repairs will be carried out.
- Full renovation of non original sash and case windows with repair of original Georgian windows.
- Renovation of basement level, second and third floor levels including subdivision of spaces. Limited alterations also proposed at ground and first floor levels.
- Removal of non-original partitions and historic alterations. Where possible damaged historic features will be reinstated.

The proposal includes a courtyard area between the townhouses and mews with an approximate area of 620 square metres. This includes six private gardens and six car parking spaces with EV charge points. A secure bike store is provided within the mews building providing space for 78 bikes. Access to the mews and parking area will be taken from Atholl Crescent Lane.

Access to the rear facing basement level apartments within the existing Townhouses can also be taken From Atholl Crescent Lane. Access to the 23 units within the existing Townhouses can also be taken from Atholl Crescent. A bin store is proposed within the mews building to the rear.

Revised Scheme

- The scheme has been revised to refine the approach taken to the refurbishment and upgrade of windows. The original scheme included the full replacement of all windows. In the revised scheme the majority of windows are retained and repaired.
- Amendments to fenestration at the rear of the existing townhouses.
- Stripping back of roof materials to upgrade insulation. Existing slate retained, with selective use of Spanish Heavy Cupa 3 as required. No change to roof profile proposed.
- Original internal doors retained and pinned.
- Layout of rear room in 14 Atholl Crescent amended and suspended ceiling introduced.
- Suspended ceiling introduced to rear room of 16 Atholl Crescent.
- Timber fascias of dormer windows stripped back and replaced with zinc.
- One car parking space removed.
- One parking space designated for disabled users.
- Basement level doors replaced at principal elevation.
- Rooflight formed at 15 Atholl Crescent.

Supporting Information

- Design and Access Statement
- Heritage Statement
- Planning Statement
- Window Survey
- Window Condition Report and Photos

Relevant Site History

96/12636/LBC

14-16 Atholl Crescent

Edinburgh

EH3 8HA

Form new openings at ground & third floor between 13 & 14

Granted

13 February 1997

98/01163/LBC

14-16 Atholl Crescent

Edinburgh

EH3 8HA

Install independent air conditioning units

Granted

27 July 1998

01/03134/LBC
14-16 Atholl Crescent
Edinburgh
EH3 8HA
Alterations to entrance vestibule doors
Refused
6 December 2001

21/03992/FUL
14 - 17 Atholl Crescent
Edinburgh
EH3 8HA
Change of Use from office to form 34x residential units with associated works (as amended).

Other Relevant Site History

No other relevant site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Historic Environment Scotland

Historic Environment Scotland

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

Publicity and Public Engagement

Date of Neighbour Notification: Not Applicable

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 23 September 2022; 13 August 2021;

Site Notices Date(s): 20 September 2022; 10 August 2021;

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) within a conservation area, this application for listed building consent requires to be assessed against Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- Having due regard to HES Policy and guidance, do the proposals:
 - a. harm a listed building or its setting? or
 - b. conflict with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the proposals do comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for not approving them?
- If the proposals do not comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for approving them?

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 Environmental: Doorways
- Managing Change in the Historic Environmental: Interiors
- Managing Change in the Historic Environmental: Roofs
- Managing Change in the Historic Environmental: Setting
- Managing Change in the Historic Environmental: Windows

Consultation with Historic Environment Scotland has identified a number of elements of the proposed scheme which will have a positive impact on the character of the listed buildings including the reintroduction of a main door to 16 Atholl Crescent, the reintroduction of a main stair to 15 Atholl Crescent and the removal of the rear link to the mews building. The reinstatement of individual houses, removing linkages between the buildings and the removal of security bars to basement level windows will also positively contribute to the character and appearance of the listed buildings.

The application also proposes the reconfiguration of the number of internal spaces to allow the conversion of the spaces for residential use. Historic Environment Scotland's guidance document entitled Managing Change in the Historic Environment: Interiors states that whilst it is advisable to avoid the amalgamation of rooms, and an 'open-plan' layout, within a historic building, with an important cellular plan form, there may be scope to make significant interventions within areas of secondary importance.

The guidance also emphasises the contribution that original decorative feature such as panelling, and cornices make to the character of listed building. It outlines a strong presumption for the retention of original staircases and doors.

In this case the most significant areas of change are limited to the basement level, second and third floors and the modern mews located to the rear. In terms of the hierarchy of Georgian Townhouses these are typically the areas of secondary importance. The basement level was typically used by staff associated with the house and is typically plain in nature. Principal rooms within a townhouse are typically located at ground and first floor level, to the front of the property. Decorative schemes in these parts of the house are typically more elaborate. The placement of doors within rooms is important. Hallways at ground floor level were also typically highly decorative. Upper levels of Georgian Townhouses are typically plain in nature. The second floor would have historically provided guest accommodation and children's bedrooms whilst the upper floor was typically used for staff accommodation.

In this case the basement level, second floor level and third floor level of all the townhouses has undergone significant alteration associated with the conversion of the buildings to form offices in the 1980s. No decorative features remain, and a number of spaces have been unsympathetically subdivided and altered. HES has expressed no concern relating to the proposed alterations of these spaces. Given that these spaces would be expected to have little in the way of decorative features and given the significant level of previous alteration that has already occurred, the proposed changes in this case will not impact the character of the listed buildings. The same is true of proposed internal changes to the mews building. The mews is a modern construction and has been significantly altered to support the previous office use. Changes to the interior of the mews will not impact the character of listing.

At ground floor level the entrance halls at 14 Atholl Crescent and 17 Atholl Crescent remain intact with highly decorative plasterwork and views of the original timber staircase. The entrance hall to 16 Atholl Crescent has been compromised by the removal of the original entrance door and the formation of an office to the front of the property. The original timber staircase is retained in this property. The entrance to 15 Atholl Crescent has been compromised by the removal of the original staircase and the formation of lifts. The proposal scheme will see the reintroduction of a door and entrance hall to 16 Atholl Crescent and the reintroduction of a staircase at 15 Atholl Crescent. This will have a significant positive impact on the character of these buildings. The hallways to 14 and 17 Atholl Crescent and all original decorative features are retained. The original scheme proposed the removal of a number of internal doors and infilling of the entrances. The scheme has been amended to ensure that original doors and entrances from the hallway are retained and pinned to ensure the intention of these spaces remains legible. HES is supportive of this amendment. Basement stairs which were shown as completely removed are now retained and covered over in line with recommendations set out by HES.

Limited subdivision of the ground floor rear rooms at 14, 15 and 16 Atholl Crescent is proposed to allow the formation of new bathrooms. At 16 and 15 Atholl Crescent these rooms have already been subject to significant alteration and the proposed subdivision will not impact the character of the buildings. The rear room of 14 Atholl Crescent has also previously been altered and extended.

However, HES has noted that the early twentieth century decorative scheme, including cornice and timber panels contribute and an arched recess to the north wall do contribute to the character of the building. In response the scheme has been amended, a suspended ceiling is proposed to allow limited subdivision whilst retaining the cornice. Given the level alteration to this room through the twentieth century and that the cornice is not original, subdivision of this space is acceptable. The introduction of a limited suspended ceiling allows the retention of the cornice, limiting the loss of historic material. The proposed layout of this space has also been amended to retain the existing buffet recess. Given that the decorative features are retained and that this room has already been altered, the proposed change is acceptable.

The first floors, as the principal drawing room level and with the greatest number of intact rooms and surviving decorative schemes, undoubtedly forms the most significant space within each of the townhouses. Subdivision and alteration at this level is therefore limited. Three quarter height bathroom pods are proposed within 14 Atholl Crescent and 17 Atholl Crescent. Subdivision of the rear room at 15 Atholl Crescent is proposed, however this space has been subject to earlier alterations and subdivision will not harm the character of the building in this case. HES has raised some concern about the proposed subdivision of the rear rooms in 16 Atholl Crescent, due to the remaining cornice and the seemingly intact floor plan. However, a review of plans from the 80s and from the early 1900s it is clear that the existing rooms are not original in form. The rear rooms have had spine walls removed and relocated and the rooms have also been subject to previous subdivision. The cornice is unlikely to be original. Given the extensive level of intervention in this space, subdivision is acceptable. The revised scheme introduces a suspended ceiling to allow the retention of the existing cornice, limiting the loss of historic material.

Revised interior plans show the retention of original doors, particularly at ground and first floor level, original cornices are retained as are original staircases. The proposed scheme will not have a negative impact on the character of the interiors of the listed buildings. A limited number of fireplaces are present in the buildings. There is a presumption in favour of retaining original fireplaces. However, none of the remaining fireplaces appear original in this case.

Guidance outlined in Managing Change in the Historic Environment: Doorways notes the important role doorways, and their associated features, such as entrance steps and platts, can make to the character and physical integrity of some historic buildings. In this case all original doorways on the townhouses are retained. No changes are proposed to the external stairs located on Atholl Crescent which make an important contribution to the character of the listed buildings and the Conservation Area. New modern aluminium doors are proposed on the street facing elevation of the mews building looking onto Atholl Crescent Lane. Existing doors and windows associated with this building are not original and do not contribute to the character of the listed building. Although modern in appearance the new doors proposed are still in keeping with the appearance of Lane and will not detract from the character of the building which is already modern in appearance.

Managing Change in the Historic Environment: Windows outlines a string presumption in favour of the retention of original historic windows, with replacement typically only supported where windows are beyond repair. Glass type, glazing patterns, method of opening and materials are all important considerations in assessing changes to windows.

The introduction of double glazing can be acceptable, though it is expected that original frames are retained, and narrow profile glazing is used with a cavity not exceeding 6 mm. New windows openings and the conversion of windows to doors can be acceptable on secondary elevations and where there is not a strong glazing pattern.

The proposals are supported by a window survey and condition report. Retrofitting of double glazing is proposed for all windows. Only two windows are deemed beyond repair with complete replacement proposed. HES has noted the contribution that the original Georgian windows make to the character of the townhouses, particularly at lower levels. HES recommends that further consideration should be given to the overhaul and upgrading of the original Georgian sashes in repairable condition. Where these are beyond repair, a case for replacement could be made. A condition is included requiring further information is submitted to the Planning Authority for further consideration and approval before any Georgian sashes are replaced has been recommended as part of the accompanying planning application. The proposal also includes the replacement of the timber fascia's and cladding of the dormer windows of the townhouses with zinc. The windows are in poor condition and not original. Zinc is an acceptable material in historic settings and can be coloured to match the existing windows. The proposed alteration will not affect the character of the buildings.

To the rear of the townhouses, one window is to be infilled and new windows are to be formed where the glazed link is removed. The proposal also includes the introduction of external cast iron fall barriers on upper level windows and the conversion of three lower level windows to doors. The rear elevation is a secondary elevation and will not be visible from public viewpoints. The removal of the existing link bridge will improve the appearance of this elevation. The cast iron fall barriers are a sympathetic addition to the elevation. HES has not objected to this addition. The proposal also includes the replacement of all windows of the mews building to the rear. None of the existing windows are historic. The modern windows do not contribute to the character of the listed buildings or their setting.

Managing Change in the Historic Environment: Roofs notes that the significance of a historic roof is derived from a number of factors including its age, functional performance, shape and pitch, profile, and the qualities of its supporting structure, covering materials and associated features. The proposals in this case include removing all roof coverings to decking and rafters to allow new insulation to be installed. The roof profile will be unchanged, and the existing slates are to be reused where possible. If slate is found to be damaged, Scot Slate will be prioritised on visible elevations with the use of Spanish Cupa 3 slate where required. Spanish slate is an acceptable substitute for Scots slate.

Conclusion in relation to the listed building

The proposal will not have a detrimental impact on the character or special historic interest of the listed buildings. A number of elements of the scheme, including the reintroduction of an entrance door and the removal of the rear link bridge will have a positive impact on the character of the buildings. The proposal includes extensive subdivision to achieve the desired layout to support the conversion. These subdivisions are largely limited to areas of secondary importance with no original decorative features. The scheme has been amended to retain decorative features in line with comments from HES.

The subdivision of the rear room on the ground floor of 14 Atholl Crescent and the rear room on the first floor of 16 Atholl Crescent is acceptable given the previous level of intervention in these spaces.

The proposal is acceptable in terms of 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?

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

The New Town Conservation Area Character Appraisal notes the 'Georgian elegance' of Coates and Atholl Crescent, noting that Atholl crescent has remained largely unchanged. The group of buildings borders the principal approach to the city from the west and forms a grand prelude to the streets of James Craigs New Town.

The formal Georgian setting of the townhouses makes the most significant contribution to the New Town Conservation Area. Atholl Crescent remains largely as planned. The removal of original doorway at 16 Atholl Crescent has had a negative impact on the setting of the street and the Conservation Area. Security bars at the basement level also detract from the character and appearance of the Conservation Area. Although the rear of the buildings is screened from view and makes a limited contribution to the appearance of the Conservation Area, the link bridge between 15 Atholl Crescent and the mews does erode the character of the Conservation Area.

The proposal includes limit external changes. The removal of security bars at basement level, the reintroduction of a door to 16 Atholl Crescent and the removal of the link bridge to the rear will contribute positively to character and appearance of the Conservation Area. The return of the buildings to residential use will be compatible with the original character of the conservation area.

A limited number of original Georgian windows remain, and it is expected that those which can be repaired are retained. The window report provided indicates that any repairs will follow the original pattern. The proposed retrofit of windows with double glazing will have no visual impact. Proposed alterations to the fenestration to the rear elevation of the townhouses will not be visible from public viewpoints and will not impact the character or appearance of the conservation area. The replacement of windows located on the mews buildings will be in keeping with other modern window units which are visible on Atholl Crescent Lane and will not detract from the appearance of the area.

The proposal also includes removing all roof coverings to decking and rafters to allow new insulation to be installed. The roof profile will be unchanged and the existing slates are to be reused where possible. If slate is found to be damaged, Scot Slate will be prioritised on visible elevations with the use of Spanish Cupa 3 slate where required. Spanish slate is an acceptable substitute for Scots slate. This will not impact the character or appearance of the Conservation Area.

Conclusion in relation to the conservation area

The proposals will not adversely impact on the character or appearance of the conservation area. The proposals comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) there are any other matters to consider?

The following matters have been identified for consideration:

Archaeology

The City Archaeologist was consulted on the scheme and has concluded that given the significant alterations made to the buildings throughout the twentieth century there are no known significant archaeological impacts nor implications in relation to the proposed scheme.

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 non-original basement stairs; this is addressed in section (a).
- Toilet pod inappropriate; this is addressed in section (a).
- Loss of fireplaces; this is addressed in section (a).
- Objects to replacement windows; this is addressed in section (a).
- Loss of internal doors; this is addressed in section (a).
- Loss of buffet recess at 14 Atholl Crescent; this is addressed in section (a).
- Subdivision of rooms and loss of walls; this is addressed in section (a).
- Non traditional doors to the rear of the townhouses, external fall guards and non traditional elements to rear of mews; this is addressed in section (a).

Conclusion in relation to other matters considered

There are no material considerations which outweigh the conclusion above.

Overall conclusion

The proposals are acceptable in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

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. This consent is for Listed Building Consent only. Work must not begin until other necessary consents, eg Planning Permission, have been obtained.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 2 August 2021

Drawing Numbers/Scheme

01, 02A, 01, 02A-08A, 09B, 10A, 11A, 12B, 13B, 14A-18A19B, 20A, 22-34

Scheme 3

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Christopher Sillick, Planning Officer
E-mail: christopher.sillick@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: We have previously engaged with your Council and the applicant on this proposal through pre-application consultations, including a recent site visit with the agent, and had no issues with the proposed refurbishment of the modern mews building. We also particularly welcome the removal of the rear link at No.15, the reinstatement of the original townhouse entrance to No.16, and the reinstatement of a main stair to No.15. We do not have any comments to make regarding the proposals for the basement, second and third floors given the extent of their previous alteration as well as their lesser significance.

Our detailed comments below pertain to the ground and first floors. Whilst we consider their proposed alteration is much improved since our pre-application consultations, we suggest there may still be scope for a more sympathetic, bespoke approach.

The proposals will undoubtedly involve some adverse impacts to the townhouses, and further revisions in line with the above comments would be welcome. This would help ensure a more sympathetic conversion of the buildings, and alongside the most recent revisions, would largely protect the most significant surviving fabric within the listed buildings, thereby retaining their cultural significance.

DATE: 16 August 2021

NAME: Historic Environment Scotland

COMMENT: We note the new information recently submitted in support of the proposals, including a detailed window survey.

In our view, consideration should be given to the overhaul and upgrading of the original Georgian sashes in repairable condition (located on the lower floors) because they make a significant contribution to the category A listed buildings' special interest and character. We are content with the sympathetic replacement of all other later sash and case windows, which should in our view match the glazing pattern of the original windows i.e., six-over-six, with an equal division of the sashes, the current drawings showing a later pattern of unequal division. First floor sashes are six over nine. We consider this should be conditioned or additional drawings provided.

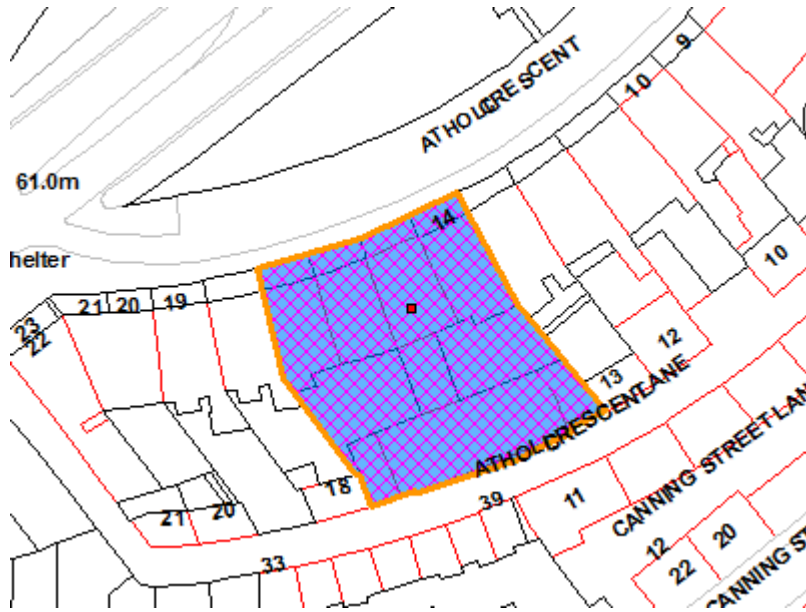
We also maintain the comments made in our previous LBC consultation response (dated 16th August 2021) about the ground and first floors and would suggest further revision is undertaken to protect the historic plan form of this A listed terrace. This excludes our advice on the treatment of original and historic doors, for which we welcome the revised proposals.

Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object.

DATE: 12 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 7 December 2022

**Application for Planning Permission in Principle
Salamander Street/Bath Road, Edinburgh, EH6 7JZ.**

Proposal: Demolition of existing buildings and erection of mixed-use development comprising flatted residential, office and commercial floorspace with associated access arrangements, parking, landscaping and ancillary works (as amended scheme 3)

**Item – Committee Decision
Application Number – 21/01163/PPP
Ward – B13 - Leith**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as the application is considered to be of significant public interest.

Recommendation

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

Summary

The principle of the development is acceptable and is in accordance with Local Development Plan policy. The site is within the urban area where LDP policy Hou 1 gives priority to the delivery of housing as part of mixed use regeneration proposals at Edinburgh Waterfront. The Edinburgh Local Development Plan (LDP) identifies the site as being part of EW1b. Within this area residential and commercial uses (classes 2, 3 and 4) are acceptable in principle so long as they comply with the other local plan policies.

The application raises issues of amenity for future occupiers including noise, air quality and odour. However, the site is in an area where residential development is acceptable in principle, and new residential development is under construction at nearby sites. The proposed mitigation measures for future occupiers would reduce negative impacts, however impacts on amenity of nearby existing property will need to be fully addressed through subsequent applications.

Similarly, the layout, scale, height and density will need to be considered carefully at detailed submission stage, to ensure the character of the area is maintained and enhanced. These detailed design considerations will need to be reserved for full consideration under subsequent applications for matters specified by conditions (AMC). Full details of access arrangements, pedestrian/ cycle connections, the levels of car and cycle parking, landscaping, surface water, sustainability and waste and recycling arrangements will be reserved. In addition, a number of other planning conditions and a legal agreement would be required to ensure compliance with the local plan policies at the detailed application submission stage.

The principle of uses proposed is acceptable, and it is recommended that planning permission in principle can be granted. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site description

The application site comprises a roughly rectangular piece of land bound by Salamander Street to the south, Bath Road to the west, and John G Russell Transport Ltd. to the east. It has an area of approximately 1.4 hectares. The site comprises industrial/commercial buildings and is occupied by a handful of active commercial enterprises including a car hire business, a car sales company, a car wash, and some storage facilities. Just outside of the site to the south-west corner is an existing traditional five storey tenement building with a public house at ground floor.

To the north, part south and east boundaries are industrial premises including a scrapyards opposite the road on Salamander Street. Also opposite the site to the south are relatively new build residential properties which are six stories high. Beyond to the south is an existing/ under construction development for residential purposes at the Ropeworks site. To the west an industrial/ commercial site is also under construction for mainly housing.

Description of proposed development

The proposal is for an application for Planning permission in principle (PPP) for residential development with commercial space and associated works. It comprises the demolition of the existing buildings and the redevelopment of the site for a mixed use development for mainly residential purposes of approximately 247 units and some commercial uses which include classes 2, 3 and 4, with associated car parking and landscaping.

The applicant is applying to have the following matters considered and approved in detail:

- Maximum extent of building lines of the proposed blocks including positioning of blocks and internal spaces between buildings;
- Internal road layout, including pedestrian/cycle routes and accesses, and waste servicing layout;
- Surface water and drainage arrangements;

- Landscaping/soft landscaping layout and design;
- Maximum building heights;
- Proposed ground site levels and finished floor levels and
- The proposed uses (including location) to include mainly residential, with some classes 2, 3 (restricted - no cooking of hot food on the premises) and 4.

Detailed drawings have been submitted, some of which are indicative, to demonstrate how the proposals would fit onto the site. These show the development as comprising of eight blocks, separated by landscaped courtyards. The blocks will range from three storeys to six storeys in height. The proposal is shown to be developed over three phases.

The proposed commercial uses of class 2 and 3, and 4, would give a total of 1,828sqm of commercial space.

The proposed vehicular accesses to the site are from Salamander Street to the south and Bath Road to the west. The main vehicular route within the site is along the north and east boundaries which provides access for resident parking, emergency vehicles and waste services.

The proposals have been designed to accommodate a dedicated cycle route along Salamander Street to meet the council's aspirations for a dedicated cycle route connection between Leith and Seafield.

A total of 59 car parking spaces are proposed. This would be provided in underdeck parking with 14 spaces under block A and B, 22 spaces under block E, and 23 under block H. Of these, six would be accessible, and ten would have provision for electric vehicle charging points. A total of six motorcycle parking spaces are proposed. The proposal would make provision for approximately 530 cycle parking spaces throughout the site.

Amenity space is to be provided in the form of decked amenity areas, raised courtyard areas and ground level spaces. These areas comprise three areas of block paving with bioretention/rain garden planting, and two blocks have grassed areas in addition to planting. Private gardens surround the raised landscaped courtyards giving ground floor apartments defensible space with their own gardens. Duplex private gardens face the northern lane.

No detailed elevational design has been submitted at this stage.

The following documents have been submitted in support of the application:

- Air Quality Assessment and Air Quality Note;
- Affordable Housing Strategy;
- Daylight, sunlighting analysis report;
- Flood risk assessment;
- Landscape strategy;
- Part 1 ecological appraisal;
- Letter of support from Port of Leith;
- Lighting assessment;
- S1 Sustainability form;

- Surface Water Management Plan;
- Transportation Statement;
- Bat survey;
- Tree report;
- Desk top study and ground investigation report;
- Noise Impact assessment;
- Design and Access Statement;
- Drainage/ SUDS/ SWMP report;
- Existing utility report;
- Heritage Statement;
- PAC report;
- Letter of support of Port of Leith Housing Association;
- Preliminary archaeological appraisal; and
- Flood risk certificate and independent flood check certificate.

Scheme 2

The following changes have been made to the initial submission:

- The linear buildings fronting on to Salamander Street have been reduced from four to three storeys;
- The area of the building adjacent to the existing tenement on Salamander Street has been reduced from four to three storeys;
- The seven storey height has been retained at the two courtyard buildings but been set back from the south façade on to Salamander Street;
- The central massing onto Salamander Street has also been reduced to from the three/four storeys to two storeys;
- The courtyard building is connected to the north to resemble a 'U-shape' with a greater opening to the south;
- Removal of the vehicular access in the middle of the site which is now a pedestrian/cycle route with landscaping;
- Removal of some on-street car parking for other pedestrian routes and more landscaping;
- Increase in amenity space;
- The Salamander Street frontage includes landscaping and
- Reduction in car parking from 112 to 91 spaces.

Scheme 3

The scheme has been revised further with the following revisions:

- Seven storey elements removed and overall reduction in unit numbers (from 285 to 247)
- Residential apartments added facing the northern lane giving it more of a domestic street character and an element of security.
- Direct access to these apartments is proposed off the northern lane.
- Increase in private gardens and number of residential entrances along the northern lane.
- The range of residential typologies is increased with the addition of duplex units.
- Increased number of family units.

- Increased number of apartments, and now duplex, with private gardens.
- Levels across the centre of the site lifted to accommodate new residential use results in more shared landscaped amenity space.
- Overall amount of public and private landscaped space across the site increased.
- Extent of active frontages increased.
- All apartments, duplex and shared landscaped amenity spaces are accessible.
- Relationship with the existing tenement improved.
- Parking numbers reduced, and undercroft parking removed and
- Commercial space along the full Salamander Street frontage with returns at Bath Road and the eastern return lane.

The increase in levels across the site is proposed to satisfy the objections from SEPA who require finished floor levels of proposed residential accommodation to be above 5.6m AOD.

Relevant Site History

20/03799/PAN

Salamander Street/Bath Road.

Edinburgh

EH6 7JZ

Demolition of existing buildings and erection of mixed-use flatted residential and commercial development with associated access, car parking, greenspace and ancillary works.

Pre-application Consultation approved.

23 September 2020

Other Relevant Site History

Related applications

18/08206/FUL

1 Bath Road

Edinburgh

EH6 7BB

Proposed residential development with commercial units and associated landscape, drainage, roads and infrastructure (as amended).

Granted

5 August 2019

19/02156/FUL

2 Bath Road

Edinburgh

EH6 7JT

Reinstatement of tenement to form five flats and extension to public house (as amended).

Granted

18 July 2019

20/00465/FUL

1 - 5 Baltic Street

And 7-27 Constitution Street

Edinburgh

EH6 7BR

Proposed mixed use development comprising partial demolition of existing buildings, purpose-built student accommodation, affordable housing, office units, cafe and public digital co-working space with associated landscape, drainage and infrastructure (as amended).

Granted

6 August 2021

20/01313/FUL

57 Tower Street & 1 Bath Road

Edinburgh

EH6 7BB

Proposed residential development and associated landscaping, drainage, roads and infrastructure.

Granted

22 September 2021

22/02855/PAN Land 240 metres Northwest of 26 Bath Road North Leith Edinburgh

Mixed use development including residential (class 9) and sui generis flats, retail (class 1), financial, professional and other services (class 2). Food and drink (class 3), business (class 4), industrial (class 5), storage and distribution (class 6), hotel (class 7), non-residential institutions (class 10), assembly and leisure (class 11), sui generis car park/ mobility hub, public realm works and associated infrastructure.

Pre application consultation approved.

13 June 2022

22/02725/FUL

2 Bath Road

Edinburgh

EH6 7JT

New build development comprising 3 residential flats and ground floor extension to public house.

Undetermined

22/02663/FUL

50 metres to north of 2 Bath Road

Edinburgh

Proposed development of motor vehicle hire facility (Sui Generis) including erection of office, valet bay, plant room and associated infrastructure, external lighting, boundary treatments, parking, new vehicular access and relocation of existing bollards.

Granted 15 November 2022

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Leith Links Community Council

Police Scotland

Scottish Environmental Protection Agency

CEC City Archaeology

Leith Harbour and Newhaven Community Council

CEC Economic Development

CEC Waste Management

Scottish Water

Environmental Protection

CEC Flood Planning

Transport

Affordable Housing

Children and Families

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

Publicity and Public Engagement

Date of Neighbour Notification: 5 July 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 2

Section B - Assessment

Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals comply with the development plan?

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

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

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 Delivery policies: Del 1, Del 3;
- LDP Design policies: Des 1 - Des 11;
- LDP Environment policies: Env 8-9, Env 13 - 16, Env 20 - 22;
- LDP Employment policies: Emp 8-9;
- LDP Retail policies: Ret 11;
- LDP Housing policies: Hou 1-4, Hou 6, Hou 10; and
- LDP Transport policies: Tra 1-4, Tra 7-9.

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering the Design, Environment, Housing and Transport policies. The Affordable Housing Guidance is a material consideration that is relevant when considering Hou 6. The Finalised Developer and Infrastructure Delivery Guidance is a material consideration that is relevant when considering policies Del 1, Del 3 and the Transport policies.

Principle of the Development.

The site is within the urban area. LDP Policy Hou 1 (Housing Development) gives priority to the delivery of housing as part of mixed use regeneration proposals at Edinburgh Waterfront. The Edinburgh Local Development Plan identifies the site as part of EW1b (Central Leith Waterfront). EW1b is identified as a Housing Proposal in Table 3 of the LDP, where housing led development is supported. Table 11 sets out development principles for this area, including the need to:

- design new housing to mitigate any significant adverse impacts on residential amenity from existing or new general industrial development and to
- review the flood risk assessment for the site.

In relation to this proposal, the provision of housing-led mixed-use development is supported in principle within the context of policies Hou 1 and EW1b.

Del 3 (Edinburgh Waterfront) states that planning permission will be granted for development which will contribute towards the creation of new urban quarters at Leith waterfront. Requirements in principle are for:

- a) comprehensively designed proposals which maximise the development potential of the area
- b) the provision of a series of mixed use sustainable neighbourhoods that connect to the waterfront, with each other and with nearby neighbourhoods
- c) proposals for a mix of house types, sizes and affordability
- d) the provision of open space in order to meet the needs of the local community, create local identity and a sense of place.

With regards to Del 3, the proposal is compliant as it will contribute towards the emerging residential character of the area. The application provides a range of house types, sizes and affordability and helps create a new residential character and sense of place along this section of Salamander Street.

Similarly, the Leith Docks Development Framework (LDDF), 2005 sets out an overall vision for the wider area to provide an extension of Leith and the city. It anticipated that residential development would be the dominant use throughout the majority of the development parcels. The site is identified as site 1:11 and includes the potential for an alternative location for a shared school.

The proposals are in accordance with the vision of the LDDF. Although a shared school is not part of the current proposals, the education strategy has changed since 2005, and the provision of education infrastructure is being examined on a cumulative basis across the wider area.

The Salamander Place Development Brief 2007 sets out key principles for developing the area which lies directly to the south of the site on the opposite side of Salamander Place. The current proposals complement the Brief and provide co-ordination with the emerging character of the area.

As this site is currently in employment use, its redevelopment must be considered against LDP Policy Emp 9 (Employment Sites and Premises). The policy recognises the potential benefits of redevelopment for other uses but also the importance of meeting the needs of small businesses. Emp 9 requires proposals to redevelop employment sites or premises to ensure that non-employment uses will:

- a) not prejudice or inhibit nearby employment uses;
- b) contribute to the comprehensive regeneration of the area and
- c) if the site is larger than 1 hectare, the proposal includes floorspace designed for a range of business users.

The site has an area of 1.3 hectares and all three of the above criteria apply. The proposal includes an element of class 4 use, and the impact of the proposal on existing uses in the area is discussed in detail below.

The proposal will contribute to the regeneration of the wider area, and within the context of the LDP policies and other documents noted above, the principle of the development is acceptable.

Scale, Design and Materials

The application is for planning permission in principle and the applicant has submitted a number of drawings (including indicative) and full details which they wish to have approved as part of this PPP proposal. The submitted detailed drawings and supporting information have formed the basis of assessing the site's potential to develop in a way that accords with the development plan and other guidance.

An early iteration of the proposals was discussed at the Edinburgh Urban Design Panel (EUDP) in August 2020. The overall conclusions of the Panel were that the development is on a challenging site and the emerging design addressed the constraints in a very positive way. In taking forward the design, the Panel recommended that the following should be addressed:

- Work collectively with the City to ensure the development integrates and provides connections with the wider area;
- Ensure that improving the environment for Salamander Street is central to the project;
- Use the flat roof areas as opportunities both as local growing space and part of the blue and green strategy for the site;
- Use design to maximise the quality of the residential units particularly those facing Salamander Street;
- Create an active ground floor to improve street quality, security and amenity;
- Maintain commitment to carbon neutral design and
- Consult Police Scotland on carpark security.

A copy of the report can be found in the consultations section in the appendix.

LDP 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.

LDP Policy Des 1 (Design Quality and Context) states that development proposals will be granted if they create or contribute to a sense of place and that the overall design draws upon the positive characteristics of the surrounding area.

LDP Policy Des 2 (Co-ordinated Development) presumes against development that would prejudice the effective development of adjacent land. The LDP allocates land to the north and west of the site as within area Ew1b (Central Leith Waterfront) which is an area of commercial and housing-led mixed use development; land to the east is designated as Ew1d (Seafield) and is an area of general industrial, storage and business development and port-related uses. Land to the south falls within area Ew1c (East of Salamander Place) which is designated for housing-led mixed use development on sites in various ownerships. The proposal should not prejudice the effective development of these adjacent sites.

The development principles for the Edinburgh Waterfront are set out in Table 11 in the LDP. The aim is to ensure that the regeneration of Edinburgh's Waterfront comes forward in a planned manner within the context of a long-term vision.

The Leith Docks Development Framework identifies the site as 1.11 Salamander Place for an appropriate mix of uses in accordance with Section 6. Proposed uses will be influenced by any existing noise-generating uses nearby.

The site to the west on the opposite side of Bath Road, is currently under construction for mainly residential use, and comprises flatted units ranging from four to six storey high blocks with some commercial elements fronting Salamander Street. The proposed development reflects the uses approved at this neighbouring site. The proposed roads, footpaths and cycleways link to existing roads, footpaths/cycleways on adjacent sites to the east and west, and would enable future links in a northwards direction for potential future developments and southwards to connect to areas to the south, including access to Leith Links.

The eastern boundary of the site forms an interface with future proposed 'green street' as part of the wider Leith Docks Development. The proposals would not prejudice the effective development of these neighbouring sites.

There is currently an undetermined application to build 5 flats and extend the public house directly on the south west boundary of the site. The proposed development should not result in loss of amenity or prejudice the development of this neighbouring land. This is discussed in more detail below in the amenity section of the assessment, however the proposed development could impinge on the amenity of the existing residents of the corner tenement and future residents of the proposed new tenement block. This effective redevelopment of the adjacent land could be compromised, and it has not been fully demonstrated that the proposal complies with LDP policy Des 2 in this regard.

LDP Policy Hou 4 (Housing Density) promotes an appropriate density of development, taking account of the character of the site and its surroundings, and access to public transport. The proposed development site would have a density of around 190 units per hectare. Whilst the applicant has reduced the proposed height for some blocks, the positioning of them and relationship to each other is constrained in parts of the site. For example, blocks are approximately 10 metres apart at certain points, which, at the heights proposed could lead to loss of amenity for future occupiers and would give a cramped appearance. Nearby recently approved residential development have densities more akin to approximately 125 dwellings per hectare. The detailed drawings submitted therefore do not demonstrate that the proposal complies with LDP Policy Hou 4.

LDP Policy Des 4 (Development Design - Impact on Setting) requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape, having regards to its height and form, scale and proportions, including the spaces between the buildings, position of buildings and other features on the site; and the materials and detailing.

The immediate context of the site in terms of residential development is varied in form, height and materials. A visual assessment of local views has been submitted which demonstrates the proposed development sitting within various visual contexts around the vicinity of the site. The variety of building heights in the locality largely defines the visual character. Generally, in the surrounding area buildings are positioned hard on to the heel of the footpath; the development under construction to the west deviates from this with an open aspect in the centre of blocks facing onto Salamander Street.

Proposed blocks range in height from three to five stories separated from Salamander Street frontage by pavement and an area for landscaping. The proposed development would provide a strong frontage to Salamander Street. It would respond to the heights of existing and consented developments positively; the proposed buildings and their change in height offers interest.

The Leith Docks Development Framework highlights two visual connections between the city and the docks which should be maintained within any development. The proposed development enables these visual connections to be maintained.

Information has been submitted to show potential for scale, height, massing, layout and roofscape to affect distant key views of the city skyline such as views from the Castle ramparts, Arthur's Seat and Calton Hill. The development site falls within a number of protected views. The site is obscured by foreground and topography, Calton Hill and Edinburgh Castle. Information on local views indicate that, in general, that proposed height and massing reflect local context.

The proposed blocks would enclose landscaped courtyards and car parking decks. This approach in general sits appropriately within the context of the surrounding area.

However, in terms of the proposed form, scale and proportions, the quantum of development results in some blocks positioned with little space between them (approximately 10 metres in parts of the site), and their positioning and form do not sit comfortably with each other. The quality of the proposed open space is poor in places and some blocks could impact on the amenity of existing/proposed neighbouring property. In this regard, it has not been demonstrated that the detailed design proposals comply with LDP Policy Des 4.

Policy Des 7 (Layout Design) sets out that developments should have regard to the position of buildings on the site and should include a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths and open spaces. The applicant has aimed to create a design solution which takes into account the minimum floor levels required by SEPA, and this has resulted in raising the ground levels of the site. Whilst the proposed landscaped pedestrian access routes provide permeability and links to other sites and routes in a north south direction, the publicly accessible landscaped courtyards positioned 1.5m above street level do not enable direct north-south routes at grade for walking, cycling and wheeling. The layout introduces elevated links, with stepped or street-lift access on either side. This compromises permeability and connectivity between the emerging neighbourhoods to the south of Salamander Street and potential future routes to the Forth. It detracts from connectivity and accessibility, and undermines community safety. The Roads Authority state that the proposed external lifts and steps are not considered acceptable within the context of publicly accessible areas. The applicant will be expected to provide suitable ramped access to ensure wheelchair and pushchair access.

The proposed pedestrian/cycling accessibility solution for the proposed development would not be acceptable and would not comply with LDP Policy Des 7 (layout design). It is therefore recommended that pedestrian, cycle and wheeled access within the site are reserved and not approved at this stage.

The proposal makes provision for a pedestrian/cycle route to run along/just outside the southern boundary of the site in an east west direction improving non-vehicle

accessibility in this area and providing an improved environment along this main access road to and from the city. The vehicular access route which runs in an east west direction along the northern part of the site provides potential permeability to neighbouring sites. The provision and enabling of these routes are welcomed.

LDP Policy Des 5 (Development Design-Amenity) requires community security, active frontages and designing for natural surveillance. The revised proposal incorporates some residential uses at ground level to the north of the site; the amount and nature of this is limited given the requirements of SEPA in relation to finished floor levels. These are in the form of duplex units which results in some active frontage and surveillance over the east-west orientated street. Commercial ground floor units along Salamander Street with residential above will add more activity along this main route.

Detailed design or materials are not under consideration as part of this PPP application.

In conclusion, while the principle of the development is supported, it has not been adequately demonstrated that the proposed development is in accordance with the design policies in the LDP. It has not been demonstrated that it will have a positive and appropriate impact on the context by creating a high quality townscape. Whilst the principle of the development is acceptable, these detailed design matters, including numbers/floorspace of commercial units would require further assessment and it is recommended that these are reserved for consideration at the further application submission stage.

Amenity

LDP Policy Des 5 (Development Design - Amenity) sets out the criteria to assess the impact on the amenity of neighbouring developments and for future occupiers relating to air quality, noise, odour, lighting, daylight, sunlight and privacy. Defensible private spaces and clear distinctions between private and public spaces as well as how the proposed design integrates refuse and recycling facilities, cycle storage, low and zero carbon technology and service infrastructure are also assessed under this policy. The impacts on the amenity for neighbouring developments and for future occupiers can be assessed to consider whether an attractive residential environment can be created. This links to policy Hou 4 (Density) which assesses the density of the development in relation to the need to create an attractive residential environment and safeguard living conditions within the development. These are discussed in more detail below.

Amenity of Occupiers

Air Quality

The site is located within the Salamander Street Air Quality Management Area (AQMA) for PM10 levels and is approximately 350m from the Great Junction Street/Bernard Street AQMA for NO2. The Salamander Street AQMA has been declared for exceedance of both the long term (annual mean) and short term (24 hour) air quality objectives. An Air Quality Impact Assessment has been submitted which considers dust and fine particulate matter during the construction phase, and road traffic emissions during the operational phase.

During the construction phase, there is a risk of dust soiling and human health effects to occur. A dust management plan is recommended to limit and control dust emissions during the construction phase.

The applicant was requested to carry out a 3-6 month air quality monitoring study within the site boundaries, due to the exceedances recorded at the nearby Salamander Street automatic monitor for PM10. The applicant has advised that monitoring was not feasible due to the Covid-19 pandemic. They state that the building will have full mechanical ventilation which will draw air from cleaner areas and future sensitive receptors would not be exposed to air quality exceedances.

For the operational phase assessment, annual mean NO₂, PM10 and PM2.5 concentrations have been modelled at 16 existing and eight proposed receptor locations. It concludes that the impact of the development will be negligible for NO₂ at all existing and proposed sensitive receptors. Exceedances of the PM10 and PM2.5 air quality objectives are predicted to occur across the study network at both existing and proposed sensitive receptors. A slight impact for PM10 and moderate impact for PM2.5 is predicted to occur at existing sensitive receptor 4 (bordering the proposed development site). Pollutant concentrations were modelled at eight proposed sensitive receptors for the 2026 opening/future year 'With Development' scenario. The results of the assessment show that there is a risk of particulate matter (both PM10 and PM2.5) exceedances on the ground floor and the first floor of the proposed building.

Mechanical ventilation is proposed for all floors and facades of the development. The applicant advises that all air entering the ventilation system would be drawn from a location in which pollutant concentrations are below the air quality objectives for the pollutants of concern and this will protect future occupants from adverse air quality. The assessment indicates that pollutant concentrations are below the objectives at 6m above ground level and above. There may be other sources besides road traffic that may be contributing fine particulate matter. It is proposed that if the air supplying the ventilation system does not comply with all air quality objectives, appropriate pollution filtration should be installed and maintained.

The air quality effect of the proposed development is considered to be significant, but mitigation has been proposed, with the aim of limiting vehicle trip generation.

A subsequent Air Quality Note was submitted and this considers the potential effect of local air quality on the proposed development to enable appropriate Air Quality mitigation to be incorporated in the scheme. In addition the effects of the scheme on existing levels of pollutants (potential canyon effects) have also been considered. The Note proposes some additional air quality monitoring in the future and discusses proposed mitigation measures to be included within a management plan for the buildings.

Car parking numbers have been reduced, however Environmental Protection consider that the development should be car free. The AQIA advises that filtered air intakes to a MVHR system are likely to be a required measure used to ensure that windows can be kept closed. A maintenance management plan is recommended for PM and NO₂ filters.

SEPA supports CEC Environmental Protection's concern about residential development at the site in terms of air quality and being located within an AQMA, and they also suggest zero car parking. They do not consider the development complies with LDP policy Env 22 (Pollution and Air, Water and Soil Quality).

In making an assessment in relation to this application (and other recent applications in the vicinity of the site), consideration has been given to the appeal decision at 2 Ocean Drive (14/05127/FUL and appeal ref: PPA-230-2201). In this case, the Council refused planning permission on air quality and impact on health grounds. In overturning the Council's decision to refuse planning permission, the Reporter observed that there is a downward trend in annual mean PM10 levels at the monitoring station at Salamander Street and across the city. The Reporter concluded that he was not satisfied overall that adverse effects for health should be properly regarded as significant and the proposal would not conflict with LDP Policy ENV 22.

The application site is identified in the LDP as an area suitable for housing - led mixed use development. Whilst little weight can be attached to Cityplan as a material consideration in the determination of this application, it identifies the site as being carried forward for a mainly residential mixed-use development. It has similar PM10 levels as the previously mentioned appeal site and there have been a number of planning approvals for residential use recently, accepting the use of mechanical heat and ventilation systems within close proximity to the site. The area is undergoing a change in terms of use towards a more residential led area, and this is likely to continue in the future.

On balance, it is accepted that PM10 levels have breached national levels in the past. However, it is acknowledged that with the designation of the Salamander Street AQMA, an Action Plan will be prepared which will have the primary objective of reducing PM10 levels in the area. This, combined with the fact that the applicant has proposed mitigation measures in the form of mechanical ventilation, is helpful. It is concluded that the proposal does not conflict with LDP Policy Env 22 on air quality grounds.

Noise

The applicant has submitted a Noise Impact Assessment (NIA) in support of the application. The NIA considers potential noise sources from Forth Ports dock yard, Daltons scrap yard, commercial premises on Bath Road and within the development proposal itself, and vehicular traffic on Bath Road and Salamander Street. The NIA concludes that noise from a number of industrial/commercial/docks noise sources and road traffic will affect the development on all sides and advises that complaints are likely.

Environmental Protection is of the opinion that the supporting noise information does not provide a complete assessment for this site as it does not provide enough detail to demonstrate the actual internal noise levels likely to affect this development. They have received complaints regarding noise from the scrap metal yard (which is regulated by SEPA) affecting nearby existing residential properties. The noise survey of the docks operations has found that noise is likely to draw complaints from the proposed residential properties. Environmental Protection have raised concerns that heavy industrial operations could take place close to this site both day and night and have investigated complaints due to the movement of scrap metal on the port side in close proximity to this development site and low frequency engine noise from ships in dock.

They also note that there can be significant noise at weekends. Salamander Street bounds the site to the south and will affect the proposed development from its significant road traffic noise levels.

The applicant has recommended a mitigation solution of closed windows (with mechanical ventilation) is installed to protect future occupiers; this mitigation is required for all properties within the development to deal with potential noise. The proposed mechanical ventilation and heat recovery system (MVHR) removes the requirement to use trickle ventilators within all windows. Standard thermal double glazing is recommended to ensure that noise guideline levels are achieved within noise sensitive rooms on the northern and western facades of the development. Environmental Protection are of the view that superior double glazing is required to ensure that noise guideline levels are achieved within noise sensitive rooms on the eastern and southern facades.

Environmental Protection are of the opinion that these mitigation measures are an unacceptable solution to deal with potential noise, and that the ventilation system requires a clean air supply which will be difficult to find in this site. The site is in an area for development of a mainly residential mixed-use within the LDP and there are a number of sites which have been recently approved for residential purposes in close proximity which include the use of mechanical ventilation with a closed window scenario to deal with potential noise. Land directly to the north of the site is allocated within the LDP as Ew1b, the same as the application site. Little weight can be given at this stage to Cityplan, however it will carry forward this LDP designation; in addition, the proposed scrapyards site opposite is allocated as a Housing Proposal site (393, Salamander Place). The Planning Authority considers that suitable acoustic glazing and the mechanical ventilation proposed are the best options to minimise noise impacts on this site. In conclusion, the location of the site is constrained by a number of difficulties in relation to noise and the proposed mitigation put forward by the applicant is appropriate in this instance and would enable this difficult site to be developed, whilst providing an acceptable level of amenity to future occupiers. It is concluded that the proposal does not conflict with LDP Policy Env 22 on noise grounds.

Odour, vibration and lighting

Environmental Protection has raised concerns about odour to occupiers of the development from nearby Seafeld Sewage Treatment Works and port/industrial related activities. Odours from the Seafeld wastewater treatment works should be assessed; a full olfactometry odour impact assessment is required over a 3 to 6 month period. A survey was not carried out. The applicant states that the air inlet as part of the mechanical ventilation system may intake potential odours from the ambient air; it is therefore proposed that the carbon filtering on the air inlet will reduce the odour risk.

There are a number of residential properties in closer proximity to the treatment works than this application site. It is understood that the treatment works has already undertaken mitigation measures to reduce the odour emitting from the facilities, and further mitigation measures are already proposed. Whilst odour is a concern, it is considered unreasonable to refuse planning permission on this basis and carbon filtering would reduce odour risk.

The applicant proposes commercial units which include use classes on the ground floors of the proposed development. They have confirmed that the use class for these would be 2, 3, and 4. A condition is recommended that the class 3 would be limited to ensure no hot food preparation/ sale takes place to protect the amenity of residents.

An assessment of vibration from scrapyards activities was requested to support the application but has not been provided; this issue remains a concern of Environmental Protection. There are existing residential properties close to the site and the scrapyard; an existing housing block sits directly on the boundary of the scrapyard. Given the above it is not considered that potential vibration from the scrapyard would be sufficient reason to refuse the application.

A Lighting Assessment has been submitted in support of the application. Light spill from the Port industrial area, the car pound on Tower Street, Europcar, Safestore and surrounding commercial and industrial developments and street lighting on Bath Road and Salamander Street has been assessed. The results show that some receptors in the proposed development are predicted to be exceeded; glare will also be an issue across the site. The assessment states that these results are consistent with a location characterised by existing street lighting in close proximity to adjacent land in which residential buildings such as the proposed development are located. The suggested mitigation is the installation of black out blinds. The site is allocated for a residential led mixed use development in the LDP. There are several new housing developments within the immediate vicinity of the site, some of which have received approval recently. Given this context and the shift towards a more residential land use led area, the proposal is considered acceptable in terms of delivering housing, and the impacts of light pollution can be dealt with by the suggested mitigation measures.

It is concluded that the proposal does not conflict with LDP Policy Env 22 on odour, vibration and lighting grounds.

Housing mix, size of units and aspect

The application is not seeking to approve details of housing mix, size of units or aspect; however an indicative capacity and mix is identified. The applicants have submitted information which proposes the following mix of units could be achieved within the development: 21.5% three bedroomed units, 33.5% two bedroomed units, 32% one bedroomed units and 13% studios. This indicates that more than 20% of the units would be for growing families which complies with LDP policy Hou 2 (Housing Mix). These matters would be fully considered at detailed submission stage.

Open space

LDP Policy Hou 3 (Private Green Space in Housing Development) of the LDP sets out the requirement for amenity green space provision within the development. In flatted or mixed housing/flatted developments where communal provision will be necessary, this will be based on a standard of 10 square metres per flat (excluding any units which are to be provided with private gardens) and a minimum of 20% of total site area should be useable greenspace.

Based on 10% of the number of residential units a total of 2,820sqm of communal open space would be required. The development proposes three decked areas of communal open space at blocks A and B, block E, and block H, together with two areas of raised courtyards at blocks C and D, and blocks F and G. These provide a total of shared open space provision of 2360sqms. The central courtyard areas are defined as semi-public spaces; they are publicly accessible and the applicant states this is unavoidable unless gates and fences are introduced. There are private gardens proposed around the outside of these areas, however shared/ publicly accessible amenity space for residences would lead to privacy and amenity issues. The provision of private amenity space would need to be fully considered at the detailed design stage and would be a matter reserved for further consideration. The areas of north/ south pedestrian routes provided in four areas of the site between blocks equates to a further 1835sqms of amenity space resulting in a total of useable open space of 4195sqm. This equates to 30% of the site being useable green space which is acceptable.

Whilst the amount of open space proposed is acceptable, its quality needs further consideration. The proposal has not fully demonstrated compliance with LDP policy Hou 3 (Private space in new development).

Privacy

The proposal would result in some blocks having windows approximately ten metres part between facing facades along the proposed north south pedestrian routes. This would lead to potential loss of privacy and amenity for their occupiers. The proposed development would include residential blocks which extend beyond the rear building line of the existing public house and tenement. There is a raised landscaped desk proposed on the boundary with the existing tenement to the south west of the site. These may lead to loss of privacy. Issues of potential loss of privacy within the development site have not been fully resolved.

Daylight and sunlight

Within the development site itself, a no skyline assessment was carried out of the worst case scenario apartment; this met the criterion required. The daylight analysis comprises the assessment of a 'worst case' scenario apartment in this development. The applicant has confirmed that the daylight levels for the proposed development achieves the recommended daylight levels as stated in the Edinburgh Design Guidance. The Edinburgh Design Guidance requires this to be more than 27 % or 0.8 of the former value of daylight.

The applicants supporting information confirms all five amenity spaces/garden areas passed the analysis, receiving 2 hours or more of daylight on the 21st of March on at least half of the amenity space area.

In terms of impact on daylight and sunlight within the development site, the proposal is acceptable.

Amenity to existing homes

The Daylighting and Sunlight analysis considers the effect of the development on nearby residential property; these include the existing residential block on the opposite side of Salamander Street to the site, and the residential units above the existing public house just outwith the site to the south west at the corner of Bath Road. The analysis tests the impact of potential loss of daylight on these two properties. The Edinburgh Design Guidance requires the Vertical Sky Component to be more than 27 % or 0.8 of the former value of daylight. The analysis concludes that 60% of the facades passed the Vertical Sky Component of achieving a VSC of at least 27%. Those that failed were assessed using the Average Daylight Factor, and this concluded that all rooms tested passed the ADF assessment. Upper floor residential units have been assessed for daylighting in the supporting information. There is a ground floor residential unit at the existing corner tenement; any potential daylight loss should be tested on this unit. In addition, impact on daylight on the proposed new tenement (undetermined planning application) to the south west of the site has not been tested.

In terms of overshadowing, the potential impact of the development on the small garden area of the existing public house and tenement to the south west of the site should be tested.

Given the above, the details of the layout, massing and height of blocks A and B cannot be approved at this stage and will be reserved for further consideration.

The site directly to the north is currently in business use and is allocated in the LDP as being within the urban area where LDP policy Hou 1 gives priority to the delivery of housing as part of mixed use regeneration proposals at Edinburgh Waterfront. It also is within LDP area Ew 1b. Potential development of this neighbouring site should not be prejudiced; this can be fully tested at detailed application stage.

In conclusion, in terms of amenity, it has not been fully demonstrated that the details of the proposals comply with LDP policies and Des 5 (Development design - Amenity) and Hou 3 (Private Green Space in Housing Development).

Road safety:

A Transport Statement has been submitted in support of the application. This states that peak vehicle movements are unlikely to be increased due to a combination of restricted parking, public transport and cycling links and the removal of existing car centric businesses. The nearest proposed tram route to the development would be located to the west along Constitution Street. There are also a number of bus links within close vicinity to the site. The commercial units loading requirements are to be met by connections from the north lane.

LPD Policies Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) set out the requirement for private car and cycle parking. The application has been assessed under the Council's parking standards (updated January 2020). A total of 59 car parking car spaces are proposed which is well below the maximum parking standards. Approximately 530 cycle parking spaces are proposed which is acceptable. Transport raise no objections to the proposal subject to a number of conditions and informatives.

It is recommended that all car and cycle parking provision including design and layout is a reserved matter. In addition the road layout (including carriageway, footways, cycle tracks and verges) is to be reserved.

It should be noted that this area is within Phase 1 of the extension to the Controlled Parking Zone (Strategic Parking Review) and the site has good accessibility to existing and proposed sustainable transport options.

The LDDF sets out that this site (1:11) should make significant public realm improvements to Salamander Street to reduce traffic flow and speed, providing greater emphasis on pedestrian and cycle routes. The proposal enables sufficient space to enable a suitable route to be provided along Salamander Street and Transport have recommended that the applicant widens the footway along Salamander Street to enable this route to be provided at a future date. Financial contributions will be sought to contribute to the Bernard St/Salamander St Active Travel and Public Realm Project.

Transport route T7 runs along the eastern side of the site in the LDP. This is to be safeguarded and the proposed development allows for this.

The proposal is acceptable on transport grounds; full details are to be reserved to enable full consideration at detailed submission stage.

Archaeology

A Heritage Statement has been submitted in support of the application. The Statement identifies 20 heritage assets within a radius of 200m of the proposed development site; five of these are situated within the site, which comprise the location of the southern section of the Edinburgh and Leith Glass Works, the site of a glass furnace, the Bone Mill and Chemical Works, the Crystal Glass Works at the southern end of the site and the remnants of the building wall with the initials J&J C.

CEC Archaeology states that the site is of industrial significance dating back to the construction of cones 5 & 6 in c.1795 of the Leith Glass Work Co., the later 19th century James and James Cunningham Chemical Works and latter 20th century fertiliser works. Historically the site occurred on the medieval beach and foreshore to the east of the medieval port and harbour of Leith. Salamander Street is known from 18th century plans running along the beach line (although it may be earlier in date representing one of the shore roads linking Leith with Musselburgh and the east.)

The site has been identified as within an area of archaeological significance both in terms of its buried potential but also its upstanding industrial heritage. CEC Archaeology has confirmed the proposals will require significant ground-breaking works and these will have significant impacts upon any surviving archaeological remains.

It is recommended that a condition is attached to further address archaeology.

Waste Management

LDP Policy Des 5 (Development Design - Amenity) sets out that planning permission will be granted for development where it is demonstrated that refuse and recycling facilities have been sensitively integrated into the design. There has been ongoing discussions between Waste Services and the applicant. A Waste Management Strategy has not been agreed for the site. This will be reserved matter and will be assessed and fully addressed at detailed submission stage.

Flooding and drainage

The site is located within an area of high risk surface water flooding. SEPA state that as the finished floor levels of the revised proposed development will be set at a minimum of 5.6m AOD and they would not object to the proposed development on flood risk grounds. SEPA recommend flood resistant and resilient measures are included in the design and construction on the site to mitigate residual flood risk. CEC Flood Prevention recommend implementing flood resilient materials and measures to mitigate the flood risk to the commercial properties proposed at the existing ground level, below the 5.6mAOD finished floor level in the Flood Risk Assessment. Details of these flood resilient measures can be considered at detailed application stage. The application includes indicative use layout plans. A condition is recommended that ensures that habitable residential rooms are not permitted below the minimum floor level of 5.6m AOD.

The applicant confirms that the surface water network for the development is proposed to discharge to the combined sewer system on Bath Road. It is proposed to maximise water usage on site through the construction of bio retention areas or raingardens with the landscape proposals for the development. These areas are to be designed to maximise water retention and attenuation and incorporate infiltration to ground where possible to minimize the discharge flow rate and volume to the combined sewer system.

Scottish Water will not accept any surface water connections into their combined sewer system. The sites water management strategy requires raingarden and bioretention features through the landscape which enhance the visual amenity and biodiversity whilst also helping with drainage. The proposed raised courtyards have SUDS integrated within the spaces and permeable block paving is proposed in parking areas.

Full details of drainage, flood risk and water management are reserved for future consideration at AMC application submission stage.

Sustainability

LDP Policy Des 6 (Sustainable buildings) states that 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.

The applicant has submitted a sustainability form and statement in support of the application. A range of passive measures are proposed to reduce the demand for energy including Heat Recovery Technology in line with net zero carbon standards. This will improve air quality for occupants whilst recovering heat from the extract ventilation system. Energy consumption is proposed to be reduced including an electric air source heat pump system to provide an efficient and low carbon method of supplying heating and hot water, the use of energy efficient LED lighting, controls for external lighting linked to daylight sensor, provision of energy meters, use of waste-water heat recovery units on showers or baths, and the possibility of incorporating a community heating scheme for these buildings. Photovoltaics (PV) are proposed to be included on the roof of the proposed buildings to offset grid electricity consumption. Flexibility to allow for future changes in technology would enable the development to accommodate a district heating scheme, or connection to a larger city wide scheme etc.

Full details of sustainability measures can be reserved for future consideration in accordance with Edinburgh Standards for Sustainable Building.

Ecology and trees

A Preliminary Ecological Appraisal was submitted with the application and a bat survey (carried out this season) has been submitted in support of the application.

One habitat of introduced shrub was the only habitat feature found within the study area and was considered to have low ecological value. Four structures were identified as having low potential to support individual roosting bats during the summer. The Bat Survey identifies that roosting bats are considered likely absent from the site at this time, and so no mitigation measures in regard to roosting bats are necessary. As bats have been recorded as using the site for foraging and commuting, should a period of one year lapse between the completion of the 2022 surveys and commencement of development /demolition works, then the surveys should be repeated to ensure the status of bats on site is unchanged. It also advises that as artificial lighting can impact on the behaviour bats and any lighting should be directed to only where it is needed particularly close to the vicinity of the northern site boundary. It should be noted that lighting from outwith the site cannot be controlled as part of this planning application.

The proposal complies with LDP policy Env16 (Species protection).

A Tree Survey has been submitted with the application. No trees of value were identified within and close to the site.

Infrastructure

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) requires proposals to contribute to infrastructure provision where relevant to mitigate any negative additional impact and where commensurate to the scale of the proposed development. The Supplementary Guidance on Developer Contributions and Infrastructure (2018) provides further detail on the approach to the implementation of this policy and developer contributions required for this application have been identified within this context.

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 (2021) assessed the cumulative impact of all new development, including constrained sites, and found that a new primary school in Leith Waterfront would be required, along with a new primary school in the Bonnington area, to mitigate the cumulative impact of all new development on Leith Primary School, this includes an assumption about potential developments in its catchment area. Community and Families state that the current requirements are not sufficient to accommodate the cumulative number of pupils that would be expected from the proposed development and other potential developments in Leith Primary School catchment area. The latest Housing Land Audit identifies the site, as part of LDP EW 1B: Central Leith Waterfront, along with LDP EW 1C: Leith Waterfront - Salamander Place, as constrained sites unlikely to be completed within the next five years. The proposed development forms part of a site identified as suitable for mixed use development for a significant number of new homes in the 2016 LDP (2,720 homes) and in the proposed LDP (City Plan 2030).

The Appraisal identifies a requirement for a new 12 Class Primary School in the Leith Waterfront Area. In addition provision should be made for additional capacity at Leith Academy and Holy Rood RC High School.

Children and Families have set out that the following per unit infrastructure contribution is to required: Primary Infrastructure: New 12 Class Primary School £7420 per flat and Secondary Infrastructure: Additional SS places (Leith Academy, Holy Rood RC High School) £3,262 per flat. This, based on an estimated 165 flats with more than one bedroom, and would result in the requirement of £1,224,300 for primary school infrastructure and £538,230 for secondary school infrastructure, resulting in an estimated total requirement of £1,762,530. 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 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 levels of contribution for this contribution zone as outlined in the finalised Supplementary Guidance was £980 per flat, based on an estimated number of 165 flats with more than one bedroom, and this would result in a total financial contribution of £161,700. 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 £161,700 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.

It is recommended that developer contributions for educational infrastructure should be sought on the basis of the consultation response from Communities and Families and that financial contributions will be sought for Primary School Infrastructure: New 12 Class Primary School of £7420 per flat and Secondary School Infrastructure: Additional places (Leith Academy, Holy Rood RC High School) of £3,262 per flat.

Transport

The application site lies within zone 2 of the tram contribution zone (395m from Constitution Street) Tram Contribution Zone. In terms of transport infrastructure, the applicant will be required to make a financial contribution of £1,129.32 per residential unit, and £118.86 per sqm of class 2, 3 or 4 uses towards tram infrastructure.

Transport actions have been identified from the LDP Action Programme. The estimated housing capacities of the surrounding areas as outlined in the LDP has been used to calculate a cost per unit rate to apply for each action.

In terms of financial contributions towards LDP transport actions the following would be required:

- £848 per residential unit towards the Bernard St/Salamander St Active Travel and Public Realm Project;
- £245 per residential unit towards the Leith Links to Bath Road link; and
- £105 per residential unit towards the Salamander Street to Foot of the Walk Action.

In addition a contribution of £5,500 per car towards the provision of car club vehicles in the area.

Health

The current proposal lies within the Leith Links Healthcare contribution zone. The development would require a financial contribution of £945 per residential unit.

Affordable housing

LDP policy Hou 6 (Affordable Housing) requires residential development consisting of 12 or more units to include provision for affordable housing of 25% of the total number of units proposed.

The applicants confirm that they have engaged with Port of Leith Housing Association (PoLHA). PoLHA have confirmed in principle, their support for the development with regard to being the provider of the affordable housing element if the scheme is delivered for private sale.

The above financial requirements would be secured by s75 legal agreement. The proposal complies with LDP policy Del 1.

Conclusion in relation to the Development Plan

The principle of the development is acceptable and is in accordance with Local Development Plan policy. The site is within the urban area where LDP policy Hou 1 gives priority to the delivery of housing as part of mixed use regeneration proposals at Edinburgh Waterfront. The Edinburgh Local Development Plan identifies the site as part of Ew1b. Residential and commercial uses (classes 2, 3 and 4) are acceptable in principle so long as they comply with the other local plan policies.

The application raises issues of amenity for occupiers including noise, air quality, odour, and lighting. The site is in an area where residential development is acceptable in principle, recent planning approvals have been granted for residential development at nearby sites, and the proposed mitigation measures would reduce the impact of amenity issues of future occupiers. Impacts on amenity of nearby existing property will need to be fully addressed at detailed application submission stage. Improvements have been made to the proposed overall design, however it has not been demonstrated fully that the proposals are an acceptable design solution for this difficult site. The proposal will not comply fully with LDP design and housing policies. A number of planning conditions, including matters reserved for detailed consideration, and a legal agreement would be required to ensure compliance with the local plan policies at the detailed application submission stage.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

Objections have been received from Living Streets Edinburgh Group and one neighbour.

A summary of the representations is provided below:

material comments

These issues have been addressed above.

Objections are raised on the grounds of:

- development should be car free with good access to public transport;
- car parking space numbers are significant;
- the width of the footway on Salamander Street should be increased for safety;
- public transport provision eg bus stops should be enhanced;
- pedestrians must take priority and
- infrastructure in the area is already poor, the development will worsen this.

Conclusion in relation to identified material considerations

The material considerations do not raise any matters which would result in recommending the application for refusal. There are no equalities or human rights issues, detailed matters relating to accessibility can be fully considered at detailed planning application submission stage. The proposal complies with the SPP Sustainability Principles. Therefore, the application should be granted.

Overall conclusion

The principle of the development is acceptable and is in accordance with Local Development Plan policy. The site is within the urban area where LDP policy Hou 1 gives priority to the delivery of housing as part of mixed use regeneration proposals at Edinburgh Waterfront. The Edinburgh Local Development Plan (LDP) identifies the site as being part of EW1b. Within this area residential and commercial uses (classes 2, 3 and 4) are acceptable in principle so long as they comply with the other local plan policies.

The application raises issues of amenity for future occupiers including noise, air quality and odour. However, the site is in an area where residential development is acceptable in principle, and new residential development is under construction at nearby sites. The proposed mitigation measures for future occupiers would reduce negative impacts, however, impacts on amenity of nearby existing property will need to be fully addressed through subsequent applications.

Similarly, the layout, scale, height and density will need to be considered carefully at detailed submission stage, to ensure the character of the area is maintained and enhanced. These detailed design considerations will need to be reserved for full consideration under subsequent applications for matters specified by conditions (AMC). Full details of access arrangements, pedestrian/ cycle connections, the levels of car and cycle parking, landscaping, surface water, sustainability and waste and recycling arrangements will be reserved. In addition, a number of other planning conditions and a legal agreement would be required to ensure compliance with the local plan policies at the detailed application submission stage.

The principle of uses proposed is acceptable, and it is recommended that planning permission in principle can be granted. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following:-

Conditions :-

1. The development to which this planning permission in principle relates must be begun not later than the expiration of five years beginning with the date on which this planning permission in principle is granted. If development has not begun at the expiration of the period mentioned in paragraph, the planning permission in principle lapses.
2. Application for the approval of matters specified in condition must be made before whichever is latest of the following:
 - (i) the expiration of 3 years from the date of the grant of the permission,
 - (ii) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused and

(iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed or, where the earlier application is the subject of a review by the Council's Local Review Body, the expiration of 6 months from the date of the notice of the decision to uphold the determination, and may be made for

- (a) different matters and
- (b) different parts of the development, at different times.

3. Details of all matters listed below shall be submitted for consideration by the Planning Authority in a single package of information, for each phase or phases and the development in question will not begin until the following matters have been approved by the Council as planning authority. The submission shall be in the form of a detailed layout covering points (a) - (n) below.

- (a) a site development layout showing built development, footpath, cycle, and road access and connections, including open space provision, SUDS drainage and landscaping;
- (b) details of the layout, siting, design, form, density, height, tenure, and the number and mix of units, including the design of all external features and materials and appearance of all buildings and glazing specifications (including acoustic capabilities) and ground floor levels in relation to Ordnance Datum;
- (c) the precise location and extent of individual uses to be developed including the number of residential units and any class 2, 3 and 4 uses;
- (d) design and configuration of public realm and open spaces, all external materials and finishes;
- (e) cycle parking in secure undercover locations, motorcycle parking, car parking including city car club parking spaces, disabled spaces and electric charging points and spaces;
- (f) access, road layouts and alignment, including a Stage 2 Quality Audit, classification of streets, servicing areas;
- (g) footpaths, cycle routes and verges;
- (h) waste management and recycling facilities;
- (i) Site investigation/decontamination arrangements;
- (j) surface water and drainage arrangements including management, maintenance, ownership and adoption;
- (k) existing and finished site and ground levels in relation to Ordnance Datum;
- (l) any further noise, fume, odour, dust or light mitigation measures arising from the updated studies, including details, materials and finishes;
- (m) full details of sustainability measures;
- (n) full details of proposed mechanical ventilation system. Mechanical ventilation with ISO coarse glass G3 filters shall serve all required properties and where necessary be served by roof top filtered air;
- (o) details of any cooking ventilation systems for Class 2, 3 and 4 uses and
- (p) full details of the landscape proposals including fully detailed plans of the design and configuration all external materials and hard and soft landscaping details.

This shall include:

- (i) walls, fences, gates and any other boundary treatments;
- (ii) the location of new trees, shrubs and hedges.
- (iii) a schedule of plants to comprise species, plant size and proposed number/density;
- (iv) programme of completion and subsequent maintenance and management of any flooding mitigation measures, SUDS drainage, and open space areas;
- (v) existing and proposed services such as cables, pipelines, substations and
- (vi) other artefacts and structures such as street furniture, including lighting columns and fittings, and play equipment.

The following supporting information shall also form part of any submission:

- 1. an updated Air Quality Impact Assessment including mitigation measures;
 - 2. an updated Ecology Assessment and Bat survey including mitigation measures during construction and operation;
 - 3. an updated Odour and Fume Assessment including mitigation measures;
 - 4. an updated Light Pollution Assessment including mitigation measures;
 - 5. an updated Noise Assessment including mitigation measures;
 - 6. an updated Transport Statement;
 - 7. an updated Design and Access statement, detailing the layout, streets and spaces, accessibility, safety and security, sustainability and energy efficiency;
 - 8. an Affordable Housing Statement setting out how 25% affordable housing will be provided on site including delivery, tenure and location;
 - 9. an updated Landscape and Visual Impact statement detailing the impact on both City and Local views;
 - 10. an updated Flood Risk Assessment of the detailed design including a study of highlighting how the layout, finished floor levels, landscaping and SUDS have been designed in relation to the Flood Risk;
 - 11. an updated drainage and surface water management strategy including site levels and landscaping to ensure it safely managed exceedance surface water flow;
 - 12. details of adoption, management and maintenance of the landscaping, SUDS, open space; and any other flood prevention or drainage measures and
 - 13. an updated waste management strategy.
4. The ground floor commercial premises shall be restricted to (Class 2 (Financial, Professional and other services), Class 3 (Food and drink) (and Class 4 (Business)). For the Class 3 use hereby approved the cooking, heating and reheating operations on the premises shall be restricted to the use of microwaves only unless otherwise agreed by the Planning Authority.
5. i) Prior to the commencement of construction works on site:
- a) A site survey (including intrusive investigation where necessary) must be carried out to establish, 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.
6. Prior to the commencement of development and following consultation with the City's Archaeologist the applicant shall submit and gain approval from the Planning Authority a public archaeological and historic interpretation scheme for the site. In addition, the armorial plaque of the J & J Cunningham Chemical & Manure Factory identified as Site 19 and depicted on plates 6 & 8 in Wardell Armstrong's Heritage Statement, is considered to be of local archaeological importance and must be salvaged and retained.
 7. No demolition, or development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, excavation, analysis, reporting, publication, preservation/conservation, public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
 8. Prior to the occupation of the development, the air quality mitigation measures either as set out below or as set out in an updated Air Quality Assessment as part of the AMC application should be implemented.
The air quality measures include:
 - zero or reduced car parking;
 - funding for city car club spaces;
 - disabled car parking spaces in line with Council standards;
 - a residential travel plan;
 - cycle parking would also be provided secure, under cover and in line with the Council standards.
 - electric vehicle charging provision spaces (1 EV space per 6 spaces provided will be 'actively' powered) and
 - ducting the remainder of any spaces provided (i.e. 'passive' provision) such that future EV charging can be retrofitted as demand dictates.
 9. Areas of living accommodation must be above 5.6m AOD unless otherwise agreed in writing by the Planning Authority. Any area below this level within residential units is to be used for access/egress & storage purposes only.
 10. Notwithstanding the submitted drawings and for the avoidance of doubt, the design proposals and sections submitted as part of the PPP application do not represent an approved scheme and all matters are reserved.

Reasons:-

1. To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure applications for approval of matters specified in condition are made timeously and in accordance with section 41 (1) (c) of the Town and Country Planning (Scotland) Act 1997.

3. In order to enable the planning authority to consider this/these matter/s in detail.
4. In order to protect the amenity of the occupiers of the development.
5. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
6. In order to safeguard the interests of archaeological heritage.
7. In order to safeguard the interests of archaeological heritage.
8. In the interest of air quality management and residential amenity.
9. To reduce risk of residential habitable buildings being flooded at the site.
10. To define the terms of this consent

Informatives

It should be noted that:

1. 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.
2. 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.
3. Notwithstanding the submitted drawings and for the avoidance of doubt, the design proposals and sections submitted as part of the PPP application do not represent an approved scheme and all matters are reserved.
4. Consent shall not be issued until a suitable legal agreement relating to affordable housing, transport, education and health has been concluded and signed. The legal agreement shall include the following:
 - i. Affordable housing - 25% of the total number of residential units shall be developed for affordable housing provision.
 - ii. Transport - the following transport contributions are required:
The application site lies within zone 2 of the Tram Contribution Zone. The applicant will be required to:
 - Make financial contribution in line with the approved Tram Line Developer Contributions report. This would require a contribution of £1,129.32 per residential unit, and £118.86 per sqm of class 2, 3 or 4 uses. The sum to be indexed as appropriate and the use period to be 10 years from date of payment;

- In support of the Council's LTS Cars1 policy, the applicant should contribute £1,500 per order plus £5,500 per car towards the provision of car club vehicles in the area;
- In line with the LDP Action Program and the Supplementary Guidance for Developer Contributions and Infrastructure make a financial contribution towards Bernard St/Salamander St Active Travel and Public Realm Project of £848 per residential unit;
- In line with the LDP Action Program and the Supplementary Guidance on Developer Contributions and Infrastructure make a financial contribution towards the Leith Links to Bath Road link of £245 per residential unit;
- In line with the LDP Action Program and the Supplementary Guidance for Developer Contributions and Infrastructure make a financial contribution towards Salamander St to Foot of the Walk Action of £105 per residential unit.

iii. Education - Additional Primary School Capacity associated with primary school places at equating to a contribution of £7,420 per flat (with more than one bedroom) for primary school infrastructure and £3,262 per flat (with more than one bedroom) for secondary school infrastructure.

iv. Health - £945 per residential unit for Leith Links Healthcare provision.

5. The applicant should note that the following orders are likely to be required:
 - a. A suitable order to redetermine sections of footway and carriageway as necessary for the development;
 - b. A suitable order to introduce waiting and loading restrictions as necessary;
 - c. A suitable order to introduce a 20pmh speed limit within the development, and subsequently install all necessary signs and markings. The successful progression of Orders is subject to statutory consultation and advertisement and cannot be guaranteed;
- All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. The extent of adoptable roads, including footways, footpaths, accesses, cycle tracks, verges and service strips to be agreed. This will include details of lighting, drainage, Sustainable Urban Drainage, materials, structures, layout, car and cycle parking numbers including location, design and specification. Particular attention must be paid to ensuring that refuse collection vehicles are able to service the site. The applicant is recommended to contact the Council's waste management team to agree details;
- The applicant should note that the Council will not accept maintenance responsibility for underground water storage / attenuation;
- A Quality Audit, as set out in Designing Streets, to be submitted prior to the grant of Road Construction Consent;
- The applicant should consider developing a Travel Plan including provision of 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;
- The applicant should note that new road names may be required for the development and this should be discussed with the Council's Street Naming and Numbering Team at an early opportunity and

- Any parking spaces adjacent to the carriageway will normally be expected to form part of any road construction consent. Any such proposed parking spaces cannot be allocated to individual properties, nor can they be the subject of sale or rent. The spaces will form part of the road and as such will be available to all road users. Private enforcement is illegal and only the Council as roads authority has the legal right to control on-street spaces, whether the road has been adopted or not. The developer is expected to make this clear to prospective residents as part of any sale of land or property.
- 6. The applicant is encouraged to interpret the site's archaeological heritage and include this within a detailed design.
- 7. Prior to construction the applicant should confirm that Scottish Water accept the surface water connection to the combined network.
- 8. Roosting bats are considered likely absent from the Site at this time, and so no mitigation measures in regard to roosting bats are considered necessary. However, as bats have been recorded as using the Site for foraging and commuting, should a period of one year lapse between the completion of the 2022 surveys and commencement of development /demolition works, then the surveys should be repeated to ensure the status of bats on Site is unchanged. Artificial lighting can often impact the foraging and commuting behaviour of nocturnal mammals such as bats. As a consequence, it is advised that any lighting should be directed to where it is needed and light spillage (whether direct and/or in-direct) should be avoided, particularly within the vicinity of the northern Site boundary and introduced shrub habitat which lies to the north of the Site. The times during which the lighting is on should be limited to provide some dark periods.
- 9. Flood resistant and resilient measures are recommended to be included in the design and construction on the site to mitigate residual flood risk.
- 10. A dust management plan is recommended to limit and control dust emissions during the construction phase.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 8 March 2021

Drawing Numbers/Scheme

1, 2a

Scheme 3

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Karen Robertson, Senior planning officer
E-mail: karen.robertson@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Leith Links Community Council

COMMENT: How effective was neighbour notification?

Massing and density; design, scale and layout. The buildings will dominate Salamander Street oppressively, blocking out light, and creating a canyon effect. There is not enough green space. An updated place brief is needed for whole area.

Intensification of air pollution. Traffic impact on the local road system.

Impact on local infrastructure.

DATE: 9 November 2021

NAME: Police Scotland

COMMENT: We would welcome the opportunity for one of our Police Architectural Liaison Officers to meet with the architect to discuss Secured by Design principles and crime prevention through environmental design in relation to this development.

DATE: 12 October 2021

NAME: Scottish Environmental Protection Agency

COMMENT: We remove our objection provided that planning condition(s) be attached to the consent to ensure that no living accommodation is to be made of any area below 5.6mAOD and any area below this level within residential units is to be used for access/egress & storage only.

We have no objection on flood risk grounds.

DATE: 6 September 2022

NAME: CEC City Archaeology

COMMENT: It is recommended that an archaeological condition be applied to any granted permission.

DATE: 15 July 2022

NAME: Leith Harbour and Newhaven Community Council

COMMENT: Lack of innovative ideas for proposed 20 minute neighbourhoods for and intergenerational facilities.

Lacking in character as result of block arrangement. Tunnel effect.

Poor air quality. Affordable Housing provision should be 35%.

Car parking still high and accessing a busy road.

Integrated communities that include disabled and elderly needed.

DATE: 4 August 2022

NAME: CEC Economic Development

COMMENT: LDP policy Emp 9 (LDP) requires the development to deliver an element of class 4 space in order to comply with the policy. The provision of class 4 space

aimed at small businesses in this area is desirable given the undersupply of space for small businesses in Edinburgh.

DATE: 6 July 2022

NAME: CEC Waste Management

COMMENT: A Waste Strategy has not been agreed for this site. We would require further input to the points raised below in conjunction with our current instruction for architects and developers guidance to ensure waste and recycling requirements have been fully considered.

DATE: 6 September 2022

NAME: Scottish Water

COMMENT: Scottish Water has no objection to this planning application. The applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following.

Scottish Water has carried out a Capacity review and we can confirm the following:
There is currently sufficient capacity in the GLENCORSE Water Treatment Works to service your development.

There is currently sufficient capacity for a foul only connection in the EDINBURGH Waste Water Treatment works to service your development.

Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only.

DATE:

NAME: Environmental Protection

COMMENT: Environmental Protection recommend the application should be refused. Concerns are in relation to air quality levels, nuisance dust, avoiding producing street canyons on Salamander Street, noise, odours, flood lighting, fumes and contaminated land. The development should be car free to reduce the impact upon the local air quality from road traffic based pollution.

DATE: 12 July 2022

NAME: CEC Flood Planning

COMMENT: Prior to construction (as part of the building warrant process), the applicant should confirm that Scottish Water accept the surface water connection to the combined network.

The applicant must ensure that there is no detriment during the temporary phased condition from the existing or proposed final condition with respect to flooding throughout the construction of the full site.

DATE: 29 September 2022

NAME: Transport

COMMENT: No objections subject to conditions relating to reserved matters including car, cycle, disabled, car club, electric vehicle charging and motorcycle spaces. Parking provision to be to Council standards, including design and layout; the road layout (including carriageways, footways, cycle tracks and verges).

Informatives relating to contributions to the tram, LDP actions and city car club.

Access via steps and external lifts to public spaces is not acceptable.

DATE: 11 November 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: 13 July 2021

NAME: Children and Families

COMMENT: The proposed development is required to make a contribution towards the delivery of a new 12 Class Primary School and providing additional capacity at Leith Academy and Holy Rood RC High School.

New 'per flat' rates set out below will be required to ensure the proposed development makes a proportionate contribution to cover the revised action.

Per unit infrastructure contribution requirement:

Primary Infrastructure: Additional Primary School Capacity- New 12 Class Primary School £7,420 per flat

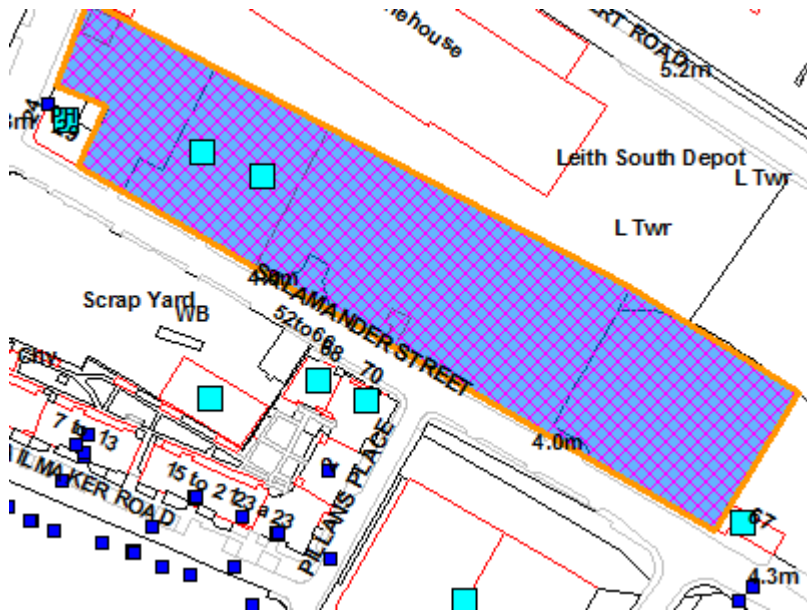
Secondary Infrastructure: Additional Secondary School Capacity - Additional SS places (Leith Academy, Holy Rood RC High School) £3,262 per flat

If the appropriate infrastructure contribution is provided by the developer Communities and Families do not object to the application.

DATE: 9 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 7 December 2022

**Application for Planning Obligation
146 Duddingston Road West, Duddingston, Edinburgh.**

**Proposal: Application under Section 75A for the Modification of
Planning Obligations in relation to affordable housing to provide a
commuted sum (As Amended).**

**Item – Other Item at Committee
Application Number – 22/02723/OBL
Ward – 00 - No Ward Number**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because there are developer contributions with financial contributions over £250,000. 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 **accepted, and the agreement be modified** subject to the details below.

Summary

The proposed commuted sum amount of £19,082 per unit meets the requirements of LDP Policy Hou 6 and the criteria set out in the Affordable Housing Guidance. The majority of the development relates to the conversion of listed buildings which do not lend themselves to onsite affordable housing provision. Housing Management and Development has considered the proposals and are satisfied with the information submitted and is confident that the commuted sum can be used within an agreed timeframe within the ward or an adjacent ward.

The modification to the planning obligation to provide a commuted sum is acceptable and the legal agreement can be modified.

SECTION A – Application Background

The application site is the former Drybrough Brewery, which extends to around 0.8 hectares.

It sits to the west side of Duddingston Road West and to the south side of the South Suburban Railway Line. The area is of mixed use character. Across the railway to the north is a business park. To the west, south and east it is predominantly residential. The site is within walking distance of the Innocent Cycle Path, Duddingston Loch and Holyrood Park. Cairntows Park lies to the south. Further to the south is the Craigmillar/Niddrie local commercial centre.

The wider former brewery complex is now in business, industry and storage use. The former brewery buildings were B listed on 29 November 1988 (ref. 28699). They date from the latter part of the 19th century and include several ranges.

The existing buildings in the brewery complex are as follows:

- The Main Office Building and Tun Rooms are located on a north-south axis and bordering Duddingston Road West. These buildings are listed and are three storey stone built with a pitched slate roof. These buildings are currently in use as offices and retail.
- In the north east corner of the site is the Paddock Block which is a listed building. It is connected to the non listed Stable Block. These are single storey buildings with an attic currently in use as an office. There is currently a gap between the Tun Rooms and the Paddock Block.
- The Blue Bridge is a listed timber structure connected to the Main Office Building and Tun Rooms at upper levels to the Brewhouse. The Blue Bridge was used as a boxing club.
- The Brewhouse is a listed four storey stone structure with pitched slate roof with a high brick chimney. To the east of the Brewhouse is the Wellhouse, part of the original brewery and the Boiler House which is a modern building. These buildings are vacant.
- Parallel with the Brewhouse and the Wellhouse is a range containing the modern, metal clad Fermentation Block and the listed Maltings and the Kiln buildings which are four storey stone buildings with attic and pitched slate roof. These buildings are vacant. The yeast rooms are low, brick built, modern structures on the south elevation of the Fermentation Block.
- The Chimney within the site is also listed.

To the north of the application site is a joiner's yard that is part of the original brewery site but that is outwith the red line that defines the application site.

Description of the Proposal

This application seeks to modify the planning obligation, made under the provisions of section 75 of the Town and Country Planning (Scotland) Act 1997, regarding affordable housing associated with planning permission 20/01340/FUL, which was itself a section 42 application to amend planning permission in principle (PPP) 18/07736/PPP. The original PPP was granted for the redevelopment of site, retaining the existing listed buildings, and converting to residential use and a mix of commercial uses and new build residential.

The application seeks to modify the Affordable Housing section from the Section 75 agreement to remove the onsite affordable housing requirement and provide a commuted sum as an alternative. The commuted sum would be paid in two staggered payments of half on completion of the 32nd residential unit and a further payment of half on completion of the 64th unit. With the payment to then be utilised within ten years.

Supporting Information

- Supporting Statement and
- Financial Appraisal

These are available to view on Planning and Building Standards Online Services.

Relevant Site History

18/07736/PPP

Unit 1 146 Duddingston Road West
Edinburgh
EH16 4AP

Redevelopment of site, retaining existing listed buildings, and converting to residential use whilst retaining current employment uses (classes 1, 4, and 11) but not necessarily in the same location as existing, and introducing a cafe/restaurant, (class 3) and new build residential. (As amended)

Granted

21 February 2020

20/01340/FUL

Unit 1 146 Duddingston Road West
Edinburgh
EH16 4AP

S42 application to amend conditions 1 and 7 of the planning permission in principle to allow greater flexibility with regards to the extent of the residential uses.

Granted

2 October 2020

21/01334/AMC

Unit 1 146 Duddingston Road West

Edinburgh

EH16 4AP

Application to approve matters (a-e) (h-m) (o-r) specified in condition 2 of planning permission in principle 18/07736/PPP as amended by 20/01340/FUL.

Approved

14 February 2022

Other Relevant Site History

None

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Housing Management and Development (Affordable Housing)

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

Publicity and Public Engagement

Date of Neighbour Notification: Not Applicable

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 0

Section B - Assessment

Determining Issues

Section 75A(1)(a) of the Town and Country Planning (Scotland) Act 1997 states - A planning obligation may not be modified or discharged except, by agreement, between the planning authority and a person against whom that obligation is enforceable.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that planning decisions, including the modification or discharge of a section 75 agreement, be made in accordance with the development plan, unless material considerations indicate otherwise.

In determining such an application for the modification or discharge of a planning obligation, the specific provision should be considered against the five policy tests set out in Planning Circular 3/2012. These tests relate to necessity, planning purpose, relationship to the proposed development, relationship to scale and kind and reasonableness.

Assessment

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

a) the modification of the obligation is considered to be acceptable?

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

- LDP Strategy policy Del 1
- LDP Housing policy Hou 6

The non-statutory 'Affordable Housing Guidance (Updated May 2021)' and is a material consideration that is relevant when considering the proposal.

LDP Policy Del 1 (Developer contributions and infrastructure delivery) requires development to contribute to the specified infrastructure provision where relevant and necessary to mitigate any negative additional impact (either on an individual or cumulative basis) and where commensurate to the scale of the proposed development. In order to provide further detail on the approach to implementation of this policy and to provide the basis for future action programmes the policy states that Supplementary Guidance will be prepared to provide guidance on a number of matters including the required infrastructure in relation to specific sites and/or areas.

LDP Policy Hou 6 (Affordable Housing) states planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. For proposals of 20 or more dwellings, the provision should normally be on-site. Whenever practical, the affordable housing should be integrated with the market housing.

The supporting text to the policy states that the provision on an alternative site may be acceptable where the housing proposal is for less than 20 units or if there are exceptional circumstances.

The Affordable Housing Guidance sets out the criteria for when the payment of commuted sums in lieu of on-site provision will be acceptable. All the below should be met:

- There are exceptional reasons to avoid on-site provision, such as the site being poorly located for affordable provision, where conversions do not lend themselves to affordable provision, where it is evidenced to be unviable or unfeasible or where there are other advantages to the Council in accepting a commuted sum such as achieving more, higher quality or better-located affordable units elsewhere; and
- The Council is confident that that the commuted payments can be spent on providing affordable units within the same area of the city within ten years of the payment being made and
- The proposal is for less than 50 dwellings or is for a conversion.

The current section 75 agreement sets out in the Affordable Housing clauses the requirement for 25% of the total unit numbers to be affordable housing units. With various clauses in relation to the tenure, location, design standards and milestones.

Housing Management and Development (Affordable Housing) has reviewed the application. It notes that during the original application, the applicant entered into early dialogue with the Council in relation to the affordable housing contribution. Although the applicant has approached several Registered Social Landlords (RSLs) over a period of several years, it has not been able to agree a way to take forward the affordable housing on-site.

When considering the proposals against the above criteria in the guidance Housing Management and Development considered the reasons for why on-site affordable housing cannot be delivered.

The majority of the development relates to the conversion of listed buildings. Out of the 128 total residential units only 32 units are contained within newbuilds.

The conversion of listed buildings is unlikely to be able to meet accessible housing standards such as Housing for Varying Needs, which is one of the criteria for grant funding for affordable housing. This is also why listed buildings are a noted "reasonable exemption" from providing onsite affordable housing, as set out in national planning guidance; Planning Advice Note 2/2010 Affordable Housing.

Furthermore, the differences in ceiling heights for listed/older buildings and older, less efficient materials they are made of can mean they are unable to meet the required energy efficiency standards, which are also a condition of grant funding. Listed buildings usually have exterior materials and features which are more costly to manage, maintain and insure.

The average build cost of the homes is much higher than a RSL would be able to pay, with a difference of around £50,000 per home.

There are also a number of studio apartments throughout the development. As studio apartments do not receive grant funding, they are not viable for RSLs.

These above factors combine to provide a general acceptance that onsite affordable housing is not feasible, subject to a consideration of the financial implications.

Financial information has been submitted by the applicant. The information on costs has been independently verified. The District Valuer was instructed to calculate the commuted sum using the methodology set out in the Council's Affordable Housing guidance. Their recommendation is:

The development of 128 units should provide for a commuted sum based on 32 affordable units, for a total payment of £610,624 equivalent to £19,082 per unit

There is a substantial forward programme of affordable housing being taken forward across the city. The "Strategic Housing Investment Plan 2022-27", approved by Housing Committee in November 2021, sets out a programme of over 11,000 new affordable homes that could be taken forward over five years. Housing Management and Development is confident that a commuted sum could be used within the allowed timescales to support affordable housing in the same or an adjacent ward, as prescribed in Affordable Housing guidance.

Accordingly, Housing Management and Development support the District Valuers recommendation of a commuted sum totalling £610,624, subject to appropriate wording within the legal agreement. In this instance, and through discussion with the applicant, it is deemed that this would mean two staggered payments of £305,312 on completion of the 32nd residential unit and a further payment of £305,312 on completion of the 64th unit will be acceptable. The Housing Management and Development consultee response sets out recommended wording.

It is concluded that the proposed commuted sum meets the requirements of LDP Policy Hou 6 and the criteria set out in the Affordable Housing Guidance. The majority of the development relates to the conversion of listed buildings which do not lend themselves to on site affordable housing provision. Housing Management and Development has considered the proposals and are satisfied with the information submitted and is confident that the commuted sum can be used within an agreed timeframe within the ward or an adjacent ward.

b) the proposal meets the tests of Circular 3/2012

Scottish Government Circular 3/2012 (updated 18 November 2020) - Planning Obligations and Good Neighbour Agreements

The circular explains that obligations are to be promoted in strict compliance with the five policy tests. These tests relate to necessity; planning purpose; relationship to the development; scale and kind; and reasonableness.

Necessity:

In terms of the 'necessity' test, the planning obligation should be necessary to permit the proposed development. With a financial contribution a planning condition cannot be used.

The proposal seeks to modify an existing legal agreement to change the requirements for affordable housing to use a commuted sum. The use of a planning obligation for this matter continues to be required. The use of an obligation is appropriate, thereby satisfying the 'necessity' test.

Planning purpose:

The Circular states that planning authorities should satisfy themselves that an obligation is related to the use and development of land. This judgement should be rooted primarily in the development plan.

LDP Policy Hou 6 (Affordable Housing) sets out the parameters for assessing and requiring affordable housing whilst noting that provision should normally be on-site. The Affordable Housing Guidance provides further information on using the policy, including the circumstances for when a commuted sum will be acceptable. This test is met.

Relationship to the proposed development:

Planning obligations must relate to the development being proposed. There should be a clear link between the development and any mitigation offered as part of the developer's contribution.

The information provided justifies a commuted sum in this instance and relates to the specific details of the development.

Scale and kind:

In terms of the 'scale and kind' test, the Circular states that the planning obligation must be related in scale and kind to the proposed development.

The requirement for 25% affordable houses as part of the original application was acceptable in scale and kind and met the requirements of LDP Policy Hou 6.

The Circular does state that entering into an obligation can have financial consequences for developers and may make proposals uneconomic.

In this circumstance, the modification to provide a commuted sum in lieu of onsite affordable housing provision meets the scale and kind test as it is tailored to this specific development that seeks to convert a number of listed buildings on the site.

Reasonableness:

In terms of the 'reasonableness' test, the Circular provides a number of questions of which a negative answer to anyone would generally render a planning obligation inappropriate.

- (i) is an obligation, as opposed to conditions, necessary to enable a development to go ahead?
- (ii) in the case of financial payments, will these contribute to the cost of providing necessary facilities required as a consequence of or in connection with the development in the near future?
- (iii) is the requirement in the obligation so directly related to the regulation of the proposed development that it should not be permitted without it?
- (iv) will the obligation mitigate the loss of, or the impact upon, any amenity or resource present on the site prior to the development?

Taking these questions in turn:

- i) Yes, the obligation cannot be secure through a condition.
- ii) Yes, the commuted sum would be utilised elsewhere in the area.
- iii) Yes, an obligation is required, or it fails the policy requirement for affordable housing.
- iv) Residential led mixed use development that converts a number of former industrial buildings. Affordable housing is required by the LDP.

The affordable housing policy is well established and in assessing the supporting information for the proposed commuted sum it is reasonable to take this approach.

The tests of the circular are met.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

None received.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

Overall conclusion

The proposed commuted sum amount of £19,082 per unit meets the requirements of LDP Policy Hou 6 and the criteria set out in the Affordable Housing Guidance. The majority of the development relates to the conversion of listed buildings which do not lend themselves to onsite affordable housing provision. Housing Management and Development has considered the proposals and are satisfied with the information submitted and is confident that the commuted sum can be used within an agreed timeframe within the ward or an adjacent ward.

The modification to the planning obligation to provide a commuted sum is acceptable and the legal agreement can be modified.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following: -

Informatives

It should be noted that:

1. Please submit an engrossed Discharge or Minute of Variation (as appropriate) in accordance with the terms of this Decision Notice for execution and registration by the City of Edinburgh Council along with the required registration forms and registration fee. Submissions should be sent to The City of Edinburgh Council, Legal Services, 4 East Market Street, Edinburgh, EH8 8BG.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 20 May 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Kenneth Bowes, Senior Planning officer
E-mail: kenneth.bowes@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Housing Management and Development (Affordable Housing)

COMMENT: The applicant seeks a variation to the Section 75 Legal Agreement to allow a commuted sum payment as the affordable housing contribution. This approach can be supported for the following reasons:

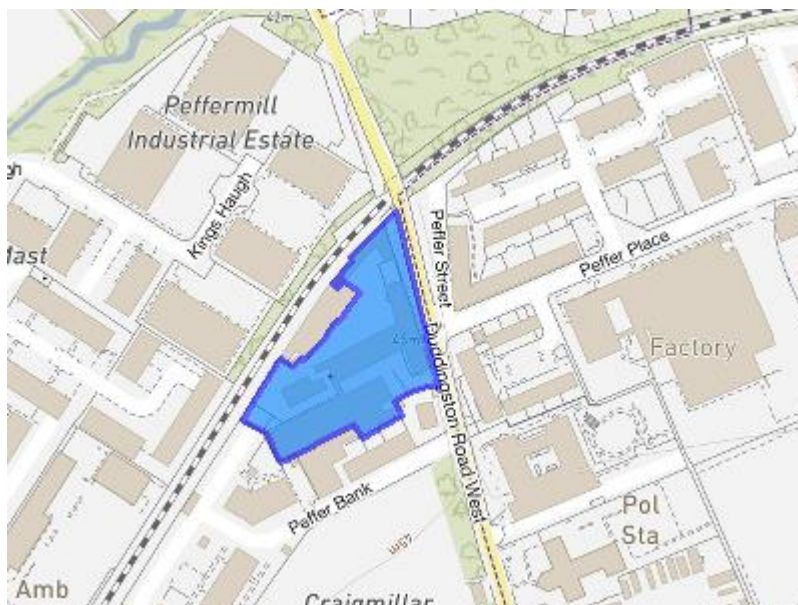
1. The development includes conversion of listed building.
2. Onsite affordable housing delivery is not viable due to high construction costs, and the inclusion of studio apartments which are not viable for RSLs.
3. The applicant has engaged in an open book assessment, and costings have been independently verified.
4. The District Valuer has provided a commuted sum value, calculated using the methodology set out in the Council's Affordable Housing Guidance.
5. With a strong programme of affordable housing being delivered across Edinburgh, Committee can be confident that the commuted sum could be used to support affordable housing delivery in the same or an adjacent ward.

We support the District Valuers recommendation of a commuted sum totalling £610,624. If Committee is minded to grant this change, we request that Section 3 of the legal agreement is replaced with text set out in Section 2.1 of this consultation response ("2.1 Revised Section 3 of the Section 75 Agreement") and that the relevant definitions are also updated/included.

DATE: 14 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 7 December 2022

Application for Planning Permission

Site east of 94 Nicolson Street, Davie Street , Edinburgh.

Proposal: Partial demolition of the existing retail store and construction of flatted dwellings and associated infrastructure.

Item – Committee Decision

Application Number – 22/01355/FUL

Ward – B15 - Southside/Newington

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee due to minor infringements with local development plan policy and guidance. 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

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in that it will preserve the setting and features of nearby listed buildings and not adversely impact on the character or appearance of the conservation area.

Overall, the development is in accordance with the development plan. The development provides high density housing on a city centre site and will have a positive impact on the character of Davie Street by providing a well-designed in-fill development which responds positively to the character of the surrounding area. 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.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

There are no material considerations which outweigh the proposals accordance with the Development Plan.

SECTION A – Application Background

Site Description

The site measures 0.17 ha and has a frontage onto Davie Street, to the east of Nicolson Street and the south of West Richmond Street.

The development site is currently occupied by a 6m high single storey building which is in operation as the back of house for a Tesco retail store. This building forms an extension to the retail store which fronts onto Nicolson Street, occupying the ground floor of an existing four storey tenement building. The extent of the site therefore comprises the interior of the perimeter block and frontage onto Davie Street, infilled at ground floor level by the existing retail use.

The properties situated above the retail store onto Nicolson Street are not included within the red line boundary for the planning application.

The single storey building on the site is a finished with an off white render and a single ply white roof. It has a gross floor area of 1638 sq m and contains an enclosed loading bay onto Davie Street, which provides service access to the retail store. The building elevation onto Davie Street is currently a single storey blank façade with a roller shutter access door providing delivery truck access to the internal loading bay which is positioned within the building.

The site is bound to the north by an area of car parking in the centre of the five storey perimeter block and to the south by a two storey mews style building tenement building facing south onto Gibbs Entry, and a four storey tenement building with an internal rear garden facing east onto Simon Square. The Category B listed former Heriot's school building now converted for residential use is located directly opposite the site on Davie Street.

The site and surrounding area has a mixed urban character with dense development form and active frontages onto the main thoroughfares of Nicolson Street and in part on West Richmond Street, with predominantly residential uses located in the secondary streets such as Davie Street, Simon Square and Howden Street.

There are a number of listed buildings located within proximity of the site as follows;

- Apostolic Church, Davie Street and West Richmond Street - Category B listed, 12 December 1974 (reference LB 30009);
- 6 Davie Street, former Heriot's School - Category B listed, 19 July 2001, (reference LB28083);
- 7-15a West Richmond Street and 1-9 Davie Street Category B listed, 12 December 1974 (reference LB29628);
- 78 Nicolson Street and 1-5 West Richmond Street - Category B listed, 12 December 1974 (reference LB29420);
- 80-84 Nicolson Street - Category B listed, 12 December 1974 (reference LB29421);

- 86 - 90 Nicolson Street - Category B listed, 12 December 1974 (reference LB29422)
- 100 - 102 Nicolson Street - Category B listed, 12 December 1974 (reference LB29424);
- 104 Nicolson Street - Category B listed, 12 December 1974 (reference LB29425);
- 106 - 108 Nicolson Street - Category B listed, 12 December 1974 (reference LB29426);
- 110 - 122 Nicolson Street - Category B listed, 12 December 1974 (reference LB29427).

The site is located within the South Side Conservation Area.

Description of the Proposal

The proposal is for the partial demolition and redevelopment of the retail unit at ground floor level and development above of a five storey building which will be utilised as build to rent (BTR) residential accommodation. The redeveloped ground floor will be reinstated for retail back-of-shop use and five storeys of development above (including at roof level) will accommodate 32 flatted dwellings. The retail store delivery bay at ground level will be integrated into the scheme by introducing a new stone façade to match the development above.

The building will follow the established building line along Davie Street on its principal elevation, fronting directly onto the street. To the rear, the elevation is stepped, following a similar pattern to buildings on the opposite side of the block.

Principal access to the residential dwellings will be via a main entrance onto Davie Street. A roller shutter service access door will be reinstated onto the Davie Street frontage to allow for delivery vehicle access into the rear of the retail unit as per the existing servicing arrangement.

The principal elevation to Davie Street will be finished primarily with blonde sandstone, with buff brick integrated around the set back entrance way. A tenemental style fenestration pattern is proposed. The stonework on the delivery bay façade will include recesses in the elevation and the introduction of louvres at ground and first floor level in order to articulate the frontage and integrate this section of the elevation with the fenestration pattern above.

The rear elevation to the courtyard area will be finished with an orange/ pink traditional harling. Window detailing will include off-white pre-cast window surrounds and light bronze window frames and balconies. The building will have a double pitched roof design, which will be finished with bronze metal cladding.

A housing mix of seven studio units, 22 one-bedroom apartments and three three-bed apartments is proposed.

The development includes 25% affordable housing which will be provided on site. The affordable housing strategy has been revised during the application assessment period with the scheme initially proposing an off-site financial contribution approach to affordable housing.

The revised scheme proposes on-site provision which will include eight affordable housing units (25% of total housing provision) which will comprise seven one-bedroom apartments and one three-bedroom apartment. These will be delivered as intermediate rent affordable properties.

Terraced open space will be provided on the rear (west) and gable (south) elevations of the building at first and fourth floor levels. This will comprise a mix of private garden terraces for five properties at first floor level and an area of communal terraced space at fifth floor level for the remaining properties. 166 sq. m of communal open space is proposed (9.8% of the total site area). The terraces will include patio space, areas of lawn and raised planting beds. Lighting will be integrated into the terraced gardens.

The building fronts directly onto Davie Street and improvements are proposed to the existing public realm along the Davie Street frontage.

The building is accessed via a set of double doors which will be level to Davie Street. A lift is provided which includes access to upper floors and all levels of mobility have access to each flat and each garden, including the communal terrace garden. The flats are all on a single level and are designed in accordance with Scottish Building Regulations to ensure that they provide the necessary manoeuvring space for all users.

Zero vehicular parking is proposed on the site. 60 cycle parking spaces are proposed which will be located at ground floor level with access via the main entrance. These are all single storey design to avoid the requirement for users to lift cycles into place. The cycle parking includes space for non-standard bikes at the end of each run of parking and electric charging points for e-bikes.

A refuse store is provided at ground floor level with dedicated level access provided directly into the storage area.

An air source heating system is proposed to provide residents with heating and hot water. This will be located on the fifth floor adjacent to the communal roof terrace.

Supporting Information

- Design and Access Statement
- Townscape and Visual Impact Assessment
- Affordable Housing Statement (as amended)
- Noise Impact Assessment (as amended)
- Landscape Strategy
- Drainage Assessment
- Preliminary Ecological Appraisal and Bat Survey
- Transport Statement
- S1 Sustainability Form
- Open Space Audit

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Transport

Environmental Protection

Archaeology

Flooding

Waste

Communities and Families

Scottish Water

Southside Community Council

Affordable Housing

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

Publicity and Public Engagement

Date of Neighbour Notification: 2 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 8 April 2022;

Site Notices Date(s): 5 April 2022;

Number of Contributors: 2

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 character or appearance of the conservation area?

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

Managing Change - Setting

Listed Buildings 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 perimeter block within which the proposed development would be located comprises a number of listed buildings. There are further listed buildings located directly across the street from the proposed development site at the former Apostolic Church on the corner of Davie Street and West Richmond Street (Category B listed) and 6 Davie Street (former Heriot's School - Category B listed).

The site forms part of a perimeter block which is characterised by tenement building form. The proposed development will replace an incongruous single storey building frontage with a replacement tenement frontage, which is in keeping with the historic building pattern.

The height, form and massing of the proposed development is appropriate to this setting and does not impact adversely on the character of the nearby listed properties. The architectural detailing of the building's elevations has been kept fairly simple in their appearance and respond positively to the surrounding built form.

The choice of external materials and detailed architectural features of the building are appropriate to the site's context and reflect the heritage character of the local area. Where more contemporary materials have been introduced, such as the bronze roof panel and dormer features, these are integrated into a dual pitch roof, which is a feature found in the adjacent Category B listed tenement block at 1-9 Davie Street. On balance, the introduction of contemporary features alongside the traditional building form and largely traditional palette is considered to be acceptable in this location and are not considered to detract from the setting of the nearby listed buildings.

Conclusion in relation to the listed buildings

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.

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 site is located within the South Side Conservation Area. The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

The site is set within a perimeter block which is largely characteristic of the wider conservation area on its western and northern elevations, with retail units positioned under residential tenements along the Nicolson Street and West Richmond Street frontages of the block. Davie Street occupies a secondary street position with the block, and historically, the site's frontage onto Davie Street was a full height residential tenement block, which provided a strong tenemental frontage along the street. This was subsequently demolished during the 20th century and the supermarket development across the interior of the perimeter block was developed in the early 1980s.

The historic demolition of urban form in Davie Street means that currently the Davie Street frontage of the perimeter block has a mixed character, with a traditional tenement block on the corner of Davie Street and West Richmond Street positioned next to the single storey blank elevation of the retail service bay. There are also modern tenement blocks positioned at Simon Square, to the west of the site.

Opposite the site, the former Heriot's School building and Life Church sit as standalone features on the streetscape.

The infill of the interior of the perimeter block is relatively atypical of the conservation area, and in this instance the single storage frontage onto Davie Street does not make a positive contribution to the surrounding streetscape. The proposed development will significantly improve the quality of this ground floor elevation through the introduction of traditional materials and appropriate detailing in the form of recesses and louvres at ground and first floor levels. The addition of a new entrance to the flatted block will also activate this frontage by providing a new entrance to the building for residents. The retained service access bay is integrated into the building in a sensitive manner, with detailed stonework to echo the proposed fenestration pattern of the building.

The proposed scale and massing of the building allows the existing eaves line to the Davie Street frontage to be continued on from the adjacent building at 1-9 Davie Street which provides a consistency between the building and adjacent built form. The building steps down into the rear of the site, and whilst it sits deeper into the block than the adjacent building, this is offset by the already compromised interior of the block which is fully occupied by the retail unit at ground floor level.

The palette of materials proposed for the scheme is predominantly traditional in appearance and sensitive to the character of the conservation area. The mix of buff stone to the principal elevation and traditional peach/ pink harling to the rear is characteristic of the conservation area and is appropriate. The introduction of buff brick detailing around the main entrance way and bronze roof cladding, whilst not traditional to the character of the conservation area is considered acceptable given that this provides definition and interest to the entrance and roofscape and sits within a context of mixed building materials along Davie Street.

The applicant has undertaken a Townscape and Visual Impact Assessment which considers the impacts of the development on the character of the South Side Conservation Area. This concludes that the development will have a moderate/ minor adverse and not significant impact during the construction period, and a moderate/ minor beneficial and not significant impact during operation. The findings of this assessment are considered to be acceptable.

Conclusion in relation to the conservation area

The scale, massing and detailing of the proposed development is considered to improve the appearance from the existing building and make a positive contribution to the character of the conservation area and complies with Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) 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 Environment policy Env 6
- LDP Environment policy Env 3
- LDP Housing policies Hou 1, Hou 2, Hou 3, Hou 4, Hou 6
- LDP Design policies Des 1, Des 3, Des 4, Des 5, Des 6, Des 7 and Des 8

- LDP Transport Policies Tra 2, Tra 3, Tra 4
- LDP Environment policies Env 9, Env 16, Env 21, Env 22

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 of Development

The site lies within the urban area of the adopted Edinburgh Local Development Plan where policy Hou 1 Housing Development states that priority will be given to the delivery of the housing land supply and relevant infrastructure providing proposals are compatible with other policies in the plan. It is in a sustainable location with excellent accessibility to local amenities and public transport.

The proposal is for a build to rent (BTR) scheme which is considered a mainstream housing form therefore all relevant LDP policies and guidance apply, including those relating to design, housing mix, transport, amenity and open space. The principle of housing in this location is therefore acceptable providing other policy criteria can be met.

Listed Buildings

The impact on neighbouring listed buildings has been assessed in section (a) above and complies with LDP Policy Env 3.

Character and appearance of the conservation area

This has been assessed in section (a) above and the proposals comply with LDP Policy Env 6.

Design context, height, scale and materials

Context

LDP Design Policies Des 1 to 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.

LDP Policy Des 1 supports new development whose design contributes towards a sense of place and picks up on the positive characteristics of the area. Davie Street is a secondary street in the hierarchy of the local area and the surrounding built environment is densely developed and urban in character with a mix of building materials, styles and quality. Historically the site had been occupied by a tenement building, prior to its redevelopment during the 20th Century.

The site at present is occupied by a single storey utilitarian commercial building which does not make a positive contribution to the appearance of the street. The proposed building will replace this with a tenemental style building which reinstates the traditional built form of Davie Street. This will repair the urban fabric on Davie Street, in a form which is appropriate to the surrounding context.

The development will create a strong frontage onto Davie Street and reinstates a building height which is reflective of the original tenemental form of the perimeter block and provides an improved scale from the existing single storey servicing bay.

The positioning of the building directly onto the street frontage provides a clear separation between built form and public realm. The re-introduction of residential use to the site will encourage a greater level of activity at street level and will provide an opportunity for additional natural surveillance of the street. The applicant will seek to ensure a Secure by Design rating for the development.

Height, scale and massing

LDP Policy Des 4 seeks to ensure that new development is compatible in terms of height and form in addition to scale and proportions. Building heights in the local area are largely between four and six storeys in height, albeit with some lower level built form included in the mix.

The proposed development will repair the urban fabric by introducing a tenemental form albeit at the upper end of contextual heights at six storeys. This is considered to be appropriate to the local context, given the dense pattern of development that is prevalent in this part of the city.

The proposed double pitch roof detailing is present in surrounding built form and is appropriate. The incorporation of accommodation in the roof space at fifth floor level using contemporary dormer detailing allows for further density to be achieved on the site and provides an appropriate fit in relation to overall height and scale of the built form.

The massing of the building extends further into the site than the adjacent buildings on Davie Street. It is noted that the ground floor of the site and therefore the perimeter block is already infilled by the ground floor retail use, and this infill of ground floor level will be redeveloped and retained as part of the proposed scheme. There is a nearby example of residential development within the perimeter block at Haddon's Court to the south of the site which has been accommodated effectively into the urban form.

The proposed depth of the building's footprint enables the development to incorporate terraced open space to the rear which will provide amenity value to new residents which would otherwise be difficult to provide due to the constrained infill nature of the site. Sunlight and daylight assessments have been included which demonstrate that the impact of the building form in this regard will be acceptable to surrounding properties.

To the rear, the building form steps down, which reduces the mass of the building on this elevation. It is considered that the overall scale of the perimeter block is sufficient to accommodate the depth of the proposed building.

Materials and detailing

Davie Street is a secondary route in the urban street hierarchy. There are a mix of building materials on the street frontage at present, including traditional stone, painted stone, render and brick. The existing blank render frontage of this site does not make a positive contribution to the overall appearance of the street.

The principal elevation of the building will be finished predominantly with natural buff coloured sandstone and the building will largely read as a stone building on the street frontage. This will provide an improved setting for the nearby listed buildings and will enhance the overall appearance of the street.

The entrance to the building is recessed and finished with a projecting brick detailing. The brick will be in a similar buff tone to the sandstone and will be located around the entranceway only. This brickwork adds an element of interest to the elevation and helps to define the entrance within the building frontage, improving its legibility to users.

The addition of recess and louvre detailing to the frontage of the service delivery bay helps to integrate this functional part of the building frontage effectively with the active entrance way and window pattern on the storeys above. This introduction of activity at ground level and an improved architectural detailing will significantly improve the appearance of the street frontage from the existing blank render elevation. It is considered to be a significant improvement on the existing plain rendered frontage and has a positive impact on the character of the street.

A simple window pattern is proposed for the principal elevation which provides a good balance between solid and void and sits comfortably with the existing tenemental forms which flank the site. Three rows of windows will include projecting pre-cast jambs around the windows which provides a subtle variation in the frontage and reflects the character of the adjacent tenement building at 1-9 Davie Street to the north.

The rear elevation of the proposed building is stepped with two angled faces and is finished with an orange/ pink traditional harling. There are a variety of window sizes, material finishes and colours within the existing elevations of the rear courtyard of the elevation within the perimeter block and the proposed development will make a positive contribution to the appearance of the internal elevations. Simple window detailing will be provided on this elevation which is characteristic of the rear elevations within the surrounding block.

The bronze panelling on the roof and dormers at fifth floor level introduces a contemporary material into the building's appearance. These materials have been used alongside a traditional double pitched roof which is characteristic of the area. There is a mixture of building materials present along Davie Street and on balance the introduction of this material is considered to add visual interest to the overall appearance of the building and is acceptable.

Overall, the mix of materials used provides a well-balanced appearance which is relates successfully with the adjacent tenemental properties and provides an improved level of visual coherence along the street frontage. A condition will be added to the consent to ensure that materials are approved prior to construction on site.

The proposals comply with the Local Development Plan and are acceptable.

Residential Amenity

Existing residents

LDP Policy Des 5 Amenity seeks to ensure that new development meets the needs of the users and occupiers, with consideration given to impacts on neighbouring properties to ensure no unreasonable noise impact or loss of daylight, sunlight or privacy.

Daylight, sunlight, privacy and outlook

The impact of the development on daylight and sunlight availability to the neighbouring properties, as well as the quality of daylight and sunlight to the proposed development, have been assessed against the Edinburgh Design Guidance.

The applicant has provided an assessment of the impact of development on daylight to neighbouring properties using a Vertical Sky Component (VSC) Assessment. The VSC assessment identifies that four windows situated on the gable of 1 Simon Square will be adversely impacted by the development, however as these windows are positioned on the gable, the Edinburgh Design Guidance notes that these are not generally protected. No other windows to existing properties will be affected. The impact is therefore considered to be acceptable.

New occupiers

Daylight, sunlight, privacy and outlook

The applicant has undertaken a no-skyline assessment to assess daylight into the apartment windows. This identifies that 97% of windows will receive an acceptable amount of daylight. Two rooms fail to meet the acceptable threshold, however these are both bedrooms which are positioned on the gable elevation of the building. On balance, given the relatively constrained nature of the development on an infill site in a densely developed perimeter block, this non-compliance is considered to be minor and acceptable.

Open space on site is provided in a shared rooftop terrace at fifth floor level and five private terrace areas at first floor level. A sunlight assessment has been provided which identifies that the communal terrace and four of the five private terrace areas will receive in excess of the recommended amount of sunlight (i.e., 50% of open space will receive two hours of sunlight on the 21st March). The remaining private terrace area marginally fails to meet the required level of sunlight (achieving 45% of open space to receive two hours of sunlight). This is a minor infringement of the guidance and is considered to be acceptable in this instance.

With regard to privacy and outlook, the Edinburgh Design Guidance states that the pattern of development in an area will help to define appropriate distances between buildings and privacy distances. The site is in a densely developed area of the city where closer proximity between buildings is part of the urban fabric. It is considered that the positioning of the building is appropriate in this context.

The Edinburgh Design Guidance expects 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. 53% of the proposed apartment will be dual aspect which meets this criterion and is acceptable.

Size and mix of accommodation

The development proposes three apartments which are three-bedroom in size, 22 one-bedroom apartments and seven studio apartments. This falls short of the recommendations as set out in the Edinburgh Design Guidance for the provision of family accommodation, with 9% of the housing provision meeting this threshold.

The applicant has noted that there is a prevalence of student accommodation in both purpose built and private rental markets in the local area. This is identified in the Student Housing Guidance 2016 and is due to the area's proximity to Edinburgh University campus buildings.

The proposed development is a Build to Rent (BTR) scheme, which seeks to deliver housing that target the general rental market. Policy Hou 2 of the LDP notes that regard must be had to the character of the surrounding area and its accessibility in relation to determining an acceptable housing mix. The built-up character of the area and city centre location of the site is well suited to young professionals and couples, whom the applicant has identified as the intended market for this development. The proposed housing mix has therefore been designed to provide rental accommodation at a targeted unit size for this sector of the community.

The aspiration to encourage this sector of the rental market into the local area is not considered to be at odds with the current characteristics of the area, and the addition of mainstream rental properties provides an opportunity to further diversify the overall community mix in an area which is known to have a high proportion of students.

It is also noted that the application site is brownfield in nature and provides a windfall opportunity to provide residential development in a sustainable location within the city. Whilst it is recognised that the scheme does not meet the standards set out in the Edinburgh Design Guidance in relation to family housing provision, it is noted that the proposed development is relatively small in scale, providing 32 apartments in total in a densely populated area of the city which already offers a mix of accommodation type, size and tenure options for residents. Were the applicant to provide a full 20% provision of three bedroom apartments, only a further three apartments of this size would be created. This is considered to be a minor shortfall when considered in this context.

On balance, given the mixed residential character of the surrounding area, targeted mainstream rental market of the scheme, the site's sustainable location and modest scale of proposed development, it is considered that the approach set out provides a reasonable opportunity to provide private rented accommodation with a view to contributing to a balanced community. This shortfall is considered to be acceptable in this context.

Noise

Planning Advice Note on Noise (PAN 1/2011) promotes a pragmatic approach to the location of new development within the vicinity of existing noise generating uses.

The development proposal for this site seeks to combine redevelopment of the site for residential use alongside a valued existing service delivery bay which serves the existing Tesco supermarket at 94 Nicolson Street. Careful consideration has been given to the relationship between these two uses. The applicant has provided a Noise Impact Assessment (NIA) which considers the impact of the existing noise sources on the amenity of existing and future residents. The NIA identifies that the key sources of noise for consideration are the existing delivery bay and supermarket operational noise (loading/ vehicle movement etc) and existing road traffic noise from Davie Street/ Simon Square.

The NIA provides an assessment of the noise levels generated from the above noted sources and sets out a mitigation strategy based around a proposal for the new delivery bay. The newly constructed delivery bay will be completely enclosed and ventilated with two open louvres located at ground floor level. The noise mitigation strategy requires the installation of several components including an acoustically rated roller shutter door and an appropriate specification of the open-air louvres. It also assumes that a closed window with mechanical ventilation with heat recovery (MVHR) system will be utilised to mitigate noise to residents in the flats above the service delivery bay.

Environmental Protection has reviewed the NIA submitted by the applicant and has objected to this application on the basis that the new residential properties located above the refurbished service delivery bay would be adversely impacted by ongoing retail servicing operations. Of particular concern is noise generated by delivery vehicles lining up to reverse into the loading bay in the context of their proximity to the proposed apartments, noise from unloading product cages from vehicles and low level vibrations from engine rumble. Noise from roof top air source heat pumps and refrigeration plant for the existing supermarket will also require to be mitigated.

In terms of the considerations of Policy Des 5 (Amenity), Planning is required to consider whether or not a development will result in existing or new residents being adversely affected by noise. It is noted that the existing service delivery bay is located within close proximity of the residential properties at 1-3 Simon Square at present. Vehicles will currently line up in front of the properties at ground and first floor level in order to reverse into the loading bay. There is no record of any noise complaints from residents of these properties in relation to the existing service vehicle arrangement.

The new service delivery bay will provide an improved acoustic position insofar as it will be fully enclosed during loading/ unloading periods and will integrate mitigation measures into its construction which will seek to minimise noise impact. It is also noted that the noise from supermarket loading is already part of the established noise climate in the local area, and one contributing factor in an otherwise busy city location which is also subject to noise generated from on-street traffic exacerbated by the cobbled nature of Davie Street and Simon Square. The impact of the development is therefore not considered to impact adversely on existing residents.

In relation to new residents, from a planning perspective it is recognised that the retention of the service delivery bay underneath the proposed residential properties provides a challenging position with regards to noise matters. On balance, it is considered that the applicant has set out a noise mitigation strategy which seeks to deliver the best possible solution for this location which can allow the ground floor retail premises to continue to benefit from its internal service delivery bay, whilst also providing a high quality residential development on a brownfield site. In this regard, the development will contribute to the Council's sustainable housing objectives and have a positive impact on the character and appearance of Davie Street, whilst supporting ongoing commercial operations on the site.

Environmental Protection does not support the application on the principle of noise concerns, however, has noted that should the application be granted permission, all noise mitigation measures set out in the supporting NIA should be installed and operational prior to occupation of the development. Furthermore, they have noted that supermarket deliveries should be restricted to daytime only.

It is noted that at present, the existing arrangement for deliveries to the supermarket service bay is for these to take place between the hours of 0700 hours and 2000 hours. Planning Enforcement does not encourage the use of time-limiting conditions for deliveries; therefore it is not proposed to implement a condition on these hours, however it is understood from the applicant that there is an expectation that this pattern of delivery activity will continue in the future.

Recommended conditions in relation to noise mitigation measures are attached to this report.

Open space provision and landscape details

The development site has a somewhat compromised context in relation to the provision of open space, given that it comprises residential development on the upper floors of an existing commercial ground floor use that covers the entirety of the site's red line boundary. This arrangement places a considerable constraint on the opportunity for development on the site to provide usable green space, whilst achieving an appropriate development density for a city centre location.

Open space is therefore provided in the form of roof terraces. This will include 122 sq. m of private open space, split to provide private terrace access for five of the apartments at first floor level, and an area of 166 sq. m (9.8% of the total site area) of communal terrace space, to be located on the fifth floor of the building. These terraces will be south/ southwest facing.

The overall usable green space provision on the site is therefore less than the 20% provision expected by policy Hou 3 of the local development plan. Policy Hou 3 notes that it expects most housing development to meet these greenspace requirements unless justification can be provided to the contrary. In addition, it notes that a proposal that does not meet the full requirements of policy Hou 3 on-site may be supported if appropriate provision or financial contribution is made to implement an identified action in the Open Space Strategy which will address a deficit in the local area.

Given the shortfall of on-site usable green space provision, the applicant has undertaken an Open Space Audit to assess the proximity of the site to existing good quality open spaces in the local area.

The Edinburgh Design Guidance and Open Space Strategy 2021 require the following criteria to be met in relation to green space accessibility for new developments.

- 1. All homes should be within 400 metres walking distance (equivalent to a five minute walk) of a 'good' quality, accessible greenspace of at least 500 square metres.*

The application site is located in close proximity to Nicolson Square (235m distance) and St Patrick's Square (288m distance) and therefore meets this requirement.

- 2. All homes should be within 800m walking distance of a good quality accessible greenspace of at least two hectares.*

The application site is located 662m from the Meadows, successfully meeting this requirement.

- 3. Houses and flats should have access to at least one of the following:-*
 - space of good play value within 800m walking distance;*
 - play space of very good play value within 1200m walking distance; and*
 - play space of excellent play value within 2000m direct distance.*

The Meadows includes a play space rated "excellent" and the application site is located well within the recommended threshold to meet this requirement.

The supporting Open Space Audit demonstrates that the site meets all of the criteria as set out above. It is noted that there are no identified green space actions relating to the open spaces in close proximity of the development site, therefore a financial contribution to offset the shortfall in green space provision would not be appropriate in this instance.

On balance, it is considered that the applicant has provided a reasonable and acceptable assessment of open space accessibility in the local area. Whilst the site itself does not achieve the recommended amount of open space provision, it is recognised that there are significant constraints which restrict the opportunity for on-site provision, that a reasonable effort has been made to provide open space within these constraints and that the site is well located for access to a range of existing good quality open space resources nearby. The benefit of providing residential development on a brownfield site in a sustainable location should be also noted in this regard. The open space provision is therefore considered to be acceptable in this instance.

Parking, road safety and infrastructure

Policy Tra 1 of the LDP aims to reduce travel demand and encourages accessibility to major development by modes alternative to the car. The site is located around 100m from the closest bus stop on Nicolson Street, which is a major public transport artery providing regular bus services.

There are several other bus routes within close proximity of the site and Waverley train station is located around 1km north of the site.

Zero car parking is proposed for the development. 60 cycle parking spaces will be provided in single tier storage, which is accessed via the main building entrance onto Davie Street. The cycle parking will include spaces for non-standard bikes and e-bike charging points. The proposed cycle parking arrangement has been reviewed by Transport and is considered to be acceptable.

The building has level access via the main entrance onto Davie Street. All flats are fully accessible, and an elevator is provided to allow access to all upper floors of the building.

The proposal complies with the transport policies of the Local Development Plan and is acceptable.

Archaeological remains

Policy Env 9 of the local development plan seeks to protect sites of archaeological significance. The City Archaeologist has advised that the site is located within an area of archaeological potential and therefore must be considered in the context of Scottish Government's heritage policy and guidance. On this basis, it is therefore recommended that a programme of archaeological work be carried out during demolition and prior to development to ensure that appropriate care is taken of any potential archaeological assets. A condition to this effect is attached to this report.

Protected species

LDP Policy Env 16 states that development will not be supported where it may impact on species protected by European or UK law unless mitigating circumstances are met. The site is existing developed land with little opportunity for habitat. The applicant has provided a Preliminary Ecological and Bat Assessment to support the application. This did not identify any evidence of bats dwelling within the site. The application complies with LDP Policy Env 16 and is acceptable in this regard. Further recommendations from the ecological report in relation to work during the nesting birds' season are set out as an informative attached to this report.

Affordable housing provision

LDP policy Hou 6 sets out the requirement for the provision of 25% affordable housing to be provided within new developments of this scale. The affordable housing provision for the development will comprise eight units, which will be split across seven one-bedroom apartment and one three-bedroom apartment. During the application assessment period the applicant has revised their scheme from an initial proposal to provide a commuted sum for off-site affordable housing to a proposal for on-site affordable housing provision.

Affordable housing on site will be provided via the non-grant funded intermediate rent model. Using this model, rents would be restricted to the 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 applicant has provided supporting information which demonstrates that they have explored alternative approaches to on-site affordable housing provision including the delivery of affordable housing via a Registered Social Landlord (RSL) model as part of a grant funded affordable housing project. This has identified a significant funding shortfall to deliver the homes for social rent, which would render the project unviable due to above average build costs resulting from the constrained nature of the site.

It is noted that this site has a very small developable area and is currently occupied at ground floor by a retail unit, which constrains the opportunity to provide a separate doorway access for affordable housing provision. The result of this is that the affordable homes will be distributed across the development, using the same common stair as privately rented apartments. This approach is generally not favoured by RSLs as it means mixed ownership within one building and common stair, which causes operational and management difficulties.

Given the above development constraints, the Council's Affordable Housing team has agreed that they are satisfied with the approach set out by the applicant to adopt an intermedial rent model for this site. The affordable housing will be tenure blind and fully compliant with building regulations. All tenants will have access to the same communal facilities and communal open space provision within the site. The affordable homes will be located within close proximity to regular public transport links and local amenities.

The mix of affordable housing offer is representative of the overall housing mix on site and will be well integrated with the non-affordable housing offer. This is acceptable and complies with LDP Policy Hou 6. The applicant will be required to enter into a Legal Agreement in order to secure the affordable housing provision.

Waste

The proposed waste management arrangements have been reviewed by the Council's waste officers and are acceptable.

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 is not included in an area of flood risk as identified by the SEPA flood map. Below ground cellular storage is proposed for the development which is contrary to the Council's Water Vision. However, given the overall constraints to provision of open space on the site, and that this is redevelopment of an existing brownfield site, this approach is considered justified.

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.

Sustainability

The development site can be classified as brownfield and the intensification of uses in this location provide a sustainable use of an urban site. The scheme proposes sustainability measures in its development approach including the use of air source heating system and sustainable construction measures. The applicant has undertaken the Council's S1 Sustainability Assessment and complies with the requirements.

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.

Conclusion in relation to the Development Plan

Overall, the proposals are in accordance with the Development Plan and 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. Zero parking is proposed, and the level of proposed cycle parking is acceptable, as are the proposed landscaping, surface water, sustainability, waste and recycling arrangements.

There are no material considerations which outweigh the proposals accordance with the Development Plan.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

Southside Community Council - comments

No objection to principle of residential development. Concerns raised in relation to;

- Noise concerns
- Residential unit sizes/ mix
- Lack of on-site affordable housing provision
- Height of proposed building

A summary of public representations is provided below:

Two objections have been received for this planning application. Details are noted as follows:-

material considerations

- Noise concerns
- Impact of the development on parking provision in local area.
- Development will block daylight.

non-material considerations

- Impact on views from neighbouring properties.
- Impact on value of neighbouring properties due to loss of view.

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 development is in accordance with the development plan. The development provides high density housing on a city centre site and will have a positive impact on the character of Davie Street by providing a well-designed in-fill development which responds positively to the character of the surrounding area. 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.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

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. Prior to the commencement of construction works on site:
 - (i) 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.
3. The noise protection measures to the proposed residential units, as defined in the Robin Mackenzie Partnership 'Environmental Noise Assessment' technical report (Ref R-9223-CL1-RRM) dated 2nd June 2022, shall be carried out in full and completed prior to occupation of the residential units.
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 groundwork is commenced on site. This includes external hard landscaping materials. Sample panels may be requested.
5. No demolition nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, 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.

Reasons: -

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to protect the development's occupants and human health.
3. In order to safeguard the amenity of neighbouring residents and other occupiers.
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.

Informatives

It should be noted that:

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

Affordable Housing

The proposal is required to deliver 8 units of affordable housing.

2. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
3. 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.
4. 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.

5. The applicant should be advised that, as the development is located in Zones 1 to 8, they will not be eligible for residential parking permits 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 A - New Build).
6. The applicant should consider developing a Travel Plan including provision of pedal cycles (inc. electric cycles), 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.
7. The applicant should note that the proposed works to the footway etc. are not approved at this stage and will require further details and approval from the Council as roads authority.
8. Due to the presence of suitable nesting habitat, it is recommended that, if required, the flat roof is worked upon outside of the bird nesting season, which runs from March to August, inclusive. If this is not possible, and works are due to take place between March to August, then nesting bird checks should be undertaken by a suitably qualified ecologist, immediately prior to works commencing.
9. Other biodiversity site management mitigation measures as set out in Table 6 of the Preliminary Ecological Appraisal & Bat Assessment (30th September 2021) should be undertaken on site during the construction period to ensure due care is undertaken in this regard.

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

01-03. 04A, 05-21

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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

Appendix 1

Summary of Consultation Responses

NAME: Transport

COMMENT: No objection to the application subject to appropriate conditions and informatives.

DATE: 5 May 2022

NAME: Environmental Protection

COMMENT: Recommendation for refusal in relation to noise concern - amenity concerns caused by noise from integrated delivery service bay to new residents on upper floors within the proposed development.

DATE: 11 October 2022

NAME: Archaeology

COMMENT: The site is within an area of archaeological interest - potential remains of 18/19th C buildings. A recommendation is made for a condition to be attached to allow monitoring of potential archaeological value to be undertaken.

DATE: 5 April 2022

NAME: Flooding

COMMENT: Flooding are satisfied with the additional supporting information provided by the applicant and the application can proceed to determination with no further comment.

DATE: 28 July 2022

NAME: Waste

COMMENT: Waste strategy agreed with applicant

DATE: 2 September 2022

NAME: Communities and Families

COMMENT: No education contribution required, based on the current proposed housing mix.

DATE: 6 April 2022

NAME: Scottish Water

COMMENT: No objection. General advice provided to developer.

DATE: 11 April 2022

NAME: Southside Community Council

COMMENT: No objection to the principle of development. Concerns raised in relation to the size of residential units, lack of on-site affordable housing provision, noise matters and building height.

DATE: 24 April 2022

NAME: Affordable Housing

COMMENT: The initial affordable housing strategy to provide off-site commuted sum affordable housing is not encouraged - alternative strategy requested. The applicant has subsequently 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.

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

22/01355/FUL

Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
2 Oxgangs Path, Edinburgh, EH13 9LX.**

**Proposal: Demolition of existing office building and construction of
11x flats with associated external works (as amended).**

**Item – Committee Decision
Application Number – 22/02052/FUL
Ward – B08 - Colinton/Fairmilehead**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than six material representations in objection and the recommendation is to approve planning permission.

Recommendation

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

Summary

The proposal complies with relevant policies set out in the Local Development Plan. An infringement of policy Hou 2 (Housing Mix) is acceptable in this case. A satisfactory residential environment can be achieved and the proposal will not have a negative impact on neighbouring amenity.

The proposal is acceptable and there are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is on the corner of Oxgangs Path and Oxgangs Brae and is currently in Class 4 use occupied by Scripture Union Scotland. To the south west is a brownfield site with planning permission for a three storey mixed use commercial and residential development (Application Reference: 20/05733/FUL).

On the opposite side of Oxgangs Path to the north west is an Aldi supermarket. Across Oxgangs Brae to the north east there are one and two storey residential properties, and directly to the south east is a one storey house at 32 Oxgangs Brae. The site slopes upwards from the corner in both directions, to the south west along Oxgangs Path, and to the south east along Oxgangs Brae.

The site is located within the Urban Area as identified within the Local Development Plan (LDP).

Description of the Proposal

The proposal is for the demolition of the existing office building and the construction of a three storey residential block with 11 flats and associated external landscaping. Ten two bed flats and one three-bed flat are proposed. The new building is to be formed of grey/buff brick, a single membrane ply roof with metal trim and UPVC windows with galvanised steel balustrades.

A communal garden covering 128 square metres (sqm) is proposed on the south of the site. A new 1.8 metre timber fence and new hedge planting are proposed to the boundaries. Pedestrian access to all communal entrances will be kept as level as possible with all sloped areas below 1:20. All paths will be suitable for wheelchair users. Surfaces will be non-slip, level and durable, with dropped kerbs where applicable.

Seven car parking spaces are proposed in total, one of these spaces is designated for disabled users. A total of 27 cycle parking spaces are proposed. 19 spaces are provided in a secure internal store with nine Sheffield stands and one wall mounted batacket for non-standard bikes. Eight E-bike charging points are included within the store. A further four spaces are provided in individual stores under the communal stairs at ground floor level. Externally, two Sheffield stands provide a further four spaces.

Revised Scheme

The revised scheme removes the use of vertical racks and introduces Sheffield stands and additional bike storage under the communal stairs. The revised scheme also includes minor changes to the proposed fenestration.

Supporting Information

- Design and Access Statement
- Noise Impact Assessment
- Drainage Strategy and Flood Risk Assessment

Relevant Site History

No relevant site history.

Other Relevant Site History

No relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Transport

Flood Planning

Environmental Protection

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

Publicity and Public Engagement

Date of Neighbour Notification: 3 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 12

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 4 and Des 5
- LDP Housing Policies Hou 1, Hou 2, Hou 3 and Hou 4
- LDP Delivery Policy Del 1
- LDP Environment Policy Env 21
- LDP Transport Policy Tra 2 and Tra 3

The non-statutory Edinburgh Design Guidance and the Developer Contributions and Infrastructure Delivery Supplementary Guidance are material to the assessment of the above policies.

Principle of Development

Local Development Plan (LDP) Policy Hou 1 (Housing Development) supports housing on suitable sites in the urban area, provided that the proposals are compatible with other policies in the Plan.

Scale, Form and Design

LDP Policy Des 1 (Design Quality and Context) requires development proposals to create or contribute towards a sense of place. The design should be based on an overall design concept that draws upon the positive characteristics of the surrounding area.

LDP Policy Des 4 (Development Design - Impact on Setting) also requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape, having regard to its height and form, scale and proportions, including the spaces between the buildings, position of the buildings and other features on the site; and the materials and detailing.

LDP Policy Hou 4 (Housing Density) states that the density of a development on a site will be dependent on its characteristics and those of the surrounding area; the need to create an attractive residential environment within the development; the accessibility of the site to public transport; and the need to encourage and support the provision of local facilities necessary to high quality urban living. It goes on to explain that in established residential areas, proposals will not be permitted which would result in unacceptable damage to local character, environmental quality or residential amenity.

LDP policy Hou 2 (Housing Mix) seeks the provision of a mix of house types and sizes where practical, to meet a range of housing needs, including those of families, older people and people with special needs, and having regard to the character of the surrounding area and its accessibility.

The application site has frontages onto Oxgangs Path and Oxgangs Brae. The proposed building will give a strong edge to the street frontage on both streets. The surrounding residential buildings in the immediate area are predominantly one and two storeys, however there are three and four storey blocks in the wider locality and the vacant plot directly to the south west has planning consent for a three storey block on Oxgangs Path. As this is the only other building to the south side of Oxgangs Path, the proposed three storey building provides consistent street frontage. Given the varied housing mix and densities in the surrounding area, the introduction of flatted development is acceptable in this location.

The proposed development will be similar in scale and form to the consented development next door, The proposed development will follow the established building line of the dwellings on Oxgang Brae and is broadly in line with the consented development to the west on Oxgangs Path. The frontage of the development is slightly stepped to the north to reduce the impact of the massing on this elevation.

The main footprint of the building has also been pulled further away from the neighbouring residential buildings to the south. The introduction of car parking and amenity space to the south of the site will give clear separation from the proposed development and existing residential neighbours.

The height and architecture in the street and surrounding area are mixed. This includes building styles, positioning on plots, relationship to the street, materials, height and massing. The Design and Access Statement has demonstrated how the building will respect the slope of the land. topographical features. The site lies within protected viewcone s4e : Craiglockhart Hills to Pentland Hills. Oxgang Road rises 13.4 metres (m) from a level of 150.3 m above ordinance datum (AOD) at the end of Oxgangs Path to a level of 163.7m AOD at the corner by The Hunters Tryst. The ridge level of the proposed building at 158.5 m AOD is below the ridge levels further south on Oxgangs Road and will not have an impact on the view of the Pentland Hills.

The mix of units proposed is limited to mainly two bed flats with one three bed unit. Whilst Policy Hou 2 aims to achieve a mix of dwelling types and sizes to avoid the creation of large areas of housing with similar characteristics, this is a relatively small scale housing development. The mix of unit types and sizes will meet the needs of different population groups, from single person households to larger and growing families, albeit with a choice of two sized units. Given the wide range of existing residential unit sizes in the surrounding area, this minor infringement of the policy Hou 2 (Housing Mix) is justified in this case.

The proposal complies with policies Des 1, Des 4 and Hou 4 and the minor infringement of Hou 2 is justified in this case.

Amenity

Amenity of future occupiers

LDP Policy Des 5 (Development Design - Amenity) states that planning permission will be granted for the development where it is demonstrated that the amenity of neighbouring residents will not be adversely affected.

LDP Policy Hou 4 (Housing Density) takes account of the need to create an attractive residential environment within the development.

LDP Policy Hou 3 (Private Green Space in Housing Development) requires developments to provide adequate provision for green space to meet the needs of future residents.

The Edinburgh Design Guidance states that the pattern of development in an area will help to define appropriate distances between buildings and consequential privacy distances. It also states that private open space/gardens should be designed for a range of functions.

All proposed units exceed the minimum internal floor areas recommended in Edinburgh Design Guidance. All units are dual aspect. 35 % of the total site area is covered by green space and the 128 sqm communal garden to the south of the site exceeds the 10 sqm per unit minimum requirement set out in LDP policy Hou 3. Given the location of the garden area to the south of the proposed building, the garden will receive adequate levels of sunlight.

A Noise Impact Assessment (NIA) has been provided in support of the application due to concerns relating to noise from the supermarket opposite the site. The NIA identified no issues arising from noise linked to the supermarket.

An adequate residential environment can be achieved. The proposal complies with LDP policy Des 5 in this regard.

Amenity of neighbours

LDP Policy Des 5 (Development Design - Amenity) requires development proposals to demonstrate that neighbouring amenity of a development will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

The potential impact of the proposed development on daylight to neighbouring windows was assessed initially using the 25-degree method as set out in Edinburgh Design Guidance. This demonstrated that the proposed development would have no impact on daylight to 25 Oxgangs Path and 32 Oxgangs Brae. The 25-degree line from 23 Oxgangs path was marginally impeded by the proposed development.

As the 25-degree method indicated that daylight to number 23 Oxgangs Brae could potentially be affected by the proposed development, further analysis was carried out using the Skylight Indicator in Appendix A of the BRE guide Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice to calculate the Vertical Sky Component.

The BRE Guide states that if the Vertical Sky Component is 27% or above then enough skylight should reach the window of the existing building. Any reduction below this level should be kept to a minimum. The VSC analysis indicated a Vertical Sky Component of 35% with the proposed development in place, comfortably above the recommended limit which demonstrates that number 23 Oxgangs Brae will continue to receive adequate daylight.

A sun path diagram is included in the Design and Access Statement showing that the sun path falls to the south of the proposed development, with no potential for overshadowing to neighbouring gardens. The Design and Access Statement also includes diagrams demonstrating that the proposal complies with the 45-degree sunlight assessment set out in Edinburgh Design Guidance. The proposal will not overshadow neighbouring gardens.

The proposed building will be moved further away from residential neighbours than the existing building. The proposed development will be approximately 21.8 metres from neighbours to the south-east and 17.7 metres from neighbours to the north-east. These privacy distances are similar or better than established privacy distances in the area. A 1.8 metre fence and new hedge planting will also provide a privacy buffer.

The proposal will not have a negative impact on neighbouring amenity.

Car and Cycle Parking

Policies Tra 2 (Car Parking) and Tra 3 (Cycle Parking) of the LDP sets out the requirement for private car and cycle parking

The provision of 7 car parking spaces complies with Car Parking Standards set out in guidance. Six car parking spaces are already present on site. The addition of one more space complies with guidance and is not expected to increase traffic or congestion. The Roads Authority was consulted on this scheme and raised no concerns relating to traffic generation, congestion or road safety.

The proposal includes a total of 27 cycle parking spaces. 23 spaces are provided internally in secure stores in compliance with guidance. Two Sheffield racks are also provided externally for visitors. The proposed level of parking complies with guidance.

The proposal complies with policies Tra 2 and Tra 3.

Surface Water Management

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

Flood Planning has advised that it has no concerns regarding this application and has recommended that prior to initiation of development the applicant confirm to the Planning Authority that Scottish Water will accept the proposed surface water discharge rate to the combined system.

The proposal complies with policy Env 21.

Developer Contributions

The application site is located within the Allermuir Healthcare Contribution Zone. In support of a new Allermuir Healthcare facility, the applicant shall contribute a sum of £526.26 per dwelling, a total of £5788.86.

The site is located within the Firhill Education Contribution Zone. The expected primary and secondary school pupil generation associated with the proposed development has been assessed in line with the methodology set out in the Developer Contributions and Infrastructure Delivery Supplementary Guidance. The expected pupil level does not reach the level required in guidance to request a contribution towards education infrastructure.

Conclusion in relation to the Development Plan

The proposal complies with relevant policies set out in the Local Development Plan. An infringement of policy Hou 2 (Housing Mix) is acceptable in this case. A satisfactory residential environment can be achieved and the proposal will not have a negative impact on neighbouring amenity.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

One of the neighbouring residents has indicated they are living in sheltered accommodation with complex mental and physical health needs. They have expressed concern about the impact of construction noise and dust on their health and also concern regarding loss of sunlight and the potential for the development to make them feel enclosed. A shift worker in the surrounding area has also expressed concern regarding construction noise.

The Planning Authority does not have control over construction noise and this is typically not material to the consideration of a planning application. It is recommended however that prior to initiation of development that the applicant submits a Construction Management Plan to the Planning Authority outlining when noisy work will occur and measures to limit and control dust on site.

In terms of wider concerns relating to overshadowing and a sense of enclosure, these matters are addressed in the report above. A sun path analysis shows the new building will not block sunlight to existing neighbours and the proposal passes the 45-degree sunlight assessment. In terms of enclosure, the proposed building will be separated from neighbouring development by garden space and a car park and the edge of the new building is further away from neighbours to the south than the existing building.

Due regard has been given to section 149 of the Equalities Act 2010.

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

- Impact on privacy, loss of sunlight and daylight; this is addressed in section (a) of the report.
- Contrary to the character of the area in terms of density and unit mix; this is addressed in section (a) above.
- Congestion, issues relating to parking and traffic; this is addressed in section (a).
- Construction noise and dust; this is addressed in section (b).

One indication of support was received. However, no comments were made and there is nothing to summarise.

non-material considerations

- Loss of private view; this is not a material planning consideration.

Conclusion in relation to identified material considerations

The proposal is acceptable and there are no material considerations which outweigh this conclusion.

Overall conclusion

The proposal complies with relevant policies set out in the Local Development Plan. An infringement of policy Hou 2 (Housing Mix) is acceptable in this case. A satisfactory residential environment can be achieved and the proposal will not have a negative impact on neighbouring amenity.

The proposal is acceptable and there are no material 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.

Reasons :-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

Informatives

It should be noted that:

1. Legal Agreement

Healthcare

The application site is located within the Allermuir Healthcare Contribution Zone. In support of a new Allermuir Healthcare facility, the applicant shall contribute a sum of £526.26 per dwelling, a total of £5788.86. $11 \times 526.26 = £5788.86$

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. A detailed Construction Environment Management Plan (CEMP) shall be submitted to the satisfaction of The Planning Authority and adhered to during the construction phase. This should address dust, the piling stage and hours of noisy operation.
5. Prior to construction, the applicant confirms in writing to the planning authority that Scottish Water accepts the proposed surface water discharge rate to the combined system.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 2 May 2022

Drawing Numbers/Scheme

01-02, 03A, 04B, 05A, 06A, 07-08, 09A, 10-13

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Christopher Sillick, Planning Officer
E-mail:christopher.sillick@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Transport

COMMENT: No objections to the application.

DATE: 18 October 2022

NAME: Flood Planning

COMMENT: The applicant can proceed with the proposal and formally update the drawing, as suggested.

DATE: 13 October 2022

NAME: Environmental Protection

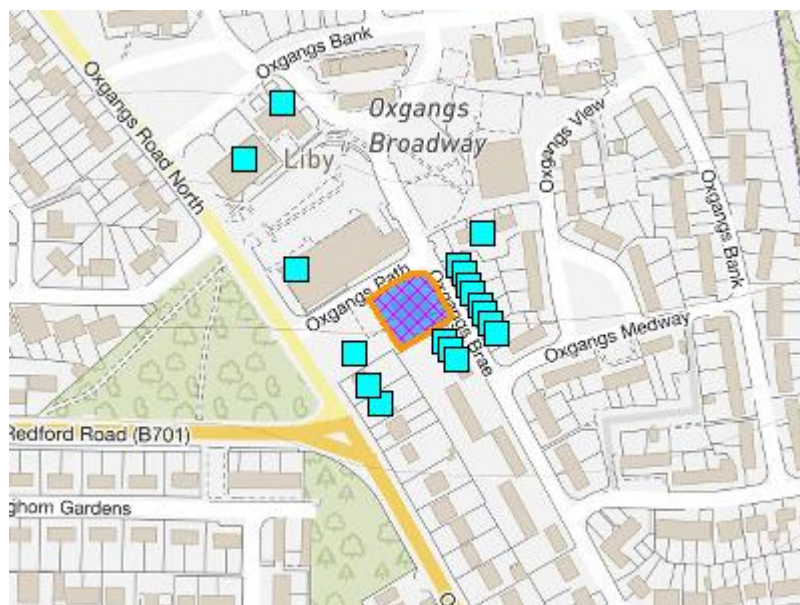
COMMENT: Environmental Protection raised no objection to the scheme. The Team noted the highly accessible location of the scheme and noted a preference for zero car parking.

The team noted that sustainable energy sources should be used.

DATE: 13 July 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 7 December 2022

**Application for Planning Permission
3F2 13 Parkside Terrace, Edinburgh, EH16 5BL.**

Proposal: Form separate flat with new access, roof lights and skylight (as amended).

**Item – Committee Decision
Application Number – 22/01082/FUL
Ward – B15 - Southside/Newington**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than six material representations in objection and the recommendation is to approve planning permission.

Recommendation

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

Summary

The application is acceptable in relation to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the relevant Edinburgh Local Development Plan Policies and non-statutory Guidance. The proposal would not have a detrimental impact upon the host property, the surrounding Southside Conservation Area or on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The property is a top floor flat within a four storey tenemental building. Parkside Terrace has a mixed character, with traditional tenemental buildings off Dalkeith Road, leading to a scheme of modern flatted properties. There are six flatted dwellings within the tenement.

The application site is within the Southside Conservation Area.

Description of the Proposal

The proposal is for the creation of a three bedroom flat within the roof space of the building, with rooflights to the front and rear elevations of the roof plane.

The amended scheme rectifies the proposed attic floor plan to depict a hallway rather than a bedroom.

Relevant Site History

21/01303/CLP

3F2 13 Parkside Terrace

Edinburgh

EH16 5BL

For the installation of roof lights and skylight at the property as part of a loft conversion.

Granted

6 May 2021

21/03064/FUL

3F2 13 Parkside Terrace

Edinburgh

EH16 5BL

Form new flatted dwelling with works including new access, dormers, roof lights and skylights.

withdrawn

22 July 2021

21/04229/FUL

3F2 13 Parkside Terrace

Edinburgh

EH16 5BL

Attic conversion to form new separate flat complete with new access, new dormer and conservation style roof lights to the front and rear and 3 skylights on the flat roof section (as amended - scheme 3 removes the proposed dormer window and includes Scottish slate).

withdrawn

7 March 2022

Other Relevant Site History

No other relevant planning site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 29 March 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 8 April 2022;

Site Notices Date(s): 5 April 2022;

Number of Contributors: 17

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 impact on the character or appearance of the conservation area?

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

The proposed external changes (roof lights and vents) are solely to the roof of the host property. This is an area of the building that is not readily visible from the public realm by virtue of the height of the building and the enclosed nature of Parkside Terrace. The roof lights would be conservation style features and the vents would be minor additions that would have no adverse effect on the appearance of the property.

Conclusion in relation to the conservation area

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in that it would not adversely impact on the character and appearance of the conservation area.

b) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant policies to be considered are:

- LDP Environment Policy Env 6.
- LDP Design Policies Des 1, Des 5 and Des 12.
- LDP Housing Policy Hou 1, Hou 4 and Hou 7.
- LDP Transport Policy Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' and the 'Edinburgh Design Guidance' are material considerations that are relevant.

Principle

The principle of housing is supported by LDP Policy Hou 1, subject to compliance with other policies of the Plan. The application site is within the urban area as identified in the LDP. The introduction of an additional residential unit to the building would be an acceptable form of development.

The principle of the proposal complies with LDP Policy Hou 1.

Scale, Form & Design

The proposed physical changes (roof lights and vents) are solely to the roof of the host property. As stated above, due to the relatively enclosed nature of the street, in combination with the height of the building, the alterations would not be readily visible from public view and would have a modest and acceptable effect on the appearance of the building. The use of conservation style rooflights and sympathetically designed vents would ensure the physical works would represent congruous additions that would have an acceptable impact on the surrounding area.

The proposal complies with LDP Policies Des 1, Des 12 and Env 6.

Parking

Parking standards are applicable to new development and this proposal does not represent new development as it is a conversion. Furthermore, the property is served by a number of bus routes and would encourage active travel given its close proximity to the city centre.

Taking this into consideration, the proposal would not have a detrimental impact on parking within the surrounding area and would comply with Tra 3 and the relevant guidance.

Amenity

The proposed formation of an additional flat would not create a pattern of use that would have a material effect on the amenity of the existing occupiers of the building. The development would not create such an increase in pedestrian traffic that it would constitute an over-intensification of use within the communal stair and would not change the characteristics of the building as a whole.

In relation to privacy, the rear rooflights would be less than nine metres to the rear boundary. However, these windows would be no closer to other buildings than existing windows. The rear garden is communal and overlooked, and as such, there is no measurable reduction in privacy levels.

The proposal complies with the daylight and sunlight criteria in the Edinburgh Design Guidance.

In relation to internal amenity space, the proposal would achieve a floorspace of approximately 91 sqm, which complies with the Edinburgh Design Guidance.

In relation to outdoor space, the Queen's Park is in close proximity, thereby affording access to high quality amenity space.

The proposal would not have a detrimental impact upon neighbouring residential amenity and would provide appropriate accommodation for future occupiers.

The proposal complies with LDP Policies Des 5, Des 12, Hou 4, Hou 7 and the relevant guidance.

Conclusion in relation to the Development Plan

The proposal would be an acceptable and appropriate development and would have regard to the character and appearance of the conservation area. It would not have an unacceptable effect on neighbouring amenity, it would create an appropriate amenity space for future occupiers and is in compliance with the Edinburgh Local Development Plan policies.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

Eighteen representations were received (Seventeen objections and one neutral).

material considerations - objections

Amenity: this is addressed in section b)

Character of the area; this is addressed in section a)

Parking: this is addressed in section b).

Design: this is addressed in section b).

Dormer windows; the proposal does not contain any elements relating to dormer windows.

non-material considerations - objections

Deeds concerns; this is not a material planning consideration.

Mortgage concerns; this is not a material planning consideration.

Structural concerns; this is not a material planning consideration.

Precedent; this is not a material planning consideration.

Conclusion in relation to identified material considerations

These have been addressed within the sections above and would not outweigh the conclusion of this application.

d) Overall conclusion

The application is acceptable in relation to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the relevant Edinburgh Local Development Plan Policies and non-statutory Guidance. The proposal would not have a detrimental impact upon the host property, the surrounding Southside Conservation Area or on neighbouring residential amenity. There are no material 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.
1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

Informatives

It should be noted that:

1. 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.

2. 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.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 28 March 2022

Drawing Numbers/Scheme

01-07a,08,0910

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

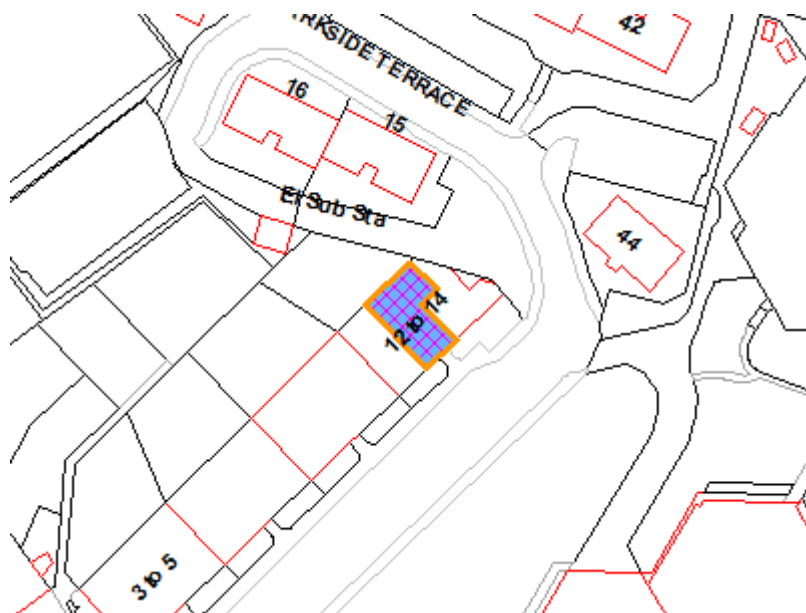
Contact: Conor MacGreevy, Planning Officer
E-mail: conor.macgreevy@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Approval of Matters Specified in Conds
Regeneration Masterplan Pennywell Muirhouse, Pennywell Road,
Edinburgh.**

**Proposal: Proposed development of a brownfield site for the
provision of 94 No. new residential units for private sale including
vehicular access, site wide drainage and landscaping (As Amended).**

**Item – Committee Decision
Application Number – 21/06738/AMC
Ward – B01 - Almond**

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee as twelve 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 **Approved** subject to the details below.

Summary

The proposals are in accordance with the Development Plan and sufficient information has been provided to deal with the relevant approval matters as set in condition 1 of planning permission in principle 13/01954/PPP.

The proposed layout differs from that originally envisaged within the masterplan. However, constraints on the site have been put forward for some alterations and the general approach of providing an urban perimeter block to the outer edges to the site is accepted. The 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 proposal's accordance with the Development Plan.

SECTION A – Application Background

Site Description

The site, referred to as Site 9, covers approximately 2.3 hectares and forms part of the Pennywell/Muirhouse masterplan area.

It is currently vacant land but is shown as open space within Local Development Plan Proposals Map and was previously in use as school playing fields.

To the north of the site is Craigroyston Primary School and a contemporary housing development. To the east of the site is the Oaklands School and beyond this is a previous phase of the residential masterplan (site 10). The site is bound by Ferry Road to the south and Muirhouse Green to the west. A railing runs along the southern and western boundaries.

The local area surrounding the site is characterised by residential housing, predominately low density two storey housing with informal greenspace. To the south are three storey tenement blocks.

The site is currently accessed from the west at Muirhouse Green.

Description of the Proposal

The proposal seeks to deal with a number of the approval matters specified in condition 1 of Planning Permission in Principle (13/01954/PPP).

Condition 1 of 13/01954/PPP states that, "Prior to the commencement of works on site, details of the under-noted matters shall be submitted and approved by the planning authority, in the form of a detailed layout of that phase of the site and include detailed plans, sections and elevations of the buildings and all other structures.

The relevant approval matters are set out below:

- (a) Siting, design and height of development, including design of all external features and glazing specifications (including acoustic capabilities)
- (b) Design and configuration of public and open spaces, all external materials and finishes
- (c) The number and location of car parking spaces including provision for City Car Club parking, access, road layouts and alignment, the classification of streets, servicing areas
- (e) The precise number and location of all the residential units to be developed within the site and including the location of the affordable housing units
- (f) Waste management and recycling facilities
- (g) Sustainability details
- (h) Footpaths and cycle routes

- (i) Surface water and drainage arrangements including overland flow details
- (j) Hard and soft landscaping details, including:
 - (i) Walls, fences, gates and any other boundary treatments;
 - (ii) The location of new trees, shrubs and hedges
 - (iii) A schedule of plants to comprise species, plant size and proposed number/density;
 - (iv) Programme of completion and subsequent maintenance;
 - (v) Existing and proposed services such as cables, pipelines, substations;
 - (vi) Other artefacts and structures such as street furniture, including lighting columns and fittings, and play equipment;
 - (vii) Details of phasing of these works.
- (k) Details of bat boxes and swift bricks to be installed as part of the development
- (l) Existing and finished ground levels in relation to Ordnance Datum.

The proposal is for 94 houses for private sale. The mix of units is 9 x two bedroom houses, 25 x three bedroom houses, 20 x four bedroom houses (dual-pitch roofs) and 40 x four bedroom houses (mono-pitch roofs).

The dwellings are arranged into a series of small terraces. The three storey mono-pitched roofed townhouses front onto the external edges of the site along Ferry Road and Muirhouse Green. The main materials proposed are red facing brick, grey concrete roof tiles with black windows, gutters and downpipes.

The one vehicular access is taken from the west from Muirhouse Green and this leads into the site with the terraces arranged around the main central road with two car parking courts at either side of the site.

There is a square area at the northern part of the site which incorporates hard and soft landscaping with areas for seating and cycle parking. This feeds into an open area at the north of the site which is proposed to contain areas for surface water attenuation. This area of open space also includes a path link through to the adjacent masterplan site to the west. Open space is also created on the southern side of the site adjacent to Ferry Road. The northern and southern landscaped areas are to contain features for natural play.

A total of 94 car parking spaces are proposed, 67 are to be in curtilage with 27 spaces split across two courtyard areas.

Previous Scheme:

The previous scheme contained 99 units and were all two storey pitched roof houses set out in a series of terraces. Internal road areas have been rationalised, including the those around the central square and the building line moved closer to address Ferry Road.

Supporting Information

- Design and Access Statement (Revised);
- S1 Sustainability Statement and
- Flood Risk Assessment and Drainage Strategy

These documents are available to view on the Planning and Building Standards Online Services.

Relevant Site History

13/01954/PPP
Regeneration Masterplan Pennywell Muirhouse
Pennywell Road
Edinburgh

Renewal of Planning Permission in Principle (refs 10/01273/PPP + 12/00357/PPP) for development of affordable housing + housing for sale with associated landscape + public realm.

Granted
18 September 2013

13/05158/AMC
Regeneration Masterplan Pennywell Muirhouse
Pennywell Road
Edinburgh

Approval of matters specified in Conditions of application 13/01954/PPP - residential development comprising 193 units, landscaping and access.

Approved
4 March 2014

Other Relevant Site History

On land to the north of the site:

01/01604/FUL
7-9 Muirhouse Place West
Edinburgh
EH4 4PX

(7-9 Muirhouse Place West) Replacement Primary School and associated access, parking and open space
Granted

3 October 2001

07/03980/OUT
67, 67B Muirhouse Avenue
Edinburgh
EH4 4AE

Outline permission for residential development.
Granted
15 June 2012

12/02674/AMC
Site 104 Metres Southwest Of 65
Muirhouse Avenue
Edinburgh

Reserved Matters application on outline consent to erect a new residential development consisting of 202 units of terraced townhouses, flatted blocks and associated site infrastructure
Approved
6 February 2013

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Archaeology Officer

Environmental Protection

Waste Services

Scottish Water

Housing Management and Development (Affordable Housing)

Flood Prevention

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

Publicity and Public Engagement

Date of Neighbour Notification: 30 June 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 15

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 and condition 1 of 13/01954/PPP:

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 8.
- LDP Environment policies Env 9, Env 21 and Env 22.
- LDP Housing policies Hou 2, Hou 3, Hou 4 and Hou 6.
- LDP Transport policies Tra 2, Tra 3 and Tra 4.

The non-statutory Edinburgh Design Guidance (EDG) is a material consideration that is relevant when considering these policies. The Pennywell & Muirhouse Design Guide is also of relevance to the proposal.

Condition 1a - Siting, design and height of development

LDP 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.

Informative 2 of the PPP sets out that although the overall master plan drawing is approved, further improvements to the master plan shall be sought at the approval of matters specified in condition stage. The informative states that the accompanying drawings relating to building heights, circulation and parking, refuse, hard and soft landscape, boundary treatment, drainage and sustainable urban drainage systems, major utilities routes, and swept path analysis are not approved and are considered for the purposes of information and guidance at this stage.

Layout:

LDP Policies Des 4 (Development Design - Impact on Setting) and Des 7 (Layout Design) set out that developments should have regard to the position of buildings on the site and should include a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths and open spaces.

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 masterplan provided a hierarchy of development, as illustrated in the Pennywell and Muirhouse Design Guide, with higher flatted blocks located adjacent to Ferry Road. The intention of this approach was to provide three and four storey properties that create prominent buildings and frontage to the main roads to help identify the new neighbourhood. Two storey terraced housing is then located in the interior of the sites.

The main differences from the masterplan are the omission of a vehicular access directly from Ferry Road with now only one access from Muirhouse Green proposed, the change in format of the buildings proposed (i.e., change from flatted properties to terraced housing) and also the omission of planting shown around parts of the periphery of the site.

The application has been altered from the scheme originally submitted to provide an improved frontage onto Ferry Road and the house types altered to provide a higher mono-pitched roof which gives a greater sense of street enclosure to Ferry Road. This resembles the masterplan approach of higher buildings fronting onto the road.

Since the masterplan was conceived further analysis has been undertaken and the Scottish Water main trunk running adjacent to Ferry Road results in a no-build area meaning the buildings need to be set further back from the road. It also limits the scope for tree planting over this area, though the area is to be greened. The proposed development does improve the character of this part of Ferry Road and the landscaping, alongside the removal parts of the old railings (alongside selective replacement) will improve the pedestrian environment.

The proposed layout urbanises the Muirhouse Green frontage more than envisaged within the masterplan with the mono-pitched town houses continuing round from the Ferry Road elevation and allow for pedestrian and vehicular access. The Muirhouse Green part of the site was originally shown as predominately surface car parking and tree planting. The new urban form, albeit different to that in the masterplan, provides a stronger frontage on the street. Generally, the Edinburgh Design Guidance (EDG) encourages the use of frontages to maximise activity on the street.

Internally within the site the proposed pitched roof terraced housing is set around the main access road, and it addresses the new streets accordingly. Gable ends contain windows on the end plots to provide some additional passive surveillance. The general design approach, although differing from the masterplan layout takes into account the constraints of the site and generally follows the approach taken with the other sites in the masterplan area.

Design and Materials:

The Pennywell & Muirhouse Design Guide sets out that there is to be a consistent approach to design including an integrated architectural strategy. This includes the use of a common palette of materials which is to provide a distinct identity for the development within the masterplan area. The guide states the bricks are to be from a red palette.

The proposed mix of pitched and mono-pitched roof house types, the general design with windows with a vertical emphasis and simple detailing match in with the design of the earlier phases of development. The use of redbrick as a primary material continues the identity of the wider masterplan area.

The proposed materials and detailing comply with Policy Des 4 (Development Design - Impact on Setting).

Amenity:

LDP Policy Des 5 (Development Design - Amenity) seeks to ensure that the amenity of neighbouring residents is not adversely affected by development and that future occupiers of residential properties have acceptable levels of amenity.

The inclusion of nine-metre-long rear gardens results in generous separation distances internally within the site.

The EDG does not set out recommended privacy distances, indicating instead that the pattern of development within an area will help define appropriate distances between buildings and consequentially privacy distances. At the north of the site there is a distance of approximately 21 metres from the rear of the proposed dwellings to the existing dwellings on Macgill Drive and at the eastern section at Oliver Close the buildings are orientated with a gable end next to the application site. There is a change in levels between the site and the houses to the north, but the distances are acceptable.

The distance from the existing dwellings on Muirhouse Green to the proposed dwellings is approximately 25 metres. This is an acceptable distance.

The density and height of the proposals alongside the general layout do not raise areas of concern in relation to daylighting and overshadowing.

A Noise Impact Assessment (NIA) was provided in relation to condition 5 of application 13/01954/PPP in support of 13/05158/AMC. This information covered site 9. This indicated that traffic noise would need to be addressed at this site and recommended improved glazing. The properties proposed in this AMC are no closer to the road than those shown at the masterplan level, so the glazing specification advised in the original NIA is still relevant. Environmental Protection has advised that this should be installed prior to occupation and has recommended a condition.

The proposal does not raise any overriding concerns in relation to amenity and complies with LDP Policy Des 5.

Condition 1b - Design and configuration of public and open spaces

LDP Policy Hou 3 (Private Green Space in Housing Development) states planning permission will be granted for development which makes adequate provision for green space to meet the needs of future residents. Adequate rear gardens are provided for the individual houses and as there are no flats there is no requirement for communal shared open space.

The main areas of open space within the site are the northern area, the central square and the landscaped area adjacent to Ferry Road combined these total approximately 5,250 sqm. With a total site area of 2.3 hectares this equates to approximately 23% of the site area and complies with Policy Hou 3.

The area of open space to the north (approx. 2,000 sqm in size) is similar to that as shown in the masterplan and sits adjacent to the wooded area on the adjacent site whilst providing the link to the eastern area. This is intended to be an informal greenspace with planting and informal recreation and play.

The central square is described as a focal and orientation point of the development and consists of a mix of hard and soft landscaping. Trees and planting are proposed to create a sense of enclosure with benches proposed within the area.

The main entrance point from Muirhouse Green proposes a feature pine tree and an area of woodland tree planting which will help define the entrance to the site. The southern area along Ferry Road will improve the current streetscape.

This matter is adequately dealt with.

Condition 1c - Car and cycle parking, access, road layouts and alignment and condition d - electric charging points

Transport information was submitted at the PPP stage. This indicated that the capacity of the junctions on Muirhouse Green was not an issue, but the masterplan design of two access points, one from Muirhouse Green and one from Ferry Road, was included to 'spread the load'.

This proposal contains one vehicular access point at the west from Muirhouse Green. The proposal no longer contains a second access point direct from Ferry Road which was intended to serve half the site. The applicant has indicated that this is not progressed due to traffic management and it views the proposal as an improvement by reducing the number of access points to Ferry Road. The level of car parking is also much lower than that anticipated at the masterplan level.

The general layout provides a network of routes through the site. There is a main vehicular route that runs through the central part of the site and leads to the areas of courtyard parking. The revised proposals avoid the circular route around the site and additional hardstanding which was previously proposed. Bus stops are available in close proximity to the site on Ferry Road.

LDP Policies Tra 2 (Private Car Parking) and Tra 3 (Private Cycle Parking) set out the Council's approach to car and cycle parking stating that both should comply with the standards set out in the guidance. In addition, LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) expects the layout and design of parking to be located near to entrances of buildings, minimised visual impact and not compromise pedestrian safety.

The PPP did not approve car parking levels but indicatively provided 64 in-curtilage spaces and 81 on street spaces (145 in total) for the anticipated 88 units.

The current parking standards allow for one space per unit. The proposals contain 94 spaces, one for each dwelling. The majority of the car parking is in curtilage with the exception of 29 spaces which are largely split across two courtyards areas.

The Pennywell & Muirhouse Design Guide states that throughout the masterplan areas there are various approaches to incorporating the required amount of parking - both on and off street. Proposals should aim to design all parking areas to be as attractive as possible and ensure pedestrian safety.

The parking levels meet with the Council's standards and are in discrete locations that will be overlooked by windows in the gable ends of the adjacent proposed dwellings. Planting is proposed at the ends of the parking areas. The proposed plans show a site less dominated by car parking than that shown at the masterplan level. In-curtilage parking is generally grouped pairs to provide room for planting and hedging. The in-curtilage spaces have been designed to facilitate the installation of EV charge points. Provision will be made to enable charging of electric vehicles at the courtyard areas.

As the dwelling houses all have secure private garden spaces that future occupants will be able to use the area for future cycle storage as they see fit.

Cycle parking is proposed in the small square area of open space eight Sheffield stands shown.

The proposals comply with LDP Policies Tra 2, Tra 3 and Tra 4.

Condition 1 e - Number and location of all the residential units

The residential use has been established through the PPP.

The indicative proposals submitted at the PPP stage showed 88 units split into 42 houses (39 x 3 bedroom and 3 x 4 bedroom) and 46 flats (4 x one bedroom, 28 x two bedroom and 14 x three bedroom). The PPP also intended there to be a 50/50 split between the affordable and private market housing across the wider masterplan area.

The PPP did not condition unit numbers and left it as an approval matter. The PPP committee report indicated that dependent on design matters there may be some scope for limited increases in the number of units. A modest increase of six units to 94 is acceptable.

Affordable housing has been delivered on the other sites within the masterplan area. Housing Management and Development (Affordable Housing) has commented on the application and its response notes that this application is part of a wider planning consent for 784 homes which includes 364 affordable homes, 46% of the total. As the affordable housing provision across the masterplan exceeds the 25% LDP policy requirement, the affordable housing requirement is met as it is provided across the wider planning consent. Therefore, the requirements of policy Hou 6 (Affordable Housing) has been met through the PPP.

In terms of housing mix, LDP Policy Hou 2 (Housing Mix) seeks the provision of a mix of house types and sizes where practical. All houses are proposed on the site and these compliment the wider mix of houses and flats within the masterplan area. The floorspaces of the proposed dwellings meets the minimum floorspace standards set out in the EDG.

LDP Policy Hou 4 (Housing Density) states that the Council will seek an appropriate density on sites giving regard to the characteristics of the surrounding area. The density of the proposal is 41 dwellings per hectare (dph). This figure is in line with density measurement of 40 dph anticipated in the PPP.

The number of units, general mix and density are acceptable and complies with policy Hou 2, Hou 4 and Hou 6. The location of the units has been considered previously in the design section associated with condition 1a).

Condition 1f - Waste management

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. Swept path analysis has been provided to demonstrate that adequate refuse vehicle access can be made. Waste Services has confirmed that they are content with the proposals.

The proposals comply with the requirements of this condition.

Condition 1g - Sustainability measures

LDP Policy Des 6 (Sustainable Buildings) requires that developments can demonstrate that the current carbon dioxide emission reduction targets are met (including at least half of the target being met through the use of low and zero carbon generating technologies) and that other sustainable features are included in the proposals.

The applicant has submitted the sustainability form in support of the application. The standards are to be met through the provision of air source heat pumps and photovoltaic panels. Environmental Protection support the air source heat pumps and PV solar panels which reduces reliance on gas as an energy source and is supported by this team. The proposal has been assessed against Part B of the standards. The proposal meets the essential criteria with additional desirable measures including the use sustainable timber.

The proposal meets the current standards set out in the sustainability form.

Condition 1h - Footpath and cycle routes

LDP Policy Des 7 (Layout Design) requires an integrated approach to the layout of developments. New primary streets will have accompanying pavements. There is good permeability through and around the site with connections to Ferry Road, Muirhouse Green and Cleghorn Road.

The proposal includes a three-metre-wide shared pedestrian and cycle path linking through to site 10 to the east. This is a route shown in the masterplan. This is acceptable and brings the path through to the small public square area within the site and onwards through to Muirhouse Green.

There is no link proposed from the site to the north to link through to the Oliver Close. This has not been included due to the technical difficulties with the change in levels.

The applicant met with the Police Architectural Liaison Officer as part of the process of developing the scheme. The ALO did not raise any significant concerns with the basic layout. Noting that the rear lanes in this development are not excessive, tending to be relatively short and straight with clear lines of sight.

The proposed footpaths and cycle routes are acceptable.

Condition 1i - Surface water management

Policy Env 21 (Flood Prevention) states that planning permission will not be granted for development that would increase a flood risk or be at risk of flooding itself, impede the flow of flood water or prejudice existing or planning flood defence systems.

A Flood Risk Assessment and Drainage Strategy has been submitted. This follows the drainage strategy that was considered at the PPP stage which considered the urbanised nature of the setting of the area precluded the use of ponds and therefore the strategy comprised below ground attenuation. Following this strategy, the underground attenuation is proposed at the northern part of the site.

Flood Prevention has considered the submitted information and accept it subject to confirmation that Scottish Water will confirm the maintenance of the underground attenuation. Scottish Water tend not to do this until an applicant has concluded the technical approval process post-planning. An informative has been added.

Scottish Water does not object to the proposals, but has provided advisory notes for the applicant in relation to water and wastewater capacity. It also notes that the proposal has the potential to impact on Scottish Water assets, which refers to the trunk water main adjacent to Ferry Road.

Overall, the proposal complies with Policy Env 21.

Condition 1j - Hard and soft landscaping details

Policies Des 7 (Layout Design) and Des 8 (Public Realm and Landscape Design) support a high quality and integrated approach to the layout of spaces, soft and hard landscape proposals such as boundaries and planting around new development, and require a suitable scheme of maintenance to be in place.

The Design and Access Statement includes a section on landscape design and maintenance. The general approach to open space has been considered earlier in the assessment.

The roadways are proposed as permeable block paving, with footways to be paved in a complementary block.

Street trees are proposed at key locations with the development and along the edges of the roads to soften the gable ends of the building. Along the Ferry Road elevations trees are proposed in the small front gardens. Hedge planting is shown between the front gardens and within the central square area. There are also various ground covering shrubs and amenity grass proposed throughout the development.

A range of boundary treatments are proposed including hedging, brick walls and timber fencing of various heights dependent on its location within the development.

No formal play space is proposed in the development, but there are features and areas suitable for natural play. Features such as boulders, balancing logs and stepping stones have been incorporated into the plans. Both within the northern area of open space and along the open space adjacent to Ferry Road.

Lighting is to match that of the previous phases.

Overall, the design and quantity open space, the landscaping and proposed boundaries adequately deal with the relevant reserved matters and will form a positive aspect of the development.

Condition 1k - Bat boxes and swift bricks

This information has not been provided and further detail will be required to deal with this approval matter.

Condition 11 - Existing and finished ground levels

This information has been provided as part of the proposals.

Archaeology

The Archaeology Officer raises no concerns with the proposal.

Conclusion in relation to the Development Plan

The proposals are in accordance with the Development Plan and sufficient information has been provided to deal with the relevant approval matters as set in condition 1 of planning permission in principle 13/01954/PPP.

The proposed layout differs from that originally envisaged within the masterplan. However, constraints on the site have been put forward for some alterations and the general approach of providing an urban perimeter block to the outer edges to the site is accepted. The 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and consideration has been given to human rights.

A comment has been made in relation to creating a pedestrian/cycle path through to the development from Cleghorn Road and the potential harm this may cause to a protected characteristic. The comments have been taken into account, but in this instance do not override the requirement to include the path which has been a longstanding ambition of the masterplan dating back to when planning permission in principle was granted for the site.

Public representations

The first scheme attracted thirteen representations. Ten objections, two general representations and one in support. A summary of the representations is provided below:

material considerations - objections

Principle

- original plans proposed 50/50 split of affordable and private residential units. Numbers proposed within this AMC unbalance this and more affordable homes should be provided
- mix of development differs from PPP masterplan with no flats and more larger bedroom units - assessed under condition 1e.

Design - assessed under condition 1a

- proposals are extremely revised from the PPP masterplan proposals.
- lack of presence onto Ferry Road.
- lack of green boundary bordering the development as shown in PPP masterplan.
- limited landscape features, proposed plans are stark.
- The existing railing at the boundary with Ferry Road makes the development feel caged in and uninviting, it is shown to be retained on the drawings, it should be removed so the area feels more welcoming.
- impacts due to changes in ground levels on neighbouring properties (plots 1 -10)

Amenity - assessed under condition 1a

- privacy distances.
- lack of open space, including play space. Less open space than PPP masterplan.
- impacts on sunlight to existing neighbouring gardens.

Transport - assessed under condition 1c, 1d and 1h

- lack of vehicular access. Should be an access point from Ferry Road as per the masterplan.
- insufficient car parking, potential for overspill, no visitor parking.
- application form states 107 car parking spaces, but only 99 spaces shown on plans.
- traffic safety concerns including route to school.

- proposed houses have parking spaces direct from Muirhouse Green which will have safety impacts for pedestrian access.
- traffic congestion in the area
- lack of adequate public transport links.
- footpath link through east of site to site 10 should be removed due to safety, crime and antisocial behaviour concerns.
- unclear if footpath link to site 10 is proposed
- cycle path was an integral part of linking site 9 and 10 together and does not appear to have been addressed.
- pedestrian access from Ferry Road required
- analysis of current road and pedestrian usage should be undertaken
- pelican crossing on Pennywell Road not implemented - standalone condition, not an approval matter.

Other

- flooding and drainage issues across the site and area - assessed under section 1i.
- not all houses neighbour notified, and landlords of rental properties not notified - neighbour notification only applies to properties within 20m of the application boundary.
- a new/upgrade of the pitches at Millennium Park (is this Muirhouse Park) was also to be completed prior to Site 9 being developed - this is a matter on the PPP permission.

material considerations - support

- support the development - noted
- general support for use of site for a housing - noted, use established under PPP.

non-material

- construction stage matters.
- current phases should be finished before this development starts.
- profits of developer.

An additional three comments have been received on the revised proposal raising the matter below.

material considerations - objections

Layout - assessed in condition 1a

- many elements of the masterplan have not been carried through into this proposal.
- the masterplan did not show houses fronting onto Muirhouse Green, instead contained a tree barrier.
- streetlighting not shown on plans - style of streetlighting to match previous phase, exact location to be picked up in RCC process.
- if flats shown fronting onto Ferry Road in the masterplan are not feasible due to trunk sewer, then why are town houses in the same location feasible.
- green Telephone exchange on Muirhouse Green has not been shown on the plans - applicant indicates it would be relocated prior to construction.
- Ferry Road elevation should be continuous.

Design - assessed in condition 1a

- the three storey townhouses not in keeping with area.
- the previous scheme proposed grey bricks, red bricks now proposed are not in keeping with the area. Proposals should reflect materials already used in other phases.
- no flats have been included
- 50/50 share of housing units (private and council) across the wider area now not met.
- lack of mix of unit sizes
- houses are too small in floor area.
- density of the site too high, especially when compared with surrounding area.

Privacy and overshadowing - assessed in condition 1a.

- townhouses overlook directly onto the houses on Muirhouse Green.
- overlooking of Macgill Drive and Oliver Close including differences in height.
- revised sunpath analysis required.

Greenspace

- lack of public space and play areas - open space assessed under section 1b.
- trees - site is currently large scrubland. Millennium planting outwith the site boundary.
- lack of trees within the proposals - assessed under condition 1j.

Transport Matters - assessed under condition 1c, 1d and 1h

- two access points to the site was agreed in principle at the PPP stage, all vehicle access is now from Muirhouse Green.
- access point to connecting to the adjacent site to the north not included.
- insufficient parking compared to ample parking within the masterplan
- parking straight onto Muirhouse Green requires pavement widening.
- no visitor parking.
- no car club spaces.
- no EV charging spaces.
- communal parking not sufficiently overlooked as per EDG.
- toucan crossing should be delivered as per PPP.
- cycle Pathway and footpath - the original plans stated that the cycle pathway be 4 metres wide to accommodate cyclists and pedestrians and not 3 metres as stated within the new revised plans and as this runs from Cleghorn Road to Muirhouse Green the plans will need to be adjusted accommodate the additional 1m wider - 3 metres is sufficient width.
- proposal does not meet Secure by Design and PAN 77 requirements have not been followed through. These include public footpaths should not run to the rear of the property, avoiding narrow paths, location of seating etc.
- multiple access points raising security concerns.

Noise

- No Noise Impact Assessment carried out - assessed under condition 1a. NIA a condition of 13/01954/PPP and the submission for Site 10 included information on site 9.

Other

- lack of consultation - neighbour notification carried out - no requirement for an AMC to undertake public consultation.
- Air quality - not an approval matter and Environmental Protection recommend a condition in relation to EV charging points.

non-material

- construction stage matters relating to other sites.
- intentions of developer
- potential alternative uses for the site.
- green belt protection.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

Overall conclusion

The proposals are in accordance with the Development Plan and sufficient information has been provided to deal with the relevant approval matters as set in condition 1 of planning permission in principle 13/01954/PPP.

The proposed layout differs from that originally envisaged within the masterplan. However, constraints on the site have been put forward for some alterations and the general approach of providing an urban perimeter block to the outer edges to the site is accepted. The 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 proposal's accordance with the Development Plan.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following :-

Conditions :-

1. The development hereby permitted shall be commenced no later than the expiration of two years from the date of this consent or from the date of subsequent approval of matters specified in conditions, or ten years from the date of the planning permission in principle (13/01954/PPP), whichever is the later.

2. The noise mitigation measures recommended within New Acoustics Road Traffic Noise Survey "RESIDENTIAL DEVELOPMENTS - PENNYWELL AND NORTH SIGHTHILL, EDINBURGH" and dated 30th January 2012 should be installed prior to occupation of the development.
3. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.
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 work is commenced on site; Note: samples of the materials may be required.
5. All houses with driveways and all car parking spaces specified as 'e' on the approved drawing AL (00)002 F shall have access to 7kW electric charging vehicle outlets as a minimum.

Reasons: -

1. In order to ensure applications for approval of matters specified in condition are made timeously and in accordance with section 41 (1) (c) of the Town and Country Planning (Scotland) Act 1997.
2. In order to protect the amenity of the occupiers of the development.
3. In order to ensure that the approved landscaping works are properly established on site.
4. In order to enable the planning authority to consider this/these matter/s in detail.
5. In order to ensure that future residents will have access to appropriate electric vehicle infrastructure, in the interests of air quality.

Informatives

It should be noted that:

1. 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.
2. 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.
3. The developer should make contact with Waste Services at waste@edinburgh.gov.uk 12 weeks prior to requiring bins.

4. Noise from proposed air source heat pumps should meet a maximum of NR25 noise levels within the nearest residential property (with the window slightly open for ventilation purposes)
5. Confirmation is required that Scottish Water will accept the maintenance of the underground attenuation.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 22 December 2021

Drawing Numbers/Scheme

01, 02, 03C, 04A-12A, 13-17, 18A, 20A, 24A26A, 27A, 29A, 34A, 35B-38B, 39C, 40A, 41A42-55, 56B, 57, 58, 59A.

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Kenneth Bowes, Senior Planning officer
E-mail: kenneth.bowes@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Archaeology Officer

COMMENT: No objection. The site was identified as being of archaeological potential and evaluated prior to 2010 as part of CEC's master planning for the area. The results indicated that the site had been significantly affected by 20th century development and no significant remains were uncovered.

DATE: 11 January 2022

NAME: Environmental Protection

COMMENT: No objection. Recommend conditions in relation to noise and electric vehicle charging.

DATE: 1 January 2022

NAME: Waste Services

COMMENT: Proposals check out. The developer is to make contact 12 weeks prior to needing bins.

DATE: 31 October 2022

NAME: Scottish Water

COMMENT: No objection. The full response contains a number of points for the applicant to be made aware of including information in relation water capacity, waste water capacity, assets within the proximity of the site and surface water connections.

DATE: 11 January 2022

NAME: Housing Management and Development (Affordable Housing)

COMMENT: This application is part of a wider planning consent for 784 homes which will include 364 affordable homes, 46% of the total. As the affordable housing provision across the masterplan exceeds the 25% requirement, the affordable housing requirement for this applicant is met as it is provided across the wider planning consent 13/01954/PPP.

DATE: 23 February 2022

NAME: Flood Prevention

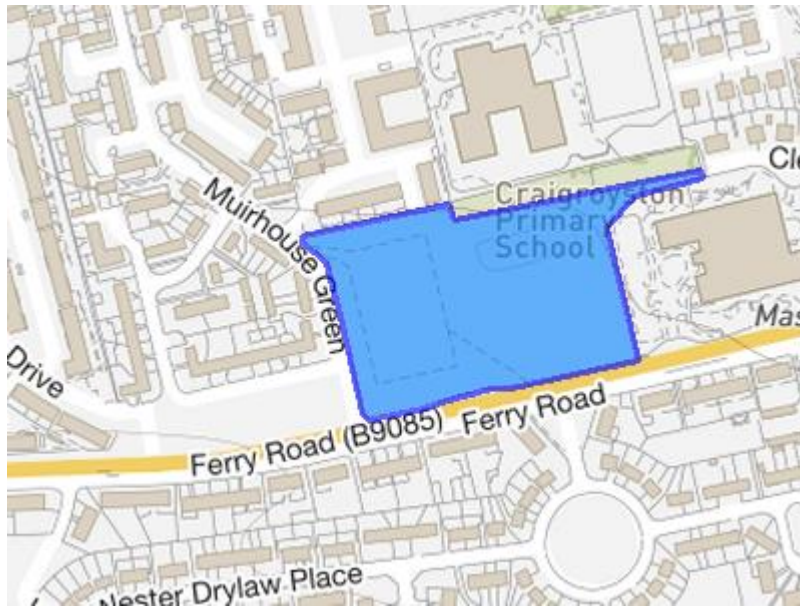
COMMENT: We typically do not accept underground surface water attenuation.

However, appreciate there are other site constraints that the applicant has to consider, and above ground SuDS measures are not always feasible. Applicant needs to confirm Scottish Water will accept maintenance responsibility.

DATE: 24 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 7 December 2022

**Application for Planning Permission
36 Regent Street, Edinburgh, EH15 2AX.**

Proposal: Replacement of an existing outbuilding at the rear of the garden with a new garden room structure (as amended).

**Item – Committee Decision
Application Number – 21/06643/FUL
Ward – B17 - Portobello/Craigmillar**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than six material representations in objection and the recommendation is to approve planning permission.

Recommendation

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

Summary

The application for development is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with relevant policies contained within the Edinburgh Local Development Plan and the relevant non-statutory guidance. It is compatible with and has special regard to the desirability of preserving the building and its setting, preserves the character and appearance of the conservation area and has no adverse impact on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site contains a detached, stone-built, Georgian bungalow on the north-west side of Regent Street. The ground floor is elevated and accessed via a number of steps to the front. It has a long rear garden, with a brick-built outbuilding in the northern corner of the site. The rear curtilage is bounded by stone walls and hedges.

The Georgian bungalow is a statutory C listed building (14.12.1970) ref.27624; the outbuilding is within the curtilage of the listed building.

The application site is located within Portobello Conservation Area.

Description of the Proposal

The proposal is for the erection of a garden room in place of an existing outhouse in the rear garden.

Scheme 2 introduces screw piles to the foundations of the garden room to alleviate excavation impacts on trees and a Heritage Statement with regards to the outbuilding's history.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 31 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 14 January 2022.

Site Notices Date(s): 11 January 2022.

Number of Contributors: 23

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:

- Demolition of Listed Buildings
- Conservation Areas
- Setting

Historic Environment Scotland's Managing Change - Demolition of Listed Buildings states that demolition of listed buildings should be avoided, wherever possible. The demolition of a listed building requires to be fully considered and justified.

A heritage statement has been submitted which indicates that the building may not have been erected at the same time as the main property. It has been subject to alterations and no longer has its original fenestration. The heritage statement identifies the presence of rising damp and it would appear that water ingress has caused deterioration of the roof, including the joists.

It is constructed of brick and render and is very plainly detailed internally. Its modest scale and relatively basic form, create a building of limited architectural merit, distinct from the more elegant design and appearance of the main property.

In these circumstances, having particular regard to the restricted architectural and locational connection between the main building and the outbuilding and its relatively poor structural condition, it is concluded that it makes a very limited contribution to the special interest of the building.

The proposed replacement would represent a suitable development within the site and would clearly be read as a distinct, modern addition. It would be an appropriate design and would be of similar size and scale to the existing building. The sensitive design, use of materials and location would ensure it would not compete with the architectural merits and setting of the host property.

By virtue of its subservient size, scale and location within the rear curtilage, the works would not have a detrimental impact on the historical architectural features of the host property. The proposal would not adversely impact on the special architectural or historic interest of the listed building or any adjacent listed buildings.

Conclusion in relation to the listed building

The proposed works are acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high quality architecture, and the predominant use of traditional building materials.

The proposed works are entirely within the enclosed rear garden of the application site. As set out above, the design is modest and unassuming and would not form an obtrusive or unsympathetic addition. By virtue of this and the partial screening afforded by the stone wall, the development would not be readily visible from the public realm.

The form, scale and location of the proposal would ensure that it would have no adverse effect on the character and appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal is acceptable with regards 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 policies to be considered are:

- LDP Environment Policies Env 3, Env 4, Env 6 and Env 12.
- LDP Design Policies Des 1 and Des 12.

The non-statutory 'Listed Buildings and Conservation Area' and 'Guidance for Householders' are material considerations that are relevant when considering the aforementioned policies.

Principle

The principle of the proposal is acceptable in that the works would be incidental in nature to the main dwelling. The proposal is for operational development only and is not for a change of use.

Size, Scale and Design

The proposal is of a domestic size, scale and design and would be comparable with the footprint of the existing outhouse. The overall design and materials proposed would represent congruous additions to the application site.

The proposal would not represent overdevelopment by virtue of it complying with the relevant criterion within the non-statutory Guidance for Householders. The works would have a subservient and subordinate relationship with the host property and would not have a detrimental impact on its character. It would form a compatible addition that would have no adverse effect on the character and appearance of the conservation area.

The proposal complies with LDP Policies Des 1, Des 12, Env 3, Env 4 and Env 6.

Amenity

The proposals have been assessed against the criteria set out in the non-statutory Guidance for Householders to ensure there is no unreasonable loss to neighbouring amenity with respect to privacy, overshadowing, loss of daylight or sunlight.

In terms of daylight, the proposal complies with the 45 degree criterion within the guidance.

In relation to privacy, the proposed south-west facing windows of the outhouse would be less than the recommended 9 metres to the nearest boundary. However, the window would look upon the boundary wall between 36 and 34 Regent Street and would offer no opportunity for overlooking and loss of privacy.

An assessment of the impact of the development on neighbouring sunlight has confirmed that no additional area of overshadowing would be created.

The proposal complies with LDP Policy Des 12 and the relevant non-statutory guidance.

Trees

Concern was raised in respect of the development's impact on nearby trees. The application was amended with the introduction of screw piles to ensure that the trees would be protected from any adverse effects of normal foundations. A condition has been attached to protect the trees during the construction of the development.

The proposal complies with LDP Policy Env 12.

Conclusion in relation to the Development Plan

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

Twenty-three representations were received; twenty one in objection, one neutral and one in support. A summary of the representations is provided below:

material considerations

Impact on listed building; this is addressed in sections a) and c).

Size and scale; this is addressed in sections a), b) and c).

Materials; this is addressed in sections a), b) and c).

Privacy; this is addressed in section c).

Sunlight; this is addressed in section c).

Trees; this is addressed in section c).

non-material considerations

Precedent; this is not a material planning consideration.

Conclusion in relation to identified material considerations

These have been addressed above.

e) Overall conclusion

The application for development is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with relevant policies contained within the Edinburgh Local Development Plan and the relevant non-statutory guidance. It is compatible with and has special regard to the desirability of preserving the building and its setting, preserves the character and appearance of the conservation area and has no adverse impact on neighbouring residential amenity. There are no material 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. The proposed garden room is to be erected on ground screws as indicated on approved drawing (05A) to limit the excavation and ground disturbance.
3. Prior to works, including demolition, commencing the tree protection fencing and measures as described in the 7th March 2022 Proposed Plan drawing (05A) shall be implemented and maintained in full until the completion of development and that within the tree protection area no ground level changes take place.

Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to protect the roots of adjacent trees.
3. In order to protect the adjacent trees.

Informatives

It should be noted that:

1. 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.
2. 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.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 17 December 2021

Drawing Numbers/Scheme

01,02a,03a,04,05a,06a,07-10

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

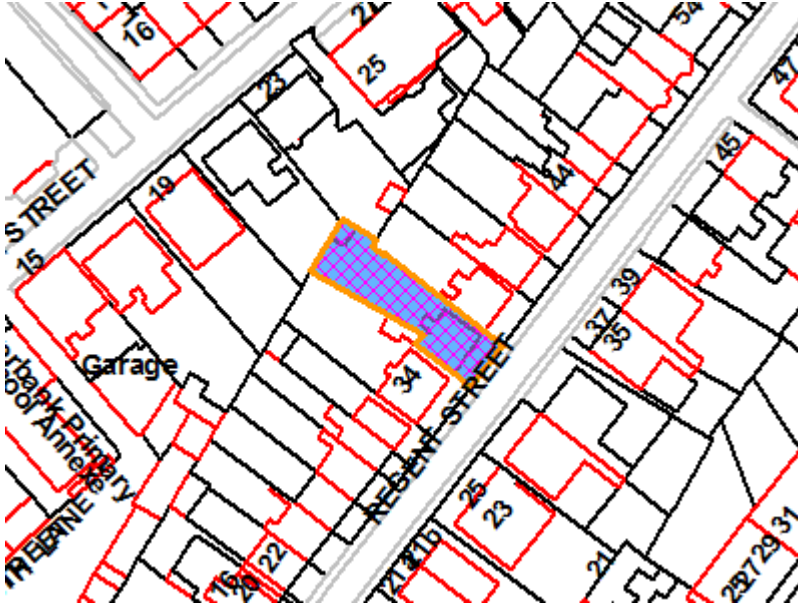
Contact: Conor MacGreevy, Planning Officer
E-mail: conor.macgreevy@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
20 West Shore Road, Edinburgh, EH5 1QD.**

Proposal: Mixed-use development comprising creative studio and business incubation space, workshop manufacturing and storage with ancillary retail, events space, indoor and outdoor food market, food outlets, leisure uses and associated landscaping.

**Item – Committee Decision
Application Number – 22/01726/FUL
Ward – B04 - Forth**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because there is Council interest in the proposal. 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

The principle of providing a mix of uses and bringing a vacant industrial unit back into use is acceptable. The industrial uses that form the main part of the proposals comply with the current designation of the site under EW 2d which recognises the potential for light industrial development to come forward while waiting for the longer term aspirations of the site are realised.

The design and alterations to the existing industrial unit and the proposed development within the curtilage is acceptable in scale and form given the industrial context of the site. The proposal is acceptable in relation to matters such as amenity, transport measures and flooding.

In all other aspects the proposal accords with the Development Plan and generally complies with the relevant Non-Statutory Guidance.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP). There are no other material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The site, covering 1.34 hectares, comprises a large vacant industrial unit with an approximate floor area of 4,694 sqm and the surrounding area. The unit is understood to have been previously occupied by an engineering company.

The steel framed industrial unit occupies the majority of the site and is set back from West Shore Road to the south. The external area comprises mainly hardstanding with some areas of grass. There are existing trees along the southern boundary and at the eastern part of the site. A security fence runs around the perimeter of the site.

To the north and east is the promenade separating the site from the Firth of Forth and to the west are existing industrial units. Further south is the B listed Doocot, Boundary Wall and Walled Garden (reference LB28139, listed 14 December 1970) and also the Social Bite Village, both are shielded from West Shore Road by existing trees.

There is an existing vehicular access from West Shore Road that leads to the extensive area of hardstanding that surrounds the warehouse.

The site is located within the Urban Area as shown on the Local Development Plan Proposals Map. It is within the Edinburgh Waterfront: North Shore (EW 2d) designation which identifies the site for housing-led mixed use development. To the north is the Edinburgh Waterfront Promenade Cycleway/ Footpath Safeguard. Further north is a local nature conservation site and the Firth of Forth Special Protection Area.

The application site is within the ownership of the City of Edinburgh Council.

Description of the Proposal

It is proposed to redevelop the existing building and associated external area to create a mixture of light industrial units, artists' spaces, street food market, events space as well as housing a rebuild workshop. The external area will also accommodate 38 reclaimed shipping containers/ welfare cabins and also a food market. An external area has also been identified as a sauna.

The main elements comprise:

- Class 4/5/6 (Business, Industrial and Storage) extending to 3,939 sqm within the existing building on the ground floor and a mezzanine level. These comprise of six larger units ranging from 142 sqm to 484, some storage areas and a 50 smaller studio spaces ranging in size from 16.5 sqm to 67 sqm. The 38 refurbished shipping containers provide a combined area of 468sqm of studio space. Some of the larger units will also contain ancillary Class 1 (Shops) use.
- Class 3 (Food & Drink) - internal floorspace for bakery and indoor food market covers 708 sqm.

- Externally, the proposal contains specific areas for the bakery garden (414sqm), adjoining public facing courtyard on the northern part of the site (136sqm) and the food market (459 sqm). The proposed food market is described as a street food focused market with the sale of hot and cold food from multiple traders for consumption on site. There will also be sale of hot and cold alcoholic and non-alcoholic drinks for consumption on-site with the potential of off sales.
- Class 11 (Assembly & Leisure) internal floorspace for events space of covering 622 sqm. Externally, a site area of 930 sqm has been designated for the Soul Water Sauna leisure use with detailed design to be brought forward by tenant.

Alterations to the warehouse building largely relate to the blocking up of some existing openings and the creation of new ones to accommodate the proposed interior layout. This includes new roller shutters on the southern elevation. On the northern elevation a gated cut out section is proposed to provide a public facing courtyard area. An existing large industrial ventilation exhaust tower is to be removed and new air extractions to the food market and bakery uses.

Internally the studios and workshop space are set around a central access corridor and this takes up the majority of the central and western part of the warehouse. There is a mezzanine level for further studio spaces. The indoor food market and event space are at the eastern part of the warehouse. The outdoor food market is at the north-eastern part of the site adjacent to an area identified as a parkland. The south-eastern part of the site has been identified for the sauna area.

The container/welfare cabin studios are shown in two separate parts of the external hardstanding areas. One to the west of the warehouse building and one to the south, both are to sit on timber decking.

The 'bakery garden' is located at the north-western part of the site.

The existing access from West Shore Road at the eastern part of the site is to be retained. A new access is also proposed at the western part of the site. These both provide access to service yards for parking, loading and bin stores.

Pedestrian access points are shown from the east and north of the site from the promenade.

Total parking provision is shown as 15 spaces (one accessible and four with Electric Vehicle charging points) with additional areas for loading. Seven public parking spaces are adjacent to the site, outwith the site boundary.

Cycle parking is provided in various locations across the application site. It is identified as containing Sheffield stands, but numbers have not been provided.

Supporting Information

- Planning Statement;
- Design Statement;
- Phase 1 Geo-Environmental Desktop Study;
- Flood Risk Assessment and Drainage Strategy and
- Transport measures report.

These are available to view on Planning and Building Standards Online Services.

Relevant Site History

No relevant site history.

Other Relevant Site History

None

Pre-Application process

There is no pre-application process history.

Consultation Engagement

NatureScot

Scottish Water

Archaeology Officer

Environmental Protection

Flood Prevention

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

Publicity and Public Engagement

Date of Neighbour Notification: 29 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022;

Site Notices Date(s): Not Applicable;

Number of Contributors: 1

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 in the Historic Environment: Setting

To the south of West Shore Road are the B listed Doocot, Boundary Wall and Walled Garden. These are separated from the site by the existing tree cover meaning that the historic assets have limited visibility from the application site and the industrial style development proposed is appropriate in the context of the existing site. Consequently, the proposals will not have a detrimental impact on the setting of the listed structures.

Conclusion in relation to the listed building

The proposal will have no detrimental effect on the setting of nearby and adjacent B listed buildings. The proposal therefore is acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) 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 Strategy policy Del 3
- LDP Design policies Des 1, Des 2, Des 3, Des 4, Des 5, Des 7, Des 8, Des 10
- LDP Environment Policies Env 3, Env 9, Env 12, Env 13, Env 14, Env 15, Env 16

- LDP Employment policies Emp 9
- LDP Shopping and Leisure policies Ret 6, Ret 7 and Ret 11.

The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering the application. The Granton Waterfront Development Framework and the Edinburgh Waterfront Promenade Design Code are also material considerations.

Impact on the setting of the listed buildings

LDP policy Env 3 (Listed Buildings-Setting) states that development within the curtilage or affecting the setting of listed buildings will be permitted only if not detrimental to the architectural character, appearance or historical interest of the listed building, or its setting.

As discussed in section (a), the proposal will have no detrimental effect on the setting of nearby and adjacent listed buildings. The development therefore complies with LDP policy Env 3.

Principle

Policy Del 3 (Edinburgh Waterfront) states that planning permission will be granted for development which will contribute towards the creation of new urban quarters at Granton Waterfront (EW 2d is relevant in this instance). The policy sets out a number of requirements including maximising the development potential of the area, providing a series of mixed-use sustainable neighbourhoods that connect to the waterfront and the provision of local retail facilities and leisure and tourism attractions.

The LDP identifies the site as part of Edinburgh Waterfront: North Shore (EW 2d). This allocates the wider redevelopment area for housing-led mixed-use development for an estimate 850 residential units. The supporting text notes that implementation of this proposal is unlikely to come forward in the first part of the LDP period and temporary consents for light industrial development would allow productive use of this area and address the small business needs targeted by Policy Emp 9 (Employment Sites and Premises) without prejudicing residential amenity in new development to the south. Redevelopment of this area has not come forward as quickly as anticipated with other areas within the Granton area being developed as earlier phases.

The uses proposed meet with aspirations of Policy Del 3 in relation to providing a mix of uses and attractions at this location.

The Granton Waterfront Development Framework (GWDF) identifies the site as forming part of a new coastal park which is part of a wider strategy to set development back from the shoreline to create a flood resilient area.

In general terms, the re-use of the vacant industrial unit and placement of shipping containers within the curtilage is acceptable in principle and accords with the LDP. The proposed uses are considered further in the sections below. Whilst the GWDF has shifted the longer-term focus of the site, a meanwhile use of the site is appropriate - although not a planning matter, the supporting information indicates the applicant has agreed a 15-year lease with Council as landowner.

As there is already an existing building at this location the proposals will not impact on the regeneration of the wider area in accordance with Policy Des 2 Co-ordinated Development which seeks to ensure that proposals do not compromise the comprehensive development and regeneration of a wider area.

Employment Space:

LDP Policy Emp 9 (Employment Sites and Premises), seeks to ensure that proposals for redevelopment of sites over one hectare which are or were last in employment use contribute to the city's stock of flexible small business premises. The policy supports proposals which will contribute to the comprehensive regeneration and improvement of the wider area.

The policy also indicates that the introduction of non-employment uses should not prejudice or inhibit the activities of any nearby employment use. This point is considered later on in relation to amenity.

The proposals will introduce a range of employment uses in the form of classes 4, 5 and 6 and the proposed container space providing a floor space of approximately 4,407 sqm. Accordingly, the proposals satisfy that element of Policy Emp 9.

Retail and Market

Policy Ret 6 (Out-of-Centre Development) sets out the criteria where proposals for out-of-centre retail development will be permitted. The criteria is: a) addresses a quantitative or qualitative deficiency; b) all potential sites have been assessed and discounted as unsuitable or unavailable; c) the proposal will not have a significant adverse effect on the vitality and viability of any existing centre; and d) the site is or can be made easily accessible by a choice of transport modes and will reduce the length and overall number of shopping trips made by car.

Policy Ret 11 (Food and Drink Establishments) states the change of use of a shop unit or other premises to a licensed or unlicensed restaurant, café, pub, or shop selling hot food for consumption off the premises (hot food take-away) will not be permitted: a) if likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti-social behaviour to the detriment of living conditions for nearby residents or b) in an area where there is considered to be an excessive concentration of such uses to the detriment of living conditions for nearby residents.

The proposed retail uses associated with the workshops will be small and ancillary so justifiable in the mix of uses.

There is no specific retail policy for markets. Ret 6 and Ret 11 have some relevance given the location of the proposed market, which has been explained as being predominantly a food market rather than straight retailing. This is a different offer to that within the local centre focused on the supermarket to the south of the site. The location within an industrial estate lends itself well to the type of uses being proposed.

Assembly and Leisure

LDP Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations) states planning permission will be granted for high quality, well designed arts, leisure and entertainment facilities and visitor attractions at Granton Waterfront and in a town centre, provided that the proposals can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character, be compatible with the surrounding uses in relation to amenity matters and be easily accessible by public transport, foot and cycle.

As a Granton Waterfront location the proposals for event space and the sauna area meet the first part of the policy and introduce, as part of mixed-use development, an alternative vibrant use to a vacant building whilst developing out the wider site. The proposed Class 11 uses are acceptable.

In summary, the proposed uses are acceptable in principle subject to the consideration of amenity and transport matters.

Design

The proposal will bring a vacant industrial unit back into re-use with a range of uses that will add some vibrancy to the area. The alterations to the building and the new structures proposed in its curtilage are of an appropriate industrial aesthetic. This accords with Policy Des 4 (Development Design - Impact on Setting) which sets out that development will be granted where it is demonstrated that it will have a positive impact on its surroundings.

The alterations to the existing warehouse are relatively minimal and are acceptable in the context of an industrial building. The proposals are compatible with the existing building and comply with Policy Des 12 (Alterations and Extensions).

LDP Des 7 (Layout Design) sets out, amongst other matters, that planning permission will be granted for development where a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths, public and private open spaces, services and SUDS features has been taken.

The two areas formed by old shipping container/cabins have been arranged to provide clusters of flexible space opening out into areas of timber decking. The western area sits in behind the existing neighbouring industrial building to the southwest, whilst the existing trees at the south of the site will provide some screening for the southern containers. The containers are to be painted green and are suited both to an industrial setting and the coastal location. Likewise, any food stalls / structures are located to the north of the site and will not detrimentally impact on the area which is currently industrial. The proposals also comply with Policy Des 1 (Design Quality and Context) as the design and siting of the structures are appropriate for the location.

Detailed plans have not come forward for the area allocated for the outdoor sauna at the eastern part of the site. The plans do show a general layout and the types of facilities proposed have been shown in a document supplied indicating structures such as a cylindrical wooden timber sauna building, a converted horse box for a small reception and changing rooms and wooden clad plunge pools alongside seating areas.

The general concept of the sauna, the layout and the images provided are acceptable at a coastal location. A condition is attached to ensure that full details come forward.

Proposals should come forward with full details of landscaping in accordance with Policy Des 8 (Public Realm and Landscape Design). The proposal contains basic information on landscaping, showing the existing trees retained, grassed areas and new access paths to the site.

In this instance, the applicant has indicated that it is the intention of Edinburgh Palette to develop the landscaping details at a later phase of the development and in consultation with gardening groups from the local community.

The planning statement sets out proposed phasing of development.

Phase 1 is the refurbishment and conversion to the existing building and includes the outdoor food market area, the new access point and car and cycle parking.

Phase 2 is when the containers/cabins are to come forward alongside the landscaped area.

The applicant has requested if the landscaping can come forward as part of the phase 2 works. Given the nature of the existing industrial environment this approach is acceptable and a condition for landscape works has been applied.

The proposal shows new access paths to the site from the promenade and the use of the site will help in activating this part of the promenade and also proposes new access points to the site and building from the promenade. In this sense it complies with LDP Policy Des 10 (Waterside Development) which, amongst other matters, sets out that planning permission will only be granted for development on sites on the coastal edge if it provides an attractive frontage and maintains public access to the water's edge.

Overall, the proposed development is acceptable in the context of the site.

Amenity

LDP Policy Des 5 (Development Design - Amenity) seeks to ensure that the amenity of neighbouring residents is not adversely affected by development and that future occupiers of residential properties have acceptable levels of amenity.

The existing site contains an industrial unit which could be brought back into an industrial use without planning permission. It is located within a predominately industrial area that houses a range of uses. The nearest residential site is the Social Bite village to the south, approximately 55 metres away and sits behind existing trees.

Environmental Protection has not objected to the proposal. Any future residential developments on surrounding sites will need to ensure that noise impact is taken into consideration.

Transport

The transport objectives set out in the Local Development Plan (page 126) state that development should:

- Minimise the distances people need to travel;
- Promote and prioritise travel by sustainable means, i.e. walking, cycling and by public transport and
- Minimise the detrimental effects of traffic and parking on communities and the environment.

Vehicular access to the site is from West Shore Road.

The site is not in a location identified as having high levels of general public transport accessibility. However, it is one which was last in use as an industrial premises and the majority of the uses proposed are similar workshop uses.

The proposed mix of uses on the site means that it will attract people to the site at different types of the day/evening which will influence the potential trip generation of the site. For example, the food market is likely to have a different travel pattern to the light industrial / business tenants which will minimise travel generation to the site. Given the nature of the proposed uses, it is unlikely that the development will be a major traffic generation during peak times when the transport network is at its busiest.

To the south of the site is an existing core path (part of CEC 8 North Edinburgh Paths) that leads along the side of Granton Walled Garden to Waterfront Avenue. There is a programme in place to upgrade this path which will improve accessibility to the bus services and local centre at Waterfront Avenue / Waterfront Broadway. Using this path, the site is approximately 450m from the bus stops on Waterfront Avenue (400m is generally considered to typically take five minutes to walk). The buses are Lothian Buses 24, 47, 47B and X37.

There is also the promenade running to the north site. This runs west from the site to Cramond offering an alternative sustainable route to the site, though the promenade to the east of the site is not in place.

The Edinburgh Waterfront Promenade Design Code sets out the objective behind the promenade project is to link communities along the coast with each other and with adjoining communities providing a safe and attractive corridor for pedestrians and cyclists. It will also include a number of nodes that will act as destination points offering opportunities for recreation and entertainment facilities whilst respecting the coastline. This proposal would create a node of activity at this location.

LDP Policy Tra 2 (Private Parking) requires that developments make provision for car parking levels that comply with and do not exceed the parking levels set out in the non-statutory guidance. The supporting text to Policy Tra 2 sets out that a purpose of the policy is to generally fulfil the wider strategy of encouraging sustainable, non-car modes.

Limited parking is proposed, the parking provision is shown as ten onsite tenant managed spaces (one accessible and four with Electric Vehicle charging points), five onsite public spaces adjacent to West Shore Road and also three loading areas. Additionally, there are seven existing spaces outwith the site on West Shore Road. This is a relatively low level of parking for the proposed uses. For example, the 4,407 sqm of class 4/5/6 use by itself would allow for 11 spaces. The low level of parking meets with the LDP objective of prioritising other modes of transport aside from the car.

LDP Policy Tra 3 (Private Cycle Parking) requires that cycle parking and storage within the development complies with Council guidance. Cycle parking has been shown as Sheffield stands in six locations, but the exact amount has not been specified. Considering Sheffield stands should be 1.2 metres apart, the areas shown could potentially provide spaces for approximately 95 bikes. A condition is recommended to secure full details.

Overall, this is a positive use of the site and the existing external area that currently contains excessive areas of hardstanding for car parking is to be covered over with new uses. The limited level of car parking proposed is acceptable in light of the objective of reducing reliance on the car and improvements to the core path to the south will provide a route to the nearby bus stops. The adjacent existing section of the promenade also provides an alternative route to the site from the west.

Trees

LDP policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact upon a tree protected by a Tree Preservation Order (TPO) or on any other tree or woodland worthy of retention.

There are number of semi-mature trees that line the boundary of the site. None of these trees are covered by a TPO and nor are the trees within conservation area. The plans submitted do not show that any trees are to be removed to accommodate the development. The retention of the existing trees also complies with Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) as it retains features of the site that are worthy of retention.

A condition has been applied to the permission to ensure that the trees directly surrounding the site are protected during construction works.

Ecology

Policies Env 13 (Sites of International Importance), Env 14 (Sites of National Importance) and Policy Env 15 (Sites of Local Importance) seek to protect the integrity of the designations which are located to the north of the site.

Policy Env 16 (Species Protection) sets out that planning permission will not be granted for development that would have an adverse impact on species protected under European or UK law, unless for a limited number of reasons.

NatureScot note that this is a temporary proposal until the GWDF proposed coastal parkland is progressed. The original masterplan for the site and the current LDP, underwent Habitat Regulations Appraisals (HRAs). As such, there is no requirement for further HRA.

As part of the GWDF an HRA, which included appropriate assessment, has been carried out. This concluded that with mitigation measures there will be no likely significant effects on the Firth of Forth Special Protection Area (SPA) (a Natura 2000 site located further north of the application site), with ecology effects considered as development phases come forward.

As the proposal is for the conversion of an existing building and primarily development on existing hardstanding there will be limited impacts on ecology. A Construction Environment Management Plan has been added as an informative.

Flooding

Policy Env 21 (Flood Prevention) states that planning permission will not be granted for development that would increase a flood risk or be at risk of flooding itself, impede the flow of flood water or prejudice existing or planning flood defence systems.

A Flood Risk Assessment and Drainage Strategy has been provided. Flood Prevention has reviewed the information and has confirmed its acceptability. Scottish Water does not object to the application, but raises a number of points for the applicant to take into consideration.

The proposal complies with Policy Env 21 (Flood Prevention).

Archaeology

The Archaeology Officer response concludes that there are no archaeological implications arising from the proposals. Consequently, the proposal complies with Policy Env 9 (Development of Sites of Archaeological Significance) as no significant archaeological features are likely to be affected by the development.

Ground Conditions

A Geo-Environmental Desktop Study has been submitted. Due to the previously developed nature of the site, a condition is required to ensure the appropriate investigation and mitigation is undertaken.

The site is within an area identified by the Coal Authority as a development low risk area. The Coal Authority standing advice has been added as an informative.

Conclusion in relation to the Development Plan

The principle of providing a mix of uses and bringing a vacant industrial unit back into use is acceptable. The industrial uses that form the main part of the proposals comply with the current designation of the site under EW 2d which recognises the potential for light industrial development to come forward while waiting for the longer term aspirations of the site are realised.

The design and alterations to the existing industrial unit and the proposed development within the curtilage is acceptable in scale and form given the industrial context of the site. The proposal is acceptable in relation to matters such as amenity, transport measures and flooding.

In all other aspects the proposal accords with the Development Plan and generally complies with the relevant Non-Statutory Guidance.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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.

Level access is to be provided throughout the external areas of the site and to all new entry points into the warehouse. Where existing entrances are used, internal step-free routes from new entrances are to be provided.

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

One representation in support of the application has been received. A summary is provided below:

material considerations

Support:

- Support the proposals for a new sea front arts hub that will transform a vacant industrial unit - comment noted and principle of development assessed in section 3b).

General comments:

- urge every opportunity is taken to enhance the site's public realm and greenspace, to link the site to the adjacent promenade and to support active travel to and through the site - active travel and landscape measures assessed in section 3b).

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

Overall conclusion

The principle of providing a mix of uses and bringing a vacant industrial unit back into use is acceptable. The industrial uses that form the main part of the proposals comply with the current designation of the site under EW 2d which recognises the potential for light industrial development to come forward while waiting for the longer term aspirations of the site are realised.

The design and alterations to the existing industrial unit and the proposed development within the curtilage is acceptable in scale and form given the industrial context of the site. The proposal is acceptable in relation to matters such as amenity, transport measures and flooding.

In all other aspects the proposal accords with the Development Plan and generally complies with the relevant Non-Statutory Guidance.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP). There are no other material 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. Prior to the commencement of development, details of the proposed cycle parking regarding location, specification and design shall be submitted to the Planning Authority for approval. This should meet the standards of the Council's Edinburgh Design Guidance. Thereafter, before the associated part of the development is brought into use, the cycle parking shall be completed and available for use.

3.
 - i) Prior to the commencement of construction works on site:
 - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, 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. Prior to Phase 2 of the development, as shown on page 17 of the Planning Statement (dated March 2022) and identified on plan L(GA)01 Rev A (CEC ref: 05B) as areas T10 and T11, full landscape details shall be submitted to the Planning Authority for approval. There after the development shall be carried out in accordance with the approved landscaping scheme. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced 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.
5. A fully detailed plan showing details of the structures in area T13 (sauna) as identified on plan L(GA)01 Rev A (CEC ref: 05B) shall be submitted to and approved in writing by the Planning Authority before work is commenced on that part of the site.
6. The trees surrounding the site shall be protected during the construction period by the erection of fencing, in accordance with BS 5837:2012 " Trees in relation to design, demolition and construction".

Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that the level of cycle parking is adequate.
3. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
4. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
5. In order to enable the planning authority to consider this/these matter/s in detail.
6. In order to safeguard protected trees.

Informatives

It should be noted that:

1. 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.
2. 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.
3. Coal Authority - Standing Advice - Development Low Risk Area

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

4. The applicant should develop a green travel plan.
5. The applicant should consider the following measures:
 - The preparation of a Construction Environment Management Plan (CEMP), which sets out commitments to: - Adherence to best practice in relation to pollution prevention. - A Surface Water Management Plan - A Waste Management Plan - The appointment of an Environmental Clerk of Works (ECoW) to provide advice and support during construction stages.
 - A Lighting Strategy that demonstrates attempts to limit unnecessary light spill, particularly onto the adjacent European Sites.
 - Avoidance of works in sensitive areas during the winter period, where possible.
 - Where works during the winter cannot be avoided, a general ban on piling activities and a 'slow start' approach to noise generating activities during the winter months.
 - The Appointment of an Ornithological Clerk of Works (OCoW) to monitor the effects on works on adjacent European Site qualifying features during the winter months. The OCoW will have authority to temporarily suspend works where he/she considers their impact on adjacent European Site qualifying features is unacceptable. Prior to consent, developers will be required to agree the full scope of the OCoW role with the Planning Authority and NatureScot.

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

01-04, 05B, 06A, 07A, 08, 09, 10A, 11 - 13

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Kenneth Bowes, Senior Planning officer
E-mail: kenneth.bowes@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: NatureScot

COMMENT: Noted that this is a temporary proposal that fits with current Local Development Plan (LDP) requirements

DATE: 23 May 2022

NAME: Scottish Water

COMMENT: No objection. The full response contains a number of points for the applicant to be made aware of including information in relation water capacity, waste water capacity, assets within the proximity of the site and surface water connections.

DATE: 9 May 2022

NAME: Archaeology Officer

COMMENT: The site is formed by modern deposits and as the proposals will not require significant ground works there are no archaeological implications regarding this scheme.

DATE: 4 May 2022

NAME: Environmental Protection

COMMENT: No objection to the planning application. Recommend a condition in relation to site investigation.

DATE: 4 November 2022

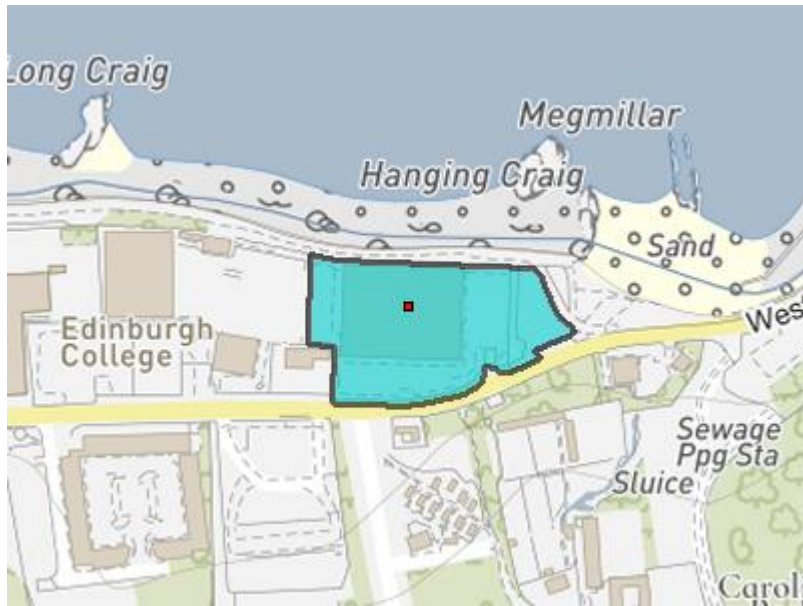
NAME: Flood Prevention

COMMENT: Proposal can proceed to determination with no outstanding comments from Flood Prevention

DATE: 29 September 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 7 December 2022

**Application for Planning Permission
5 Winton Drive, Edinburgh, EH10 7AL.**

Proposal: Demolition of the existing building and erection of a 62-bed care home with associated parking and landscaping.

**Item – Committee Decision
Application Number – 22/02335/FUL
Ward – B08 - Colinton/Fairmilehead**

Reasons for Referral to Committee

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

Recommendation

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

Summary

The proposal does not comply with the development plan. The principle of development is acceptable. However, the scale and massing are not compatible with the established character and spatial pattern of the surrounding area. The proposal does not draw upon the positive qualities of the area and will have a detrimental effect on the character of its surroundings. It will have an adverse impact on the setting of the conservation area and the streetscape. The impact on the existing trees is unacceptable and the proposed planting will be unable to revitalise the semi-rural and natural environment character of the site, street and surrounding area. There are no amenity, transport or flooding/drainage issues. Overall, the proposal does not comply with the development plan. Therefore the application is unacceptable and refusal is recommended. There are no other material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is located on the corner of Winton Drive and Winton Loan, off Frogston Road West near Fairmilehead crossroads. The 0.46ha site slopes gently downwards to Winton Loan. It comprises a detached dwellinghouse and its extensive garden ground. The dwellinghouse, dating from 1930s, is vacant and the garden overgrown. There is a stone boundary wall along Winton Drive and part of Winton Loan with the rest of Winton Loan frontage being a lower render wall with timber fencing on top. Trees and some large shrubs are found parallel along the boundary. Trees on the north and east of the site have been felled. Several remaining trees are protected by Tree Preservation Orders (TPOs). Two vehicular accesses exist: one on Winton Drive and one on Winton Loan.

The street and immediate surrounding area are residential. Opposite the site to the south is a woodland area on Winton Loan and beyond that farmland and then the City Bypass. The wider surrounding area is predominantly residential with some other uses, such as place of worship, class 2 uses (spa/wellbeing) and offices. To the south and east lies Morton Mains Conservation Area and Edinburgh Green Belt.

Description of the Proposal

The proposal is to demolish the dwellinghouse and build a 62-bedroom care home. It will be three storeys high plus both an attic level and lower ground floor/basement. There will be associated parking located in the basement and landscaping. An area of green wall is proposed on the east elevation near the entrance.

Each floor level will have communal areas, such as dining room, day rooms and quiet rooms, as well as bedrooms. On the ground floor there will also be a reception and many of the bedroom's will have direct access to a patio.

Dining facilities, lounge/seating area and a cinema will be located on the top (attic) floor level and there will be a balcony/roof terrace to the front within the attic roofscape.

Two vehicular accesses will be formed on Winton Road. Parking will be provided in the lower ground floor (basement) for 25 vehicles, 20 cycles, 3 motorcycles and 4 mobility scooters. Three electric vehicle charging points will be provided including one at a disabled persons parking space. Access will be by a ramp. Five cycle parking racks for 10 bicycles will be provided in the south east corner of the site near the access from the street.

Services, such as plant and refuse storage, and the kitchen will also be located in the lower ground floor/basement.

Materials proposed are ashlar sandstone, smooth white render, fibre cement cladding light grey, concrete roof tiles, uPVC anthracite grey framed windows/doors, and glass balustrade.

Scheme 2 - revised scheme

Revised drawings to include location of kitchen supply/extract.

Supporting Information

- Arboricultural Report
- Capacity Check (re: Scottish Water)
- Demand-demographic report
- Design and Access Statement
- Energy Report
- Landscape (visual appraisal)
- Planning Statement
- Preliminary Ecological Appraisal
- SUDS-Drainage Strategy Report
- Transport Statement
- Tree survey schedule
- Site Walkover survey
- Site Investigation Report
- Air Source Heat Pump (ASHP) Technical Specification, Datasheet & location

Relevant Site History

No relevant site history.

Other Relevant Site History

None.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Economic Development

Transport Planning

Archaeology

Environmental Protection

Flood Planning

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

Publicity and Public Engagement

Date of Neighbour Notification: 24 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: 298

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 Environment policies Env 7, Env 8, Env 9, Env 11, Env 12, Env 16, Env 21
- LDP Housing policies Hou 7, Hou 10
- LDP Design policies Des 1, Des 3, Des 4, Des 5, Des 6, Des 9
- LDP Transport policies Tra 2, Tra 3, Tra 4

The Listed Building and Conservation Area non statutory guidance is a material consideration that is relevant when considering policy Env 6. The non-statutory Edinburgh Design Guidance is a material consideration that is relevant when considering the design, transport and most of the environment policies.

Principle of Development

LDP Policy Hou 10 (Community Facilities) seeks to ensure that housing developments go hand in hand with the provision of a range of community facilities when this is practicable and reasonable in order to foster community life. Whilst this is an established area of housing, the aim of the LDP plan is to create sustainable communities. The provision of a local care home is an important function within a community and relatives should be able to walk or cycle to see their relatives in care homes. The proposal is compatible with the objectives of LDP Policy Hou 10.

The intention of LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) is to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas. A care home will provide residential accommodation on a current residential site in a residential area and, as such, is a compatible land use. Although it will be commercial in terms of staffing and providing on site facilities, these will be required for the residents. Whilst the care home could be viewed as a change of use to commercial, residents will be living on the site, and this is acceptable in a residential area.

The proposal complies with LDP policies Hou 10 and Hou 7. However, it does not comply with other relevant LDP policies and, therefore, the proposed development is not acceptable in this location.

Setting of conservation area

LDP Policy Env 6 (Conservation Areas - Development) relates to development both within a conservation area and that affecting its setting. This includes preserving features, such as trees, which contribute positively to the character of the conservation area and where design and materials are appropriate to the historic environment.

As the application site is not within the conservation area, an assessment in relation to the statutory tests of Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is not required.

The general principles set out in the Listed Building and Conservation Area non-statutory guidance do not specifically include reference to the setting of the conservation area. However, they provide an appropriate guide in terms of the impact a development may have on the character and appearance of the conservation area. It states that interventions need to be compatible with the historic context, not overwhelming or imposing.

Morton Mains Character Appraisal states that, "The main approach to the conservation area is along Winton Loan. This was part of the original tree lined avenue to Morton House. The north side is now developed but with villas set in large gardens, so it is still possible to get a sense of leaving the city and entering a country estate."

The site used to be part of the Morton House Estate and Winton Loan formed the main entrance to this estate. Trees belts/ woodland flanked this lane on either side and some of these trees still exist today. The woodland opposite the application site is included in the conservation area boundary. The proposed development will change the character of the approach to the conservation area and woodland setting.

Thus the setting will be eroded as the proposed development will result in a dominant feature at the boundary to the conservation area detracting from special features of the woodland and trees of the conservation area. The proposal will not contribute positively to the character of the area.

The loss of trees on the application site is addressed later in this report.

The proposal does not comply with LDP Env 6 as it will detract from the setting of the conservation area.

Scale, form and design

Design policies Des 1 (Design Quality and Context), Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features), Des 4 (Development Design - Impact on Setting) and Des 6 (Sustainable Buildings) in the LDP aim for developments to create or contribute to a sense of place, incorporate or enhance existing and potential features, have a positive impact on surroundings, be of appropriate design and density, and be sustainable.

LDP Policy Des 1 seeks development that will create or contribute to a sense of place and draws upon the positive characteristics of the surrounding area. The proposed building will be much larger both in footprint and massing compared to surrounding buildings. It will dominate the streets next to the corner plot and will not respect the prevailing spatial character. Although one storey will be basement level and the top floor incorporated as an attic level, the building will still appear as three full storeys in height. This is much higher than the prevailing and established height in the immediate surrounding area. It is acknowledged that the building has been set down making use of the sloping site to reduce its height in comparison to neighbouring buildings and that its roof matches the height of the roof of the neighbouring property on Frogston Road West. However, the buildings in Winton Drive step down as the land and street steps downhill. In the context of the prevailing height of surrounding buildings, the proposed building will be out of character and dominate the street.

Whilst the proposed building will contribute towards a sense of place, offering residential health facility, in terms of the individual building as a destination, it will not be located near other local community facilities and, therefore, will not contribute to a sense of place.

The proposal does not comply with LDP policy Des 1.

LDP Policy Des 4 seeks development to have a positive impact on its surroundings, including the character of the wider townscape and landscape, and impact on existing views. The policy states that regard will be taken of height and form, scale and proportions, position of the building on the site and materials and detailing. The immediate surrounding area has a semi-rural character with mostly detached villas in large plots. It is not a densely developed area nor has it high buildings. The proposed building will occupy approximately a third (32%) of the plot with the bulk of the garden ground being to the west fronting Winton Drive and token space/landscaping around the other sides of the buildings. Taking into account the hard landscaping of the driveways and paved areas the building will occupy around 40% of the site. This is much higher than the building to plot ratio in the surrounding area, where the dwellinghouse generally occupy less than 10% of the plot.

Whilst some 1-2-storey houses/ villas have been built in the northwest corner of the Morton Mains estate (bounded by Frogston Road West/ Winton Drive/ Winton Loan), these villas are set in large gardens which remain largely intact with mature trees. There has been very little infill development. The proposal is out of character with the established pattern of development.

Materials and proposed boundary treatments as detailed in the submitted drawings are acceptable. Bin/refuse storage will be integral to the building. The Waste Strategy is the responsibility of the developer/operator.

The proposal fails to draw upon the positive characteristics of the surrounding area and is of an inappropriate design which would damage the character and appearance of the area. The proposal is not compatible with the established character of the streets or surrounding area. It will result in an incongruous feature in the streetscape.

The proposal does not comply with LDP policy Des 4.

LDP Policy Des 3 aims to retain and incorporate existing features worthy of retention and enhanced through the design. Mature trees contribute to the character of the site and the streets. Many trees on the eastern and northern part of the site have been felled and this has changed the character and visual amenity of the site. Trees, covered by the TPO, will be retained on the western side and southern side of the site and will be incorporated into the proposed landscaping. Garden and landscaped areas will be positioned next to and near these existing trees incorporating them into the proposed landscaping. However, there is insufficient open space to plant large dominant long-lived species that can grow to full maturity, and this will prevent the trees from retaining the character of the site and surrounding area.

Given the site's proximity to the green belt, an historic garden and designated landscape site, a Special Landscape Area and open space (other Semi-Natural Green Space) it has a rural feel which will be compromised with the scale of the proposed development on a corner site which rises northwards and its proximity to the countryside. Mature trees are important to the visual amenity and established character of the site, street and surrounding area. The formation of the basement level and the associated groundworks will impact on the existing trees and their root protection areas (RPAs). Further tree loss would completely change the character of the site and reduce the leafiness of the street and immediate surrounding area.

A Landscape and Visual Impact Assessment was submitted in support of the application. The site is enclosed with visual containment which relies mainly on the existing woodland and trees outwith the site such as the well-established woodland to the south and east and the prolific amount of mature garden trees and vegetation in the large garden plots to the villas to the east and north of the site. The site itself has been compromised with tree losses already incurred and further tree loss, together with insufficient open space to plant large long-lived species and adverse impact on root protection areas, will reduce the landscape screening effect. Whilst the site cannot be seen in long-distance views, it will be very visible and apparent in local views, including from the entrance to Winton Drive at Frogston Road West and at the junction with Winton Drive/Winton Loan. The proximity of the building to the south boundary (approx. 4-5m) makes the building even more imposing with inadequate width left for adequate existing and new trees to screen it.

Some of the visualizations and photomontages have not accurately reflected the proposed tree losses and so it is likely that the building will become more visible due to the loss of Category C trees.

The positioning of the application site in an area already built up with houses and sitting on a slightly sloping site, is not expected to result in the loss of a public view from the Pentlands to the City nor from the City to the Pentlands. However, the building will appear prominent in local views, particularly as it will sit in close proximity to the southern boundary.

LDP Policy Des 6 looks for development to meet the reduction of emissions targets and incorporate other features that will reduce or minimise environmental resource use and impact. The building will be sustainable in terms of energy source and energy efficiency, using ASHPs and solar panels. It will be required to meet the latest Building Regulations for new buildings in terms of energy efficiency. There is no requirement as part of this policy to assess the impact on the use of energy, carbon emissions or impact on climate change from the demolition of the existing dwellinghouse. The proposal complies with LDP policy Des 6.

The proposal does not comply with LDP policies Des 1, Des 3 or Des 4, although it does comply with LDP policy Des 6.

Trees, Natural Environment and Biodiversity

LDP Policy Env 12 (Trees) aims to prevent damaging impact of development on a tree protected by a Tree Preservation Order or on any other tree or woodland worthy of retention and LDP Policy Des 3 (Incorporating and Enhancing Existing and Potential Features) seeks to incorporate or enhance existing characteristics and features worthy of retention on the site.

Trees on the east of the site and along the south boundary are protected by a Tree Preservation Order (TPO 7).

New tree planting is proposed and there is a concern that the trees may be unable to grow to full maturity due to insufficient open space and the proximity of the proposed building and other hard works. It is likely that once they reach maturity they will need to be removed and/or thinned out. The root protection areas and canopies would be compromised due to the lack of space caused by the size and positioning of the building and the associated hardstandings. As well as the impact on the trees themselves, constraining the growth of the trees would impact on the visual amenity and character of the site and nearby streets. It is recommended that a condition be used requiring a Tree Protection Plan and Arboricultural Mitigation Study should planning permission be granted.

The scale of the development and impact on both existing mature trees and new trees proposed will impact on the semi-rural character of the street and, thus, the setting of the Green Belt.

The proposal does not comply with Env 12 or Des 3.

LDP 16 (Species Protection) aims to ensure that proposed development will not have an adverse impact on species protected under European or UK law.

This development will have an effect on a European protected species, in this case bats. The Habitats Regulations 1994 will require the applicant to carry out the works under a bat licence (Bat Low Impact Licencing (BLIMP)). Prior to undertaking the works, it will be necessary for the applicant to be in receipt of planning permission. An informative is recommended should planning permission be granted relating to European Protected Species licence, or a Bat Low Impact Licence, and a statement from Nature Scot to protect the ecological interest in accordance with LDP policy Env16.

LDP Policy Des 9 (Urban Edge Development) seeks to include landscape improvements proposals that will strengthen the green belt boundary and contribute to multi-functional green networks by improving amenity and enhance biodiversity. Natural environment and Biodiversity enhancements to the proposed landscaping are recommended using native planting to provide and enhance the habitat for species. A condition is recommended to require a suitable landscape plan and planting schedule, should planning permission be granted.

Use of appropriate lighting is required for the development. The site in its current condition creates a natural dark space beneficial to nocturnal species such as bats due to the boundary of woodland and unlit grounds. Artificial lighting can often impact the foraging and commuting behaviour of nocturnal mammals such as bats. Therefore, it is recommended that a condition be attached to any forthcoming permission relating to times during which the lighting is on should be limited to provide some dark periods.

The proposal with the use of appropriate conditions, would comply with LDP policies Env 16. However, it does not comply with LDP policies Env 12, Des 3 and Des 9.

Amenity

LDP policies Hou 7 (Inappropriate Uses in Residential Areas) and Des 5 (Development Design- Amenity) aim to ensure that developments do not have a materially detrimental effect on the living conditions of nearby residents and do not adversely affect neighbouring amenity in relation to noise, daylight, sunlight, privacy or outlook. Des 5 also aims to ensure future occupiers have a sufficient living environment.

Neighbouring Amenity

Nearly all the overshadowing will fall within the application site. There will be some loss of sunlight to neighbouring gardens, and this is within acceptable limits outlined in the Edinburgh Design Guidance. Although the building is large, it is not so close to boundaries that it will impact on the immediate outlook from neighbouring properties. Private views, e.g., of the Pentland Hills, are not protected in LDP policies.

Environmental Protection has advised that it has no objections to the proposed development. The positioning of the ASHPs will not create noise for neighbouring properties and the kitchen ventilation system will control odours and meets the requirements of Environmental Assessment.

The proposal complies with LDP policies Hou 7 and Des 5.

Amenity of future occupiers

The Edinburgh Design Guidance advises that attention should be paid to the orientation of care homes and long-term residential homes. Residents should be able to access a garden space that is attractive, welcoming, well-lit by natural light throughout the year, and which allows a circuitous walking route to be created.

The provision of a care home is not subject to the minimum floor space standard as contained in the Edinburgh Design Guidance.

Open space and landscape gardens will provide outdoor space for future occupants. There will also be outdoor space in the form of a roof terrace accessed from the dining room and many ground floor rooms will have direct access to a patio and the landscaped gardens. Some of the open space will sometimes experience shading due to overshadowing from the proposed building and from the trees to the west and woodland to the south. However, overall, the garden areas will provide usable outside space for residents.

The rooms will be single occupant rooms and will be of single aspect. Outlook will be on to the associated care home garden, on to the street and further views beyond towards the woodland opposite, neighbouring gardens, fields and Pentland Hills.

A sufficient living environment will be afforded to future occupants in terms of LDP policy Des 5.

Transport, Parking and Road Safety

LDP Policies Tra 2- Tra 4 set out the requirement for private car and cycle parking.

The Edinburgh Design Guidance sets out the parking standards.

The Roads Authority has advised that it has no objections to the application subject to conditions or informatives relating to a Travel Plan, Disabled Persons Parking Places and the access junction connections. Sufficient information was provided to enable the Roads Authority to consider the proposal and provide comment.

The application site is in Zone 3 of the Council's parking standards. The development proposes 16 spaces including 3 accessible spaces, and 2 Electric vehicle charging points which complies with standards. The development proposes 10 cycle stands giving 20 spaces which exceeds the minimum of 4 cycle spaces. The development proposes 3 motorcycle spaces which complies with standards. Based on the information from other care homes of the operator, where 1 in 3 staff drive to work, 21 staff will be the maximum staff on site equating to 7 car parking spaces. Parking standards are met.

Public transport is available on Frogston Road West with frequent service 11 to city centre and 400 to airport via Gyle.

Road safety was raised in the public comments relating to visibility at existing junctions and Winton Drive being the only access for the Winton area to Frogston Road West. The Roads Authority has not raised these matters in relation to the impact of the proposed development.

The proposal is not a significant trip generating development and no infrastructure improvements or developer contributions are required. Therefore, LDP policies Del 1 and Tra 8 are not applicable.

It is acknowledged that the street along Winton Loan is quiet and that there will be two vehicular access to the site from this street which will increase trips to the site and result in pedestrians having to cross the access points. Currently there is an access from Winton Road which is not used. An informative is recommended, should permission be granted, that the developer carry out the accesses to the standards contained in Edinburgh Design Guidance. A permit will also be required from the Roads Authority to carry out any works in the public road, including the pavement/footway.

The proposal complies with Tra 2 - Tra 4.

Archaeology

LDP Policies Env 9 (Development of Sites of Archaeological Significance) and Env 8 (Protection of Important Remains) seeks to protect and safeguard significant archaeological features/remains.

The City Archaeologist has advised that the proposed development is in an area of archaeological significance and recommends a condition to ensure that a Programme of Archaeological Works is undertaken, should planning permission be granted.

Flooding and Drainage

LDP Policy Env 21 (Flood Protection) seeks to ensure that that a development does not result in increased flood risk for the site being developed or elsewhere.

Flood Planning has advised that the information provided, including additional information, satisfies its previous comments and that this application can proceed to determination, with no further comments from CEC Flood Prevention. Therefore, there are no flooding or drainage issues with the proposal.

The proposal complies with LDP policy Env 21.

Conclusion in relation to the Development Plan

The principle of development in this location is acceptable. However, as the proposal does not comply with the Development Plan as it does not comply with other policies in the LDP. The scale and massing are not compatible with the established character and spatial pattern of the surrounding area. The proposal does not draw upon the positive qualities of and will have a detrimental effect on the character of its surroundings. The proposal will have an adverse impact on the setting of the conservation area and the streetscape. The impact on the existing trees is unacceptable and the proposed planting will be unable to revitalise the semi-rural and natural environment character and the setting of the site, street and surrounding area. There are no amenity, transport or flooding/drainage issues. Overall, the proposal does not comply 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 does not comply with Paragraph 29 of SPP. It is over-development of the site, is not of a good design and will not protect natural heritage.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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.

Public comments have raised the impact on mental health and wellbeing of neighbouring residents and future occupiers. For neighbours the impact is negative, such as stress from ambulances going to and from the care home. For future residents, the impact is both positive and negative, such as access to gardens and lack of bedrooms for couples.

There is also an impact on families such as being able to keep an elderly relative in the local area or having to move the relative to a care home outwith the local area, as currently happens.

Cost of care could be a deterrent to those unable to pay for care in the proposed care home. The planning authority has no recourse in terms of the costs that residents will pay and, as such, is not in a position to use mitigation measures to address this matter.

Weighing up the impacts of the proposed development on those with protected characteristics does not outweigh the unacceptable and harmful impact of the scale, form and design and its impact on the character and appearance of the street and neighbourhood.

No equalities or human rights issues have been raised that outweigh the recommendation to refuse planning permission and, therefore, grant planning permission.

Public representations

A summary of the representations is provided below:

material considerations

objections - material

- principle of development: - contrary to policies Hou 10 and Hou 7; change of use from residential to commercial; community/health facility benefit/no benefit. Addressed in section a).
- design: - too high, too large; out of character and proportion with character and appearance of area; overdevelopment; impact on key views; visual impact; impact on landscape setting; demolition; density; contrary to public realm and landscape design; contrary to policies Des 1, Des 3, Des 4, Des 9. Addressed in section a).
- -conservation area: - impact on setting of Morton Mains Conservation Area; contrary to Env 6. Addressed in section a).
- amenity: - overlooking; loss of privacy; immediate outlook/ impact on visual amenity; loss of sunlight & daylight; overshadowing; noise & disturbance; smells/odours; security lighting/light pollution; security; personal/community safety; contrary to Des 5. Addressed in section a).
- trees, natural environment and biodiversity: - loss of trees; impact on remaining trees; loss of habitat & wildlife; contrary to/compliance with Edinburgh Biodiversity Action Plan; contrary to Des 3; impact on green belt boundary. Addressed in section a).
- environmental impact of demolition and construction. Addressed in section a).- impact on environment, wildlife and climate. Addressed in section a).
- -parking: - insufficient parking; contrary to Tra 2; Addressed in section a).
- -traffic & road safety: - increased traffic; congestion; traffic movement and manoeuvres; no Travel Plan; reduction of private car use. Addressed in section a).
- drainage- impact on sewage systems/increase load of drain/ underground streams/water. Addressed in section a).
- waste bins -Addressed in section a).
- Equalities and human rights: - impact on mental health and wellbeing to neighbours and on future residents. Addressed in section b).
- -information misleading and inconsistent with drawings. *Sufficient information has been provided to enable assessment of application. Background Papers are not consented as part of planning permission. Drawings would be consented.*

Community Council - objections

- Design - dominating neighbourhood; imposing; not in keeping with other properties in neighbourhood; development footprint; no consideration of upgrading and re-using villa; contrary to design policies Des 1, Des 4, Des 5, Des 9. Addressed in section a).
- Negatively impact on conservation area and green belt; contrary to policies Env 6, Env 7 and Env 11. Addressed in section a).

- Negative impact on environment. Addressed in section a).
- Traffic and parking. Addressed in section a).
- Not a brownfield site - is a residential property. *Noted.*

support

- Principle of development:- should be in a residential area; ideal location.
- Economic benefit: - jobs; use local facilities.
- Design: - good design; fits in with surroundings; plot ratio/spatial character.
- High level of amenity for future residents.
- Provides a community facility.

non-material considerations

- care home demand/need for care home.
- site selection/suggested other location(s).
- contrary to Env 5 (demolition of buildings in CA). *Not in a CA, therefore policy not applicable.*
- contrary to Env 18 (Open space Protection) and associated Del 1 Developer Contribution. *Policies not applicable.*
- contrary to Ret 1 Town centres first policy. *Policy not applicable.*
- contrary to Des 12 (alterations and Extensions). *Policy not applicable.*
- contrary to Hou 4 (Housing Density). *Policy not applicable - relates to housing developments. Density addressed in section a)*
- contrary to Des 11 (Tall Buildings). *Not classed as a tall building.*
- existing roads, road conditions & road safety. This is responsibility of the Roads Authority.
- City Plan 2030 - analysis and policies. *City Plan not adopted and policies not applicable.* Future policy suggestion.
- 20-minute neighbourhoods. *There is no applicable LDP policy and NPF4 not yet completed parliamentary process.*
- loss of private views. Not protected by LDP policies.
- future developments and impact on Green Belt and conservation area. suggested other development.
- waste management.
- rats in area.
- construction works impact.
- cost of living in care home.
- staffing:- wages & shortages.
- private sector supply of care homes, local authority funded residents, local government care home policy, Care Commission.
- preserve current housing stock. *There are no LDP policies on loss of housing.*
- local facilities for residents
- consultation with local GPs, pharmacy? *Consultation and discussions undertaken with NHS re: primary healthcare as part of development plan process. No consultation was undertaken for application.*
- Winton Woodland Trust membership, ownership, disposition. increased footfall will damage woodland. *The woodland is in private ownership and responsibility for maintenance and access lies with the Trust.*

Non-material support comments:

- -Need for care home in EH10/local area.
- -Care home built to current legislation.
- -Good care in Northcare homes; reputable provider.
- -Well balanced application.
- -Development beneficial.
- -Need covid friendly nursing homes.
- -Good environment for elderly to engage with locals.

Conclusion in relation to identified material considerations

There are no material considerations that indicate the application should be granted. The material considerations support the presumption to refuse planning permission.

Overall conclusion

The proposal does not comply with the development plan. The principle of development is acceptable. However, the scale and massing are not compatible with the established character and spatial pattern of the surrounding area. The proposal does not draw upon the positive qualities of the area and will have a detrimental effect on the character of its surroundings. It will have an adverse impact on the setting of the conservation area and the streetscape. The impact on the existing trees is unacceptable and the proposed planting will be unable to revitalise the semi-rural and natural environment character of the site, street and surrounding area. There are no amenity, transport or flooding/drainage issues. Overall, the proposal does not comply with the development plan. Therefore, the application is unacceptable and refusal is recommended. There are no other material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal: -

1. The proposal is contrary to the Local Development Plan Policy Des 1 in respect of Design Quality and Context, as it will not contribute to a sense of place and does not draw on the positive characteristics of the surrounding area.
2. The proposal is contrary to the Local Development Plan Policy Des 4 in respect of Development Design - Impact on Setting, as its scale and massing is not in keeping with the character of the surrounding area and will dominate the streetscape.

3. The proposal is contrary to the Local Development Plan Policy Des 3 in respect of Development Design - Incorporating and Enhancing Existing and Potential Features, as existing features (trees) have not been enhanced through its design.
4. The proposal is contrary to the Local Development Plan Policy Env 12 in respect of Trees, as it will have an adverse impact on canopies and root protection areas of the TPO trees.
5. The proposal is contrary to the Local Development Plan Policy Des 9 in respect of Urban Edge Development, as it will detract from the character of the semi-rural street and landscape setting of the green belt.
6. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it will have an adverse impact on the setting, boundary and entrance of conservation area.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 18 May 2022

Drawing Numbers/Scheme

01-05,06A-10A,11-12,13A,14,15A-17A,18-21,22A-27A,28-30.

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Jackie McInnes, Planning officer
E-mail:jackie.mcinnnes@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Economic Development

COMMENT: We wouldn't expect it to have a significant economic impact.

DATE: 29 July 2022

NAME: Transport Planning

COMMENT: No objections - subject to conditions or informatives as appropriate relating to:

- Travel Plan;
- Disabled persons parking places should comply with Disabled Persons Parking Places (Scotland) Act 2009; and,
- access junctions connections.

DATE: 4 November 2022

NAME: Archaeology

COMMENT: The development will require significant groundbreaking works associated with both demolition and development which could reveal prehistoric archaeological remains.

It is recommended that the following condition is attached if permission is granted to ensure that this programme of archaeological mitigation is undertaken:

"No demolition nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building survey excavation, analysis & reporting, publication, public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority."

DATE: 6 June 2022

NAME: Environmental Protection

COMMENT: Environmental Protection do not object to the proposed development.

DATE: 27 September 2022

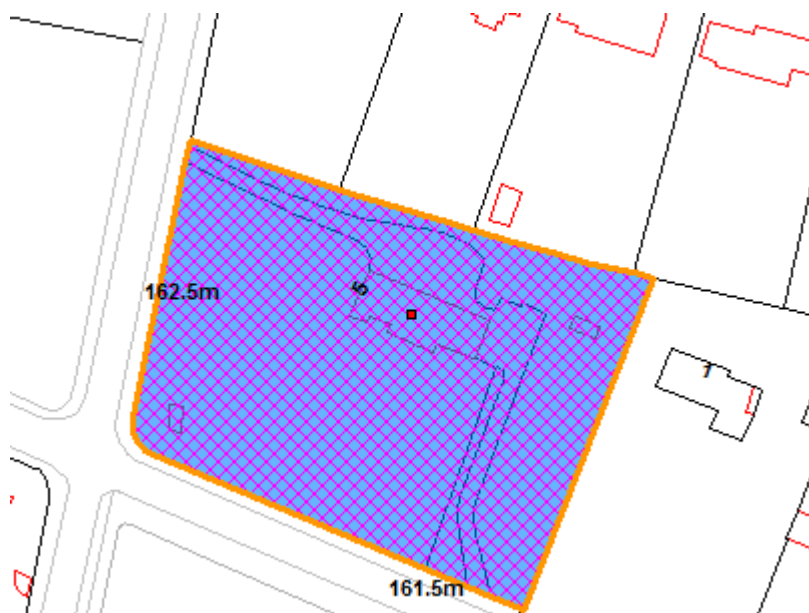
NAME: Flood Planning

COMMENT: The additional information satisfies our previous comments. This application can proceed to determination, with no further comments from CEC Flood Prevention.

DATE: 18 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 7 December 2022

**Application for Planning Permission
55 Woodhall Road, Edinburgh, EH13 0HD.**

Proposal: Form new dwelling (as amended).

**Item – Committee Decision
Application Number – 21/06189/FUL
Ward – B08 - Colinton/Fairmilehead**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because 9 letters of objection have been received and it is recommended for approval. 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

The proposal complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and overall is in accordance with the development plan.

The proposal is a high-quality, modern design that is of an appropriate scale, form and position.

It will not be detrimental to the architectural character, setting or historical interest of listed buildings and will preserve the character and appearance of the Colinton Conservation Area. It will not result in adverse impacts on neighbours' living environment and a satisfactory residential environment will be achieved.

Appropriately designed cycle provision is required by condition and exceedance of the car parking standards is acceptable given the existing parking provision on-site.

No specific road or pedestrian safety issues will occur and sustainable features are incorporated. It will not result in loss of trees worthy of retention.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is part of the rear garden of detached villa property 55 Woodhall Road. The garden space has a number of trees and foliage on-site with a vehicular access fronting Allermuir Road. The boundary treatment includes a low-stone boundary wall and timber fence of varying heights.

The property is located on a corner plot at the junction between Woodhall Road to the north and Allermuir Road to the west.

It is located within the Colinton Conservation Area and lies adjacent to Category C listed early 20th century semi-detached villa properties 51-53 Woodhall Road (ref: LB29952, 19/12/1979).

These buildings form part of a group listing including 47-9 Woodhall Road and 2 Bonaly Road to the east. This listing formerly included no.55 Woodhall Road.

Description of the Proposal

Construction of a new dwelling and associated works in garden ground of 55 Woodhall Road.

The external materials include blackened timber panels for the upper floor and stone on the ground floor.

The roof form includes two pitched roof elements with open space between the timber panels on its upper section.

Paving will be at the front for car parking space and grass with planting and trees.

A timber fence will be constructed around the side and rear boundary bordering the garden space with its height between 1 to 1.8 metres. A low-level, stepped stone boundary wall will be formed at the front boundary.

Supporting Information

- Design and Access statement
- Drainage information
- Tree Survey
- Visualisations
- Daylight and sunlight information

Revised Scheme

The footprint of the dwelling has been reduced from approximately 220 m² to 175 m², its position altered to increase the setback from Allermuir Road from approximately 1m to 6m and the single storey projection re-positioned from the south to north side of the site.

The height of the boundary treatment has also been reduced from a maximum height of 3 metres to 1.8 metres. The material of the wall and lower section of the dwelling has also been altered from brick to stone.

The revised scheme details retention of nine trees on-site with four trees to be removed.

Relevant Site History

91/00136/FUL
55 Woodhall Road
Edinburgh
EH13 0HD
Alter dwelling house
Granted
14 March 1991

21/02234/TCO
55 Woodhall Road
Edinburgh
EH13 0HD
Pine tree (Pinus Nigra) - tree removal.
Not make a Tree Preservation Order
1 June 2021

21/04992/TCO
55 Woodhall Road
Edinburgh
EH13 0HD
T1: Scots Pine - fell - removal of Scots Pine tree.
Not make a Tree Preservation Order
19 October 2021

Other Relevant Site History

None.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Archaeology

Scottish Water

Transport Planning

Flood Planning

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

Publicity and Public Engagement

Date of Neighbour Notification: 21 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 28 October 2022; 10 December 2021.

Site Notices Date(s): 25 October 2022; 7 December 2021.

Number of Contributors: 17

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: Setting

The site is adjacent to Category C Listed (ref: LB29952) early 20th century semi-detached villa properties at 51 - 53 Woodhall Road. These buildings form part of a listed grouping alongside 47-9 Woodhall Road and 2 Bonaly to the east.

The listing description details their special interest as including retention of common features including their uniform gables, angular form of roofscape, consistency of white render and slate roofs.

These key features of the listed buildings are most visibly read from the Woodhall Road and Bonaly Road to the far east.

The new dwelling will disrupt some visibility of these historical assets from Allermuir Road. However, as existing, views from here are onto the subsidiary elevations of these buildings and are further limited by the extent of existing tree coverage.

In this regard, the wider appreciation of these buildings will continue to be read from the public spaces fronting their principal elevation.

The proposal will not interfere with these principal views or impact on their special interest or architectural character.

Conclusion in relation to the listed building

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

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

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

- Managing Change in the Historic Environment: Guidance on Conservation Areas Designation of Conservation Areas and Conservation Area Consent

The Colinton Conservation Area Character Appraisal emphasises the high-quality architecture, the predominant use of traditional building materials, the strong sense of place derived from the containment within a rural setting, and the prominent views to the Pentland Hills.

The site is located within the villa zone as identified in the appraisal. Key elements of this area include its general low-density form of development, large, detached houses of high-quality architecture with a consistency of materials and mature trees.

Houses nearby are generally unified by similar materials including slate or rosemary clay tiled roofs, white render walls, stone boundaries, and have spacious landscaped gardens. The villa property on-site is characteristic of these aspects in this historic environment. The new dwelling will clearly differ in appearance to houses nearby. However, as a modern design there is no requirement to replicate the appearance of more traditional buildings.

The use of alternative materials is appropriate here as they form part of a high-quality distinctive design concept. In particular, the clear contrasting aspects of the new dwelling including use of blackened timber panelling and asymmetrical roof form will add interest to the street scene. Importantly, its scale and proportions are appropriate in relation to surrounding built form. The revised footprint retains a setback to each side and front boundary. In tandem with the use of open timber panels on the upper sections, its height and width will be in proportion to properties nearby.

As outlined in the submitted design statement, there is range in the position of dwellings on each plot with no defined building line on Allermuir Road. This notwithstanding, a positive characteristic of the conservation area is its green leafy surroundings and soft landscaping fronting properties.

The setback position of the dwelling allows soft landscape to be retained along its frontage. Its position relative to the street edge is appropriate in the context of the varying position of dwellings nearby. The dwelling will reduce the garden space for the existing villa property on-site however its plot size is large. The degree of encroachment into the garden will not adversely impact on the areas' low-density form of development where no clear, spatial pattern is evident.

Overall, the proposal will introduce a new modern designed house. Its contrasting style is appropriate here, as the materials are high-quality and will add to the range of architectural styles evident nearby. Its scale, form and position will be appropriate to the historic environment.

Conclusion in relation to the conservation area

The proposal will preserve the character and appearance of the conservation area.

It is therefore acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

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 Design policy Des 1, Des 3, Des 4, Des 5, Des 6,
- LDP Environment policy Env 3, Env 6, Env 9, Env 12, Env 16, Env 21
- LDP Housing policy Hou 1, Hou 3, Hou 4
- LDP Transport policy LDP Tra 2, Tra 3, Tra 4

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

Listed Building

The impact on the listed building has been assessed in section a) and the proposal complies with LDP policy Env 3 (Listed Buildings - Setting).

Conservation Area

The impact on the conservation area has been assessed in section b).

The proposal will preserve the special character of the Colinton Conservation Area. It therefore complies with LDP policy Env 6 (Conservation Area - Development).

Principle

LDP policy Hou 1 (Housing Development) prioritises the delivery of housing land supply and the relevant infrastructure and identifies four criteria on where this can be achieved.

The site is located within the urban area in an established residential area with access to public transport nearby.

The residential use of the land has been established on site. It is therefore an appropriate location for housing, subject to compliance with other LDP policies.

LDP policy Hou 3 (Private Greenspace) states planning permission will be granted for development that makes adequate provision for green space to meet the needs of future residents.

Adequate greenspace provision will be achieved to the rear of the site therefore the proposal complies with Hou 3.

LDP policy Hou 4 (Density) seeks an appropriate density of development having regard to site characteristics and those of the surrounding area, the need to create an attractive residential environment, accessibility, and its impact upon local facilities.

The site has access to public transport links to the city centre and residential development in this location will help to support facilities in the nearby local centre. The size of the dwelling and garden space will achieve an attractive residential environment for future occupiers.

Whilst the new dwelling will reduce the villa property's' garden space there is no clear spatial pattern evident in the surrounding area. The addition of one new dwelling and retained greenspaces on-site is not at odds with the low-density characteristics of the area.

The proposal therefore complies with LDP policy Hou 4.

Scale, form and design

LDP policy Des 1 (Design Quality and Context) requires development proposals to create or contribute towards a sense of place. The overall design concept should draw upon the positive characteristics of the surrounding area.

LDP policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) required development proposals to demonstrate existing characteristics and features worthy of retention on the site and in the surrounding area have been incorporated.

LDP policy Des 4 (Design- impact on Setting) requires development proposals to have a positive impact on its surroundings, including the character of the wider townscape.

The modern design concept will contrast with the traditional characteristics of the townscape.

However, the overall design is a high-quality and the surrounding area is not defined by a unified architectural style. Some cues from traditional building materials are taken through use of stone on the lower sections and frontage.

The scale, form and position of the dwelling is appropriate in the context of surrounding built form. As revised, features worthy on-site have been retained with larger trees incorporated into the proposal. The dwelling is a high-quality modern design concept, and its overall height, scale and proportions is compatible with the townscape character.

The proposal therefore complies with LDP policy Des 1, Des 3 and Des 4.

Amenity

Future Occupiers

LDP policy Des 5 (Design-Amenity) also states that planning permission will be granted for developments where it is demonstrated that future occupants will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

LDP policy Hou 3 states that planning permission will be granted for development which makes an adequate provision for greenspace to meet needs of future residents.

In regard to daylight, the EDG states that this will be measured using the Vertical Sky Component Criteria (VSC). The required 27 % VSC will be achieved when new development does not rise above a 25-degree line from the mid-point of the existing window to be tested.

The EDG outlines that new build three-bedroom dwellings or more should have a minimum floor area of 91 square metres. The property exceeds this minimum standard. All habitable rooms will achieve acceptable levels of outlook and daylight by virtue of the size of windows on the front and rear elevation.

Privacy will be achieved for future occupiers by the orientation of all rearward windows and boundary fence, planting and trees at the boundary of the rear garden. The front of the property will occupy a visible location where privacy will be somewhat compromised by its proximity to the street. This arrangement is typical of the surrounding residential environment and will not result in any unacceptable impact on privacy for future occupiers.

Future occupiers will have approximately 150 m² of garden space. The rear garden achieves a length of over 9 m and will provide an adequate level of amenity space and sunlight for occupiers.

In light of the above, the proposal will result in the creation of a satisfactory residential environment for future occupiers of the site.

Neighbouring Occupiers

The proposed sub-division of the plot will reduce the size of the applicant's rear garden to approximately 200 m². This garden slopes downwards and will be positioned in near proximity to the side gable of the new dwelling which will result in approximately 20 m² of shade cast onto this space. However, considering the resultant size of the garden space and its south-facing orientation an adequate quality of external amenity space will still be achieved for future occupiers.

In regard to daylight, south-facing windows of no.55 will face the side gable of the new dwelling. The proposal will fail the 25-degree VSC criteria for a ground floor opening on this side. However, the degree of non-compliance is marginal, and the upper part of the new roof is vertical panels with open space between. This design will allow a greater degree of light to permeate to this opening than a solid roof structure. In light of this and given the additional sources of light on this side of the dwelling the overall impact on occupiers living environment will not be unreasonable.

Overall, an adequate living environment will still be achieved for occupiers of the proposal site.

53 Woodhall Road also sits on a lower land level than the site of the new house and the new development will be visible. However, rear-facing openings of this property mainly face onto their own garden space and not directly onto the site of the new dwelling. The proposal complies with the 25-degree criteria from rear-facing openings of this neighbour's property and will have no adverse impact on daylight to all habitable rooms.

The proposal marginally fails the 45-degree sunlight test at the common boundary with this property. However, the dwelling is single storey to this side and there is a large degree of existing foliage here that no material impact on shade to this garden space will occur.

In regard to privacy, outlook from ground floor openings will face onto the proposed boundary fence which in tandem with the trees and planting will prevent any significant views onto adjacent land. Openings at first floor to the rear have been minimised whilst the distance retained of approximately 9 m to the neighbour's garden in tandem with the boundary treatments will prevent any material loss of privacy.

Furthermore, whilst outlook onto the street will have some view of the facing property the privacy on this side is already compromised by its proximity to the street. The space retained between dwellings will prevent any unreasonable impact on privacy.

In addition, the revised scale, form and position of the proposal will not have an adverse impact on the amenity of all other properties. To the south, the scale of the new dwelling in tandem with the distance retained to the boundary with 1 Allermuir Road will prevent any material loss of sunlight to this garden space or daylight to the property windows.

It is acknowledged that the new development will alter views facing onto the site from neighbouring land. However, retention of private views reliant on outlook across adjacent land cannot be protected under planning legislation.

The scale of the dwelling has been reduced and its larger two-storey set away from the common boundaries. This setback will help reduce the immediacy of the development from neighbour's garden and property. In addition, the reduced height of boundary fence of between 1 to 1.8 m is an appropriate height as viewed from adjacent land.

In regard to noise, continued residential use of the land is compatible with the area and it is not anticipated that the addition of one new dwelling will give rise to any unreasonable impact in this regard. In addition, if a noise nuisance is reported from the site there is separate Environmental Protection legislation to assess this.

Overall, the proposal complies with LDP policy Des 5. It will not have an adverse effect on the amenity of neighbouring developments and future occupiers will have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook.

Trees and Ecology

LDP policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or any other tree or woodland worthy of retention. Where permission is granted, appropriate replacement planting will be required to offset the loss.

A tree survey has been submitted which has recorded 13 trees on-site (3 category B and 10 category C). Since submission of the survey, the dwelling has been re-positioned to prevent conflict with early-mature category B trees to the south-east corner. Nine trees would be retained in total and the specimens removed are identified in the report as young, category C trees of a low quality.

In this regard, no trees worthy of retention will be removed on-site. Replacement planting has been recommended by condition which will provide appropriate mitigation for the loss of these specimens.

In light of the above, the proposal does not conflict with LDP policy Env 12.

Ecology

LDP policy Env 16 (Species Protection) aims to ensure development will not be to the detriment to the maintenance of a protected species and suitable mitigation is proposed. Due to the characteristics of the site, bats are the only protected species applicable here.

The tree survey identified trees on-site has having a low suitability for supporting bat roosts. It is therefore not anticipated that the proposal will have an adverse effect on European protected species. An informative has been included that a nesting bird check should be undertaken on site by a suitably qualified ecologist, in order to prevent impacts on nesting birds and minimise any wider ecological impact from the proposal.

Overall, the proposal will not be to the detriment of protected species in accordance with LDP policy Env 16.

Transport

Car Parking

LDP policy Tra 2 (Private Car Parking) set out the requirements for private car parking. The Council's Parking Standards are set out in the Edinburgh Design Guidance.

LDP policy Tra 4 (Design of Off-Street Car and Cycle Parking) gives design considerations for car parking. These include a preference for basement level parking, and not at street level where at the expense of an active frontage onto private open space. In addition, that the design should not compromise pedestrian safety.

The site is identified within the Edinburgh Design Guidance Parking Standards as being in Zone 3 where there should be a maximum car parking provision of 1 space per dwelling. The existing vehicular access will be re-used and widened. The proposed paving to the front of the property has one car parking space detailed.

The size of this area has potential to accommodate an additional car however, this is a similar provision to the length of the current driveway on-site and in this regard, there is no net impact from the scheme in terms of encouraging private car use.

In addition, whilst the car parking is at street level the layout allows a proportionate amount of the property frontage to be retained as soft landscaping which will contribute to the amenity of the street.

The proposal will remove car parking provision for the existing dwelling. There are no minimum car parking standards in the EDG and the site is in walking distance to Lothian bus services on Woodhall Road and Bonaly Road. This will provide access to amenities in the nearest local centre and into the city centre.

Transport have been consulted on the revised proposals and have raised no objections to the scheme subject to a condition or informative that the applicant should be required to introduce a maximum of one off-street parking space. In light of the above, this has been included as an informative.

No specific road or pedestrian safety issues are raised.

Cycle Parking

LDP policy Tra 3 states permission will be granted where proposed cycle parking and storage complies with standards in Council Guidance.

Edinburgh Design Guidance states for houses with four or more habitable rooms 3 cycle spaces should be provided.

LDP policy Tra 4 refers to design considerations for cycle parking including its location nearer to building entrances than car parking and considerations of council guidance.

EDG states long-stay provision will be required in residential development where focus should be on location, security and weather protection. Short stay should be convenient and accessible - near entrances with preferably step free access. No designated cycle storage has been included however there is adequate space to accommodate three cycles on-site via the proposed integral garage. A condition has therefore been recommended for full detail of cycle storage to be submitted, approved and installed prior to first use of the new dwelling.

Flooding

LDP policy Env 21 (Flood Prevention) states that planning permission will not be granted for development that would increase a flood risk or be at a risk of flooding itself, impeded the flow of flood water or be prejudice to existing or planned flood defence systems.

Supporting paragraph 197, states the purpose of this policy is to ensure development does not result in increased flood risk for the site being developed or elsewhere. The site is identified on the SEPA flood risk maps as having a medium level surface water risk and no specific coastal or river flood risk.

A drainage impact assessment and drainage flow plans has been submitted. Upon clarification of the proposed discharge rate and receipt of flow path diagrams no objections have been raised from Flood Planning. An informative has been recommended and included in regard to the incorporation of above ground water SUDs features and infiltration testing of surface water.

In regard to the above, the proposal has been designed to mitigate against flood risk. It does not increase flood risk for the site or elsewhere therefore complies with LDP policy Env 21.

Archaeology

LDP Policy Env 9 (Development of Sites of Archaeological Significance) states, amongst other criteria, that planning permission will be granted for development on sites of archaeological significance if it can be concluded that no significant archaeological features are likely to be affected by the development.

The City Archaeologist has been consulted on the proposals and has stated it is unlikely any significant archaeological remains will occur on-site.

In this regard, the proposal complies with LDP policy Env 9.

Sustainability

LDP policy Des 6 (Sustainable Buildings) states permission will only be granted for development which meets carbon dioxide emission targets and incorporates features that reduce or minimise environmental resource use and impact.

Supporting paragraph 158 states that to meet criterion a), proposals for new development must accord with the current carbon dioxide emissions reduction target as set out by the Scottish Building Standards.

In regard to a) there are minimum sustainability standards which new development must meet which is assessed under any subsequent building warrant application.

In regard to b), the proposal incorporates sustainable features through inclusion of solar panels and use of sustainable materials such as charred timber cladding. In addition, the large glazed openings will help penetration of natural light into habitable rooms.

Overall the proposal complies with the objectives of LDP policy Des 6.

Conclusion in relation to the Development Plan

Overall, the proposal is in accordance with the development plan.

It is a high-quality, modern design that is of an appropriate scale, form and position. It will not be detrimental to the architectural character, setting or historical interest of listed buildings and will preserve the character and appearance of the Colinton Conservation Area. It will not result in an adverse impact on neighbours' living environment. No specific road or pedestrian safety issues will occur. Sustainable features are incorporated. It will not result in loss of trees worthy of retention.

c) 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 proposed development is an appropriately high-quality design that incorporates sustainable features, protects the historic and natural environment. Overall, it complies with SPP principles of sustainable development.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

In regard to accessibility, there are minimum standards that a new dwelling must meet under any subsequent building warrant process. This notwithstanding, the internal layout provides step free access to main facilities at ground floor including the kitchen and living room, toilet and bedroom.

Due regard has been given to section 149 of the Equalities Act 2010.

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:

Letters of objection

material considerations

- Adverse impact on the conservation area : Addressed in section b) - Conservation Area
- Adverse impact on trees and landscape : Addressed in section c) - Trees
- Adverse impact on neighbour's amenity : Addressed in section c) Amenity

- Drainage impact: Addressed in section c) Flooding
- Transport impact: Addressed in section c) Transport
- Incorrect address on plans: It is noted the plans reference 55 Allermuir Road. The application form identifies the postal address to which the development relates, and the submitted documents are sufficient to accord with the requirements of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 to determine the planning application.
- Accuracy of plans and additional information sought (amenity, height, scale, position, demolition): Revised plans and additional information have been received to address these matters.
- Neighbour notification: A second publicity period has been undertaken to notify neighbours of the revised plans.
- Consultation : This is a local development and is not subject to statutory public consultation. Additional consultation would be a matter for the applicant or developer which cannot materially be assessed as part of this planning application.

non-material considerations

- Poor condition of existing road: This matter cannot materially be assessed under this planning application.
- Proposal contrary to re-planting under notice of works to trees application: Replacement planting detailed as part of this notice is unenforceable and cannot materially be assessed under this current scheme.
- Environmental impact from vehicle emissions: This matter cannot materially be assessed under this planning application.
- Structural issues: This matter would be assessed through any subsequent Building Warrant.

Letters of support

material considerations

- High quality design: Addressed in section b) Conservation Area and c) Design
- Eco-friendly green house: Addressed in section c) Sustainability

Conclusion in relation to identified material considerations

The proposal does not raise any other material considerations.

Overall conclusion

The proposal complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and overall is in accordance with the development plan.

The proposal is a high-quality, modern design that is of an appropriate scale, form and position.

It will not be detrimental to the architectural character, setting or historical interest of listed buildings and will preserve the character and appearance of the Colinton Conservation Area. It will not result in adverse impacts on neighbours' living environment and a satisfactory residential environment will be achieved.

Appropriately designed cycle provision is required by condition and the car parking provision is acceptable given the existing parking provision on-site. No specific road or pedestrian safety issues will occur, and sustainable features are incorporated. It will not result in loss of trees worthy of retention. The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP). There are no material considerations that 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. Prior to the commencement of development, full detail of all hard and soft surfaces and boundary treatments, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.
4. Prior to the commencement of the development details of fully enclosed secure cycle stores shall be submitted and approved in writing by the Planning Authority. The cycle stores shall thereafter be implemented prior to the first use of the approved dwelling.

Reasons: -

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to enable the planning authority to consider this/these matter/s in detail.
3. For the planning authority to consider this matter in detail.
4. In order to provide appropriately designed cycle storage for future residents.

Informatives

It should be noted that:

1. 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.
2. 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.
3. Works should be undertaken between October to February out with the nesting bird season. If this is not possible, a nesting bird check should be undertaken by a suitable qualified ecologist and declared clear of nesting birds before work starts.
4. The applicant should consider the installation of EV charging points.
5. The applicant should note that Allermuir Road is not adopted for maintenance by the Council. The applicant should satisfy themselves that they have the necessary rights and authority to carry out works to create the access point.
6. The applicant should be required to introduce a maximum of 1 off-street parking spaces, in line with current Council standards.
7. Infiltration testing to inform surface water infiltration potential is to be undertaken with drainage design features updated to take account of a viable infiltration rate. Opportunities to incorporate above ground surface water management features such as a green roof and filter strips are to be explored as part of development of the design proposals.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 23 November 2021

Drawing Numbers/Scheme

01, 02 E, 03 D - 07 D, 08 E, 09 D - 13 D, 14, 15

Scheme 3

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lewis McWilliam, Planning Officer
E-mail: lewis.mcwilliam@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Archaeology
COMMENT: No objections.
DATE: 6 December 2021

NAME: Scottish Water
COMMENT: No objections.

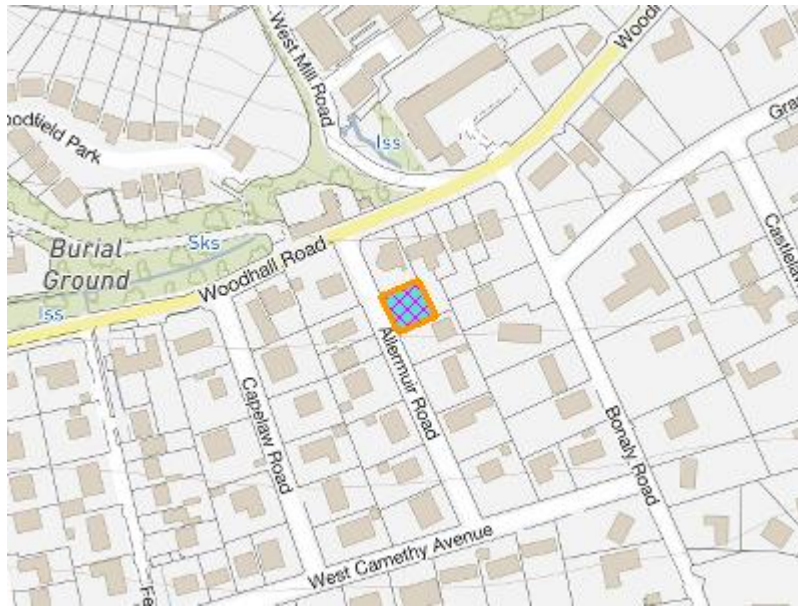
All developments are required to submit a pre development enquiry prior to any submission of the technical application.
DATE: 6 December 2021

NAME: Transport Planning
COMMENT: No objections.
DATE: 28 November 2022

NAME: Flood Planning
COMMENT: No objections.
DATE: 18 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 7 December 2022

**Application for Planning Permission
20 Dublin Street Lane South, Edinburgh, EH1 3PX.**

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

**Item – Committee Decision
Application Number – 22/03619/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because the application has attracted a petition in support with more than 20 signatures. 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 **Refused** subject to the details below.

Summary

The proposal would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the relevant local development plan (LDP) policies as it would have an adverse impact on neighbouring residential amenity. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a three-storey mews dwelling. The property is detached and accessed from a private main door. The property comprises four double bedrooms, a living area, kitchen and three bathrooms. There is a small balcony area accessed from the fourth bedroom to the rear of the property. There is a car parking space associated with the property.

The lane is predominantly residential in character. There is a two and a half storey new build mews building at the east end of the lane and a mix of residential and flat roofed commercial buildings, including the rear car park and refuse store for a hotel at the west end. A terrace of mews houses in residential and commercial office use lies to the north, opposite the site.

The surrounding area, including York Place and Broughton Street, comprises a wide range of uses, including hotels, public houses, shops, cafes, and restaurants.

The site is located within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The proposal is for the change of use (retrospective) 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 for short term let (STL) since February 2022.

Supporting Information

A planning statement and management statement have been provided.

Relevant Site History

17/04143/FUL
Land At Dublin Street Lane South
Edinburgh

Erect a new build 3-bedroom 3 storey mews house located on existing car park (as amended).
Granted
11 January 2018

Other Relevant Site History

No other relevant site planning history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 27 July 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 5 August 2022.

Site Notices Date(s): 2 August 2022.

Number of Contributors: 5

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 character or appearance of the conservation area?

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

- *Managing Change - Guidance on Conservation Areas*

The New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves.

No internal or external physical changes are proposed. Therefore, there will be no adverse impact on the character or appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal has regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) 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 Environment Policies Env 1 and Env 6
- LDP Housing Policy Hou 7
- LDP Transport Policies Tra 2 and Tra 3
- LDP Delivering the Strategy Policy Del 2

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

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering LDP Policy Hou 7.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). It is 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 STL does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Principle of Development

The application site is situated in the urban area as defined in the LDP.

The main policy that is applicable to the assessment of STLs is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STL 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.

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 four bedroom building would enable eight or more visitors to stay at the premises. Guests utilising the property for short periods of time throughout the year would be in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity than long standing residents. This would be significantly different from the characteristics of normal residential living and noise levels would be higher than residents might reasonably expect as a result of the use.

Although the property has its own main door and stands alone, with parking areas on either side, the use of the property as a short term let has the potential to introduce an increased frequency of movement to the narrow lane at unsociable hours. This will result in direct interaction between users of the STL and residents of the neighbouring residential properties. There is also a small balcony area accessed from the fourth bedroom to the rear of the property which creates further opportunities for disturbance.

The location of the property, being in a narrow lane, surrounded by a number of residential units, creates a situation where such a use would instead bring additional noise and disturbance immediately outside the other properties in the residential street. Two representations make comment in relation to noise and disturbance from guests using the property.

Whilst comments in support reference the professional manner in which the property is managed, planning permission goes with the land and it would not be possible to ensure any future occupier would achieve the same standard of management that is suggested currently exists.

The site lies within the City Centre and LDP Policy Del 2 supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP Policy Hou 7.

Parking Standards

There is one car parking space associated with the property and the site is only a short walk from key public transport routes. Although there are no cycle parking standards for STLs, bikes could be parked within the property if required. One representation has commented that visitors often leave their car directly in front of the property on the narrow lane, making it difficult to back out of their own garage. Inconsiderate or unlawful parking can be controlled through Police Scotland or the Council's parking wardens.

The proposal complies with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

Four objection comments have been received and one petition in support of the application including 21 signatories.

A summary of the representations is provided below:

material objections

- Negative impact on residential amenity (noise, disturbance, safety, privacy). Addressed in b) above.
- Increased waste levels. A waste strategy should be agreed between applicant and CEC's Waste Services.
- Existing issues with parking. Addressed in b) above.

non-material objections

- Encourages anti-social behaviour. This is a matter for Police Scotland.
- Impact on the availability of homes for traditional housing need. This is not a material consideration under the current LDP. 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.
- Intensification of STL properties in the area resulting in displacement of residential community. Each application has to be considered on its individual merits.

material letter of support

- The property provides unique accommodation, for those that do not necessarily wish to stay in a hotel, providing a premium 'home from home' environment. It provides benefits to the city's tourist economy, and encourages associated spend in local shops, cafes and restaurants. Addressed in b) above.
- The property is in the city centre where other non-residential uses are already well established and appropriate, including other short term lets. Addressed in b) above.
- The property is accessed by a main door and is detached. There is no interaction with other residential neighbours. Addressed in b) above.
- The property is reasonably and professionally managed. Addressed in b) above.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

Overall conclusion

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the relevant local development plan (LDP) policies as it would have an adverse effect on neighbouring residential amenity. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal: -

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 15 July 2022

Drawing Numbers/Scheme

01-03

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

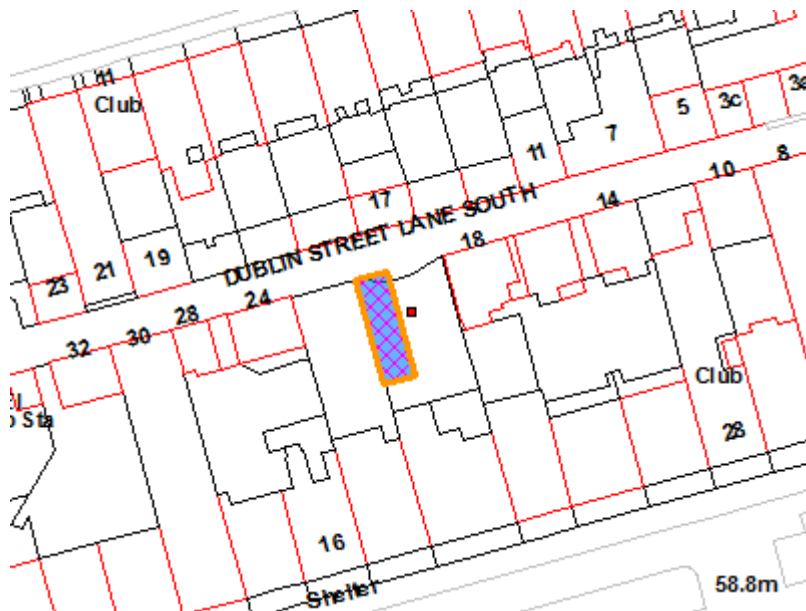
Contact: Stephanie Fraser, Assistant Planning Officer
E-mail: stephanie.fraser@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
2 Forrest Hill, Edinburgh, EH1 2QL.**

**Proposal: Change of use (retrospective) from flat to short-term let
(Sui Generis).**

**Item – Committee Decision
Application Number – 22/04263/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 ground floor, one bedroom flat located on the northern side of Forrest Hill. The property has its own access to the street.

Forrest Hill is located within the City Centre as defined in the LDP. The surrounding area comprises a mix of residential, commercial, leisure and educational uses.. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 1-4 (Inclusive Nos) Forrest Hill, LB28771, 08/05/1975.

The application site is in the Old and New Towns of Edinburgh World Heritage Site and a Local Nature Conservation Site. The application site is in Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2016.

Supporting Information

- Supporting 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: 6 September 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 9 September 2022;

Site Notices Date(s): 6 September 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 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, Env 6 and Env 15.
- 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 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 short term commercial visitor accommodation (STCVA) 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 is a ground floor, one bedroom flat, with its own access to the street. The overall character of Forrest Hill is mixed, with residential and commercial uses, and a moderate degree of activity in the immediate vicinity of the property. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a short term let requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day, this will not have a significant impact on neighbouring amenity.

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 not have a materially adverse impact 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 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.

Local Nature Conservation Site

As stated previously, there are no external changes proposed. Therefore, there will be no impact on the Local Nature Conservation Site.

The proposal complies with LDP Policy Env 15.

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 STL will not significantly impact 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, nor will it harm the Local Nature Conservation Site. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

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.
- Negative impact on building maintenance. 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.
- Loss of tax income and impact on council services.

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: -

1. No conditions are attached to this consent.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 25 August 2022

Drawing Numbers/Scheme

01

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

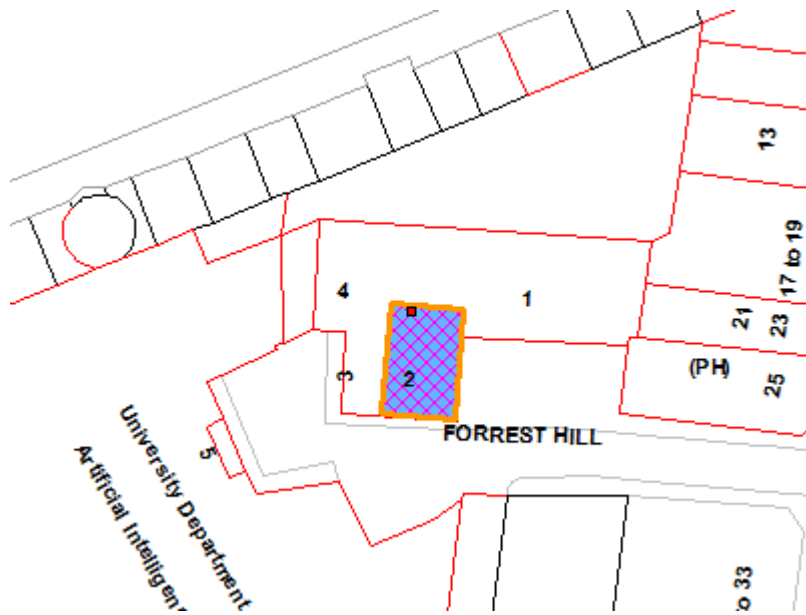
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
2F1 1 Frederick Street, Edinburgh, EH2 2EY.**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01698/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates a one-bedroom flat, facing onto Princes Street and Frederick Street. Access is gained via a shared entrance and communal stairwell. The building comprises five other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is within an B listed building (29508), statutorily listed 20/02/1985.

The property is located within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the retrospective change of use of a residential flat to a short-term let accommodation.

Supporting Information

Planning Statement

Relevant Site History

15/05311/FUL

97 - 98 Princes Street

Edinburgh

EH2 2ER

Change of use of second and third floor of existing buildings from retail to residential use forming six one-bedroom apartments with one common entrance at ground floor. Some repairs and minor alterations to exterior of buildings (as amended).

Granted

28 April 2016

15/05293/LBC

97 - 98 Princes Street

Edinburgh

EH2 2ER

Re-development and conversion of existing building. Re-configuration and internal alterations of upper two floors of four storey building to create six one-bedroom apartments which will be accessed through a common ground floor entrance. Repair and minor alterations to the exterior of the building (as amended).

Granted

28 April 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

3F1 1 Frederick Street - 22/01702/FUL

3F2 1 Frederick Street - 22/01703/FUL

3F3 1 Frederick Street - 22/01704/FUL

2F2 1 Frederick Street - 22/01700/FUL

2F3 1 Frederick Street - 22/01701/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

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

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 STCVA 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 is located on the corner of Frederick and Princes Street, a busy mixed-use area. The character of the area is primarily commercial, with elements of short term lets and very low levels of residential use. Frederick Street and Princes Street are both busy retail hubs and thoroughfares, with high ambient noise levels. Vehicular and pedestrian traffic is considerable throughout the day and night. The level of amenity that is existing is that of a busy mixed-use area, which is appropriate for STL use. The application property forms part of a communal stair, sharing access with five other residential units, each of which has applied retrospectively for planning permission, for STL use. The nature of the vicinity is one in which STL use can be supported in principle.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section B
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section A
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.

- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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 New Town Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

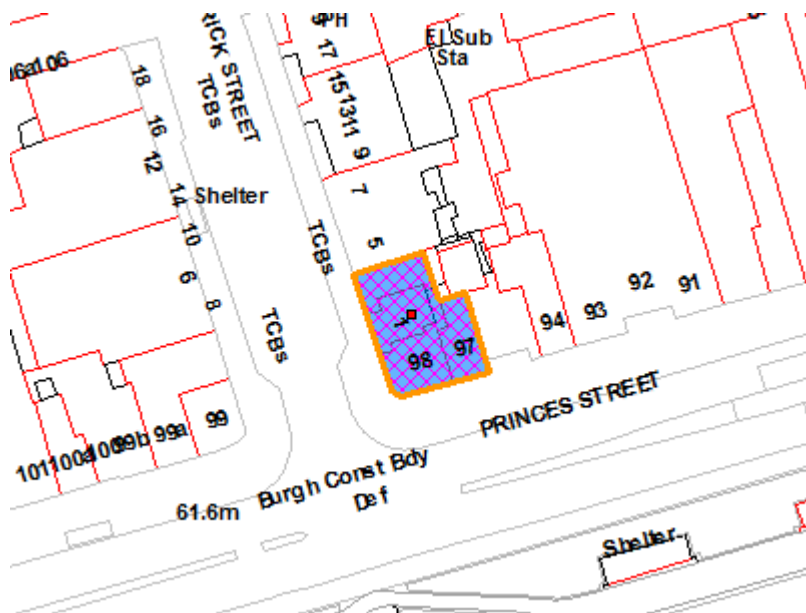
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
2F2 1 Frederick Street, Edinburgh, EH2 2EY.**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01700/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a one - bedroom flat, facing onto Princess Street on the 2nd floor. Access is gained via a shared entrance and communal stairwell. The building comprises five other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is within an B listed building (29508), statutorily listed 20/02/1985.

The property is located within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the retrospective change of use of a residential flat to a short-term let accommodation.

Supporting Information

Planning Statement

Relevant Site History

15/05311/FUL

97 - 98 Princes Street

Edinburgh

EH2 2ER

Change of use of second and third floor of existing buildings from retail to residential use forming six one-bedroom apartments with one common entrance at ground floor. Some repairs and minor alterations to exterior of buildings (as amended).

Granted

28 April 2016

15/05293/LBC

97 - 98 Princes Street

Edinburgh

EH2 2ER

Re-development and conversion of existing building. Re-configuration and internal alterations of upper two floors of four storey building to create six one-bedroom apartments which will be accessed through a common ground floor entrance. Repair and minor alterations to the exterior of the building (as amended).

Granted

28 April 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

3F1 1 Frederick Street - 22/01702/FUL

3F2 1 Frederick Street - 22/01703/FUL

3F3 1 Frederick Street - 22/01704/FUL

2F3 1 Frederick Street - 22/01701/FUL

2F1 1 Frederick Street - 22/01698/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

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

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 STCVA 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 is located on the corner of Frederick and Princes Street, a busy mixed-use area. The character of the area is primarily commercial, with elements of short term lets and very low levels of residential use. Frederick Street and Princes Street are both busy retail hubs and thoroughfares, with high ambient noise levels. Vehicular and pedestrian traffic is considerable throughout the day and night. The level of amenity that is existing is that of a busy mixed-use area, which is appropriate for STL use. The application property forms part of a communal stair, sharing access with five other residential units, each of which has applied retrospectively for planning permission, for STL use. The nature of the vicinity is one in which STL use can be supported in principle.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section B
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section A
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.

- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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 New Town Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

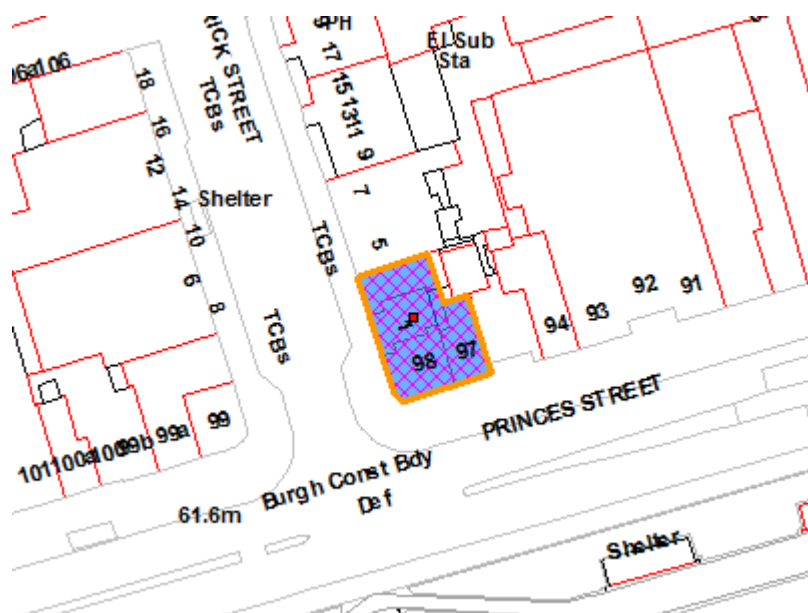
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
2F3 1 Frederick Street, Edinburgh, EH2 2EY.**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01701/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a one - bedroom flat, facing onto Frederick Street on the 2nd floor. Access is gained via a shared entrance and communal stairwell. The building comprises five other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is within an B listed building (29508), statutorily listed 20/02/1985.

The property is located within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the retrospective change of use of a residential flat to a short-term let accommodation.

Supporting Information

Planning Statement

Relevant Site History

15/05311/FUL

97 - 98 Princes Street

Edinburgh

EH2 2ER

Change of use of second and third floor of existing buildings from retail to residential use forming six one-bedroom apartments with one common entrance at ground floor. Some repairs and minor alterations to exterior of buildings (as amended).

Granted

28 April 2016

15/05293/LBC

97 - 98 Princes Street

Edinburgh

EH2 2ER

Re-development and conversion of existing building. Re-configuration and internal alterations of upper two floors of four storey building to create six one-bedroom apartments which will be accessed through a common ground floor entrance. Repair and minor alterations to the exterior of the building (as amended).

Granted

28 April 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

3F1 1 Frederick Street - 22/01702/FUL

3F2 1 Frederick Street - 22/01703/FUL

3F3 1 Frederick Street - 22/01704/FUL

2F2 1 Frederick Street - 22/01700/FUL

2F1 1 Frederick Street - 22/01698/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

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

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 STCVA 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 is located on the corner of Frederick and Princes Street, a busy mixed-use area. The character of the area is primarily commercial, with elements of short term lets and very low levels of residential use. Frederick Street and Princes Street are both busy retail hubs and thoroughfares, with high ambient noise levels. Vehicular and pedestrian traffic is considerable throughout the day and night. The level of amenity that is existing is that of a busy mixed-use area, which is appropriate for STL use. The application property forms part of a communal stair, sharing access with five other residential units, each of which has applied retrospectively for planning permission, for STL use. The nature of the vicinity is one in which STL use can be supported in principle.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section B
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section A
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C
- *non-material considerations*
- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.

- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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 New Town Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

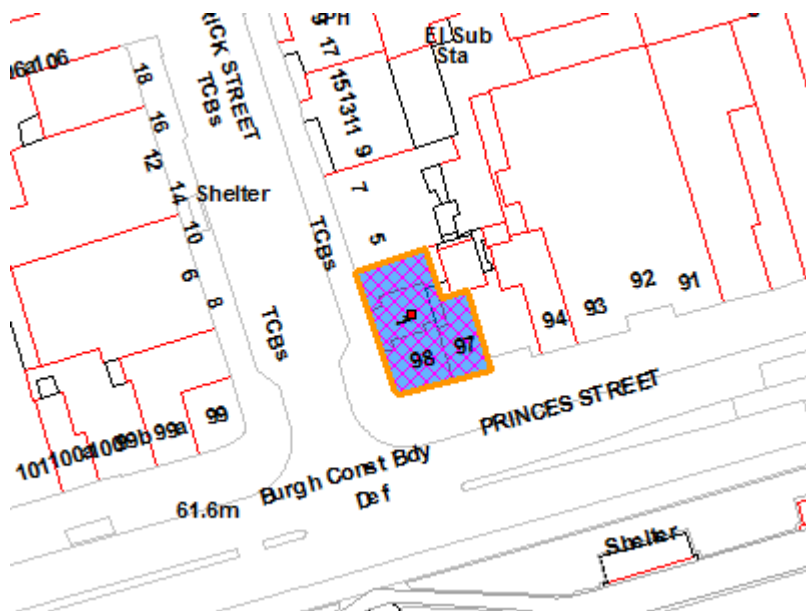
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
3F1 1 Frederick Street, Edinburgh, EH2 2EY.**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01702/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates a one - bedroom flat, facing onto Princess Street and Frederick Street on the 3rd floor. Access is gained via a shared entrance and communal stairwell. The building comprises five other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is within an B listed building (29508), statutorily listed 20/02/1985.

The property is located within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the retrospective change of use of a residential flat to a short-term let accommodation.

Supporting Information

Planning Statement

Relevant Site History

15/05311/FUL

97 - 98 Princes Street

Edinburgh

EH2 2ER

Change of use of second and third floor of existing buildings from retail to residential use forming six one-bedroom apartments with one common entrance at ground floor. Some repairs and minor alterations to exterior of buildings (as amended).

Granted

28 April 2016

15/05293/LBC

97 - 98 Princes Street

Edinburgh

EH2 2ER

Re-development and conversion of existing building. Re-configuration and internal alterations of upper two floors of four storey building to create six one-bedroom apartments which will be accessed through a common ground floor entrance. Repair and minor alterations to the exterior of the building (as amended).

Granted

28 April 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

3F2 1 Frederick Street - 22/01703/FUL

3F3 1 Frederick Street - 22/01704/FUL

2F2 1 Frederick Street - 22/01700/FUL

2F3 1 Frederick Street - 22/01701/FUL

2F1 1 Frederick Street - 22/01698/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 25 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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

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

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 STCVA 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 is located on the corner of Frederick and Princes Street, a busy mixed-use area. The character of the area is primarily commercial, with elements of short term lets and very low levels of residential use. Frederick Street and Princes Street are both busy retail hubs and thoroughfares, with high ambient noise levels. Vehicular and pedestrian traffic is considerable throughout the day and night. The level of amenity that is existing is that of a busy mixed-use area, which is appropriate for STL use. The application property forms part of a communal stair, sharing access with five other residential units, each of which has applied retrospectively for planning permission, for STL use. The nature of the vicinity is one in which STL use can be supported in principle.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section B
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section A
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.

- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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 New Town Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

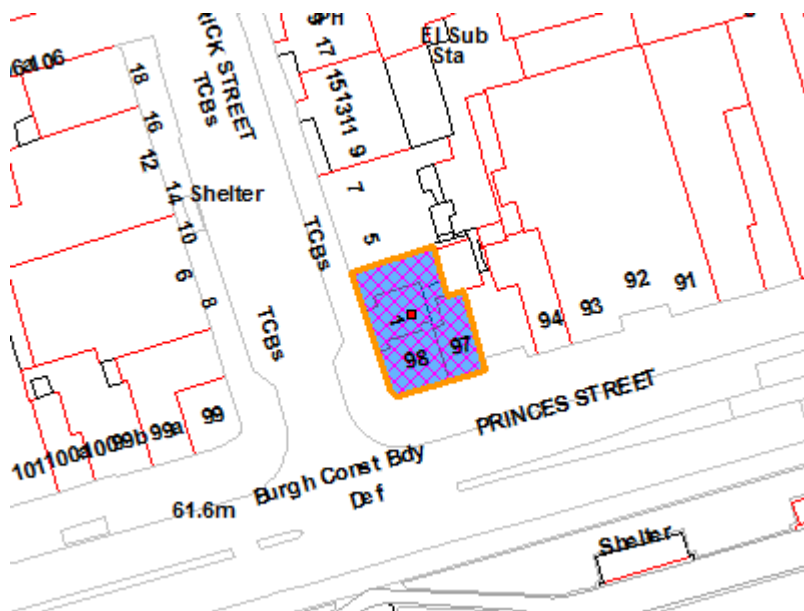
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
3F2 1 Frederick Street, Edinburgh, EH2 2EY.**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01703/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a one - bedroom flat, facing onto Princess Street on the 3rd floor. Access is gained via a shared entrance and communal stairwell. The building comprises five other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is within an B listed building (29508), statutorily listed 20/02/1985.

The property is located within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the retrospective change of use of a residential flat to a short-term let accommodation.

Supporting Information

Planning Statement

Relevant Site History

15/05311/FUL

97 - 98 Princes Street

Edinburgh

EH2 2ER

Change of use of second and third floor of existing buildings from retail to residential use forming six one-bedroom apartments with one common entrance at ground floor. Some repairs and minor alterations to exterior of buildings (as amended).

Granted

28 April 2016

15/05293/LBC

97 - 98 Princes Street

Edinburgh

EH2 2ER

Re-development and conversion of existing building. Re-configuration and internal alterations of upper two floors of four storey building to create six one-bedroom apartments which will be accessed through a common ground floor entrance. Repair and minor alterations to the exterior of the building (as amended).

Granted

28 April 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

3F1 1 Frederick Street - 22/01702/FUL

3F3 1 Frederick Street - 22/01704/FUL

2F2 1 Frederick Street - 22/01700/FUL

2F3 1 Frederick Street - 22/01701/FUL

2F1 1 Frederick Street - 22/01698/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

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

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 STCVA 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 is located on the corner of Frederick and Princes Street, a busy mixed-use area. The character of the area is primarily commercial, with elements of short term lets and very low levels of residential use. Frederick Street and Princes Street are both busy retail hubs and thoroughfares, with high ambient noise levels. Vehicular and pedestrian traffic is considerable throughout the day and night. The level of amenity that is existing is that of a busy mixed-use area, which is appropriate for STL use. The application property forms part of a communal stair, sharing access with five other residential units, each of which has applied retrospectively for planning permission, for STL use. The nature of the vicinity is one in which STL use can be supported in principle.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section B
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section A
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.

- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition, or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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 New Town Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

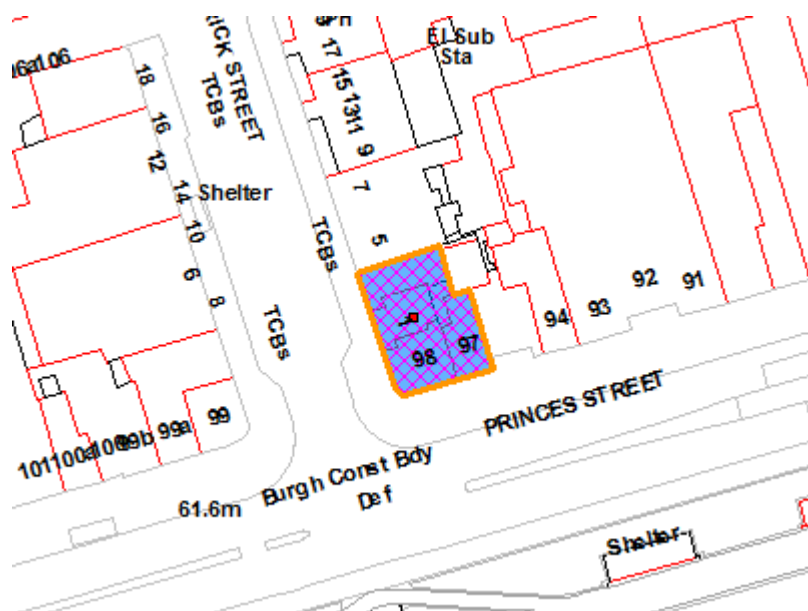
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
3F3 1 Frederick Street, Edinburgh, EH2 2EY.**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01704/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a one - bedroom flat, facing onto Princess Street and Frederick Street on the 3rd floor. Access is gained via a shared entrance and communal stairwell. The building comprises five other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is within an B listed building (29508), statutorily listed 20/02/1985.

The property is located within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the retrospective change of use of a residential flat to a short-term let accommodation.

Supporting Information

Planning Statement

Relevant Site History

15/05311/FUL

97 - 98 Princes Street

Edinburgh

EH2 2ER

Change of use of second and third floor of existing buildings from retail to residential use forming six one-bedroom apartments with one common entrance at ground floor. Some repairs and minor alterations to exterior of buildings (as amended).

Granted

28 April 2016

15/05293/LBC

97 - 98 Princes Street

Edinburgh

EH2 2ER

Re-development and conversion of existing building. Re-configuration and internal alterations of upper two floors of four storey building to create six one-bedroom apartments which will be accessed through a common ground floor entrance. Repair and minor alterations to the exterior of the building (as amended).

Granted

28 April 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

3F1 1 Frederick Street - 22/01702/FUL
3F2 1 Frederick Street - 22/01703/FUL
2F2 1 Frederick Street - 22/01700/FUL
2F3 1 Frederick Street - 22/01701/FUL
2F1 1 Frederick Street - 22/01698/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

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

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 STCVA 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 is located on the corner of Frederick and Princes Street, a busy mixed-use area. The character of the area is primarily commercial, with elements of short term lets and very low levels of residential use. Frederick Street and Princes Street are both busy retail hubs and thoroughfares, with high ambient noise levels. Vehicular and pedestrian traffic is considerable throughout the day and night. The level of amenity that is existing is that of a busy mixed-use area, which is appropriate for STL use. The application property forms part of a communal stair, sharing access with five other residential units, each of which has applied retrospectively for planning permission, for STL use. The nature of the vicinity is one in which STL use can be supported in principle.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section B
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section A
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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 New Town Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

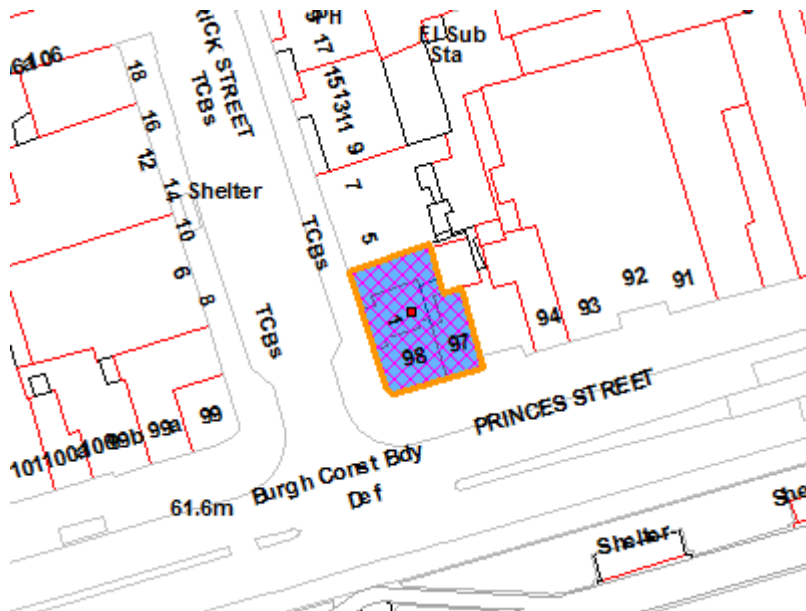
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
30 Grove Street, Edinburgh, EH3 8AZ.**

Proposal: Change of Use (retrospective) from house (residential) to short-term let visitor accommodation (sui generis).

**Item – Local Delegated Decision
Application Number – 22/03243/FUL
Ward – B09 - Fountainbridge/Craiglockhart**

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 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 A – Application Background

Site Description

The application property is a self-contained one-bed dwelling set over two floors at 30, Grove Street, Fountainbridge. It comprises a living/dining area, kitchen and shower room on the ground floor, with a bedroom and covered balcony/terrace on the first floor. The property has its own main access door on to Grove Street. It has no shared outdoor amenity space. To the south of the property immediately adjacent is a four storey Victorian tenement block.

Description of the Proposal

The application seeks permission to change the residential use to short term let visitor accommodation. No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since 2014. The application is therefore retrospective.

Supporting Information

Supporting statement.

Relevant Site History

96/01694/FUL
30 Grove Street
Edinburgh
EH3 8AZ
Change of use from potters studio to dwelling
Granted
27 November 1996

03/02059/FUL
30 Grove Street
Edinburgh
EH3 8AZ
Artist's studio extension to residence (as amended)
Granted
9 January 2004

Other Relevant Site History

No other relevant planning site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 5 July 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 0

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 Housing Policy Hou 7
- LDP Housing Policy Del 2
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 immediately adjacent to the application site are in residential use, the character of Grove Street is one of a fairly 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 student accommodation, a late-night pool hall and bar, a hotel 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 adjacent on the south side, 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.

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. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

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

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

No representations have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

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: 22 June 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

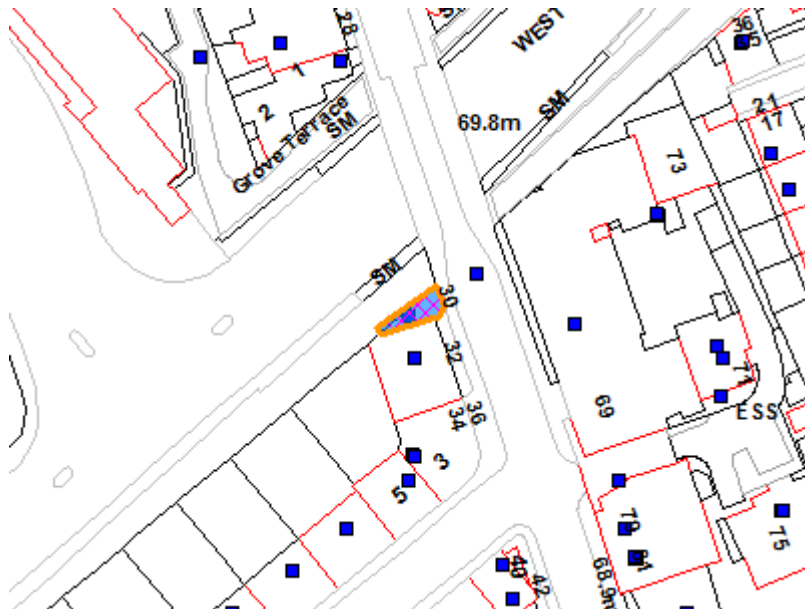
Contact: Lesley Porteous, Planning Officer
E-mail:lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 1 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of use from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01695/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 northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications is pending decision to grant.

Site address and references are:

Flat 2,129 High Street - 22/01697/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL

Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2019. This is the only non-retrospective application of the thirteen.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use except the subject of this application, and each has applied for planning permission to regularise the use. A suspensive condition is attached to each of these other permissions to ensure that all properties in the block enter STL use at the same time and the potential for any impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

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.

Reasons: -

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

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

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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 2 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01697/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 northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL

Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 2- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01697/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

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

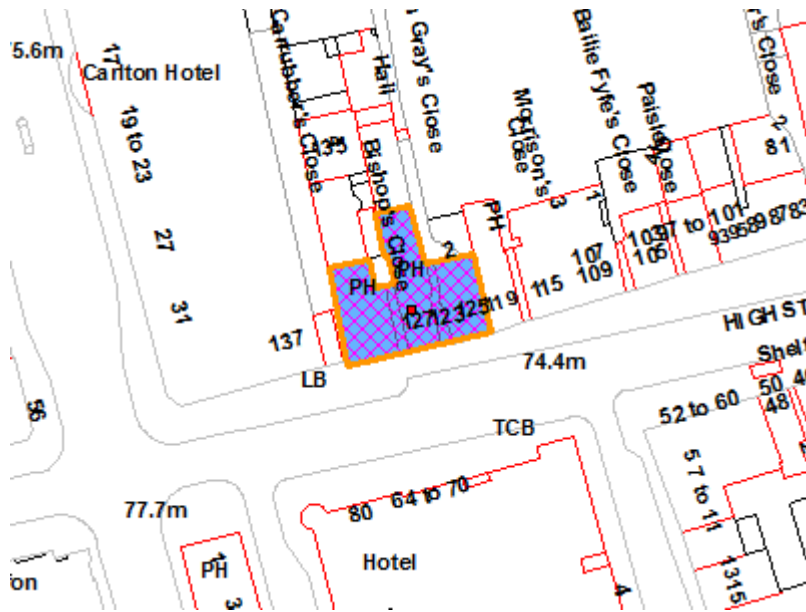
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 3 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of Use (retrospective) from residential to short-term let (Sui Generis)

**Item – Committee Decision
Application Number – 22/01682/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, second floor flat above commercial premises located on the northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses, and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 2,129 High Street - 22/01697/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL

Flat 11,129 High Street - 22/01802/FUL
Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 3- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01682/FUL has been taken up.
1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 14 April 2022

Drawing Numbers/Scheme

01, 02A

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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

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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 4 129 High Street, Edinburgh, EH1 1SG**

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

**Item – Committee Decision
Application Number – 22/01685/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 northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses, and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 2,129 High Street - 22/01697/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL

Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 4 - 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01685/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 14 April 2022

Drawing Numbers/Scheme

01, 02A

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

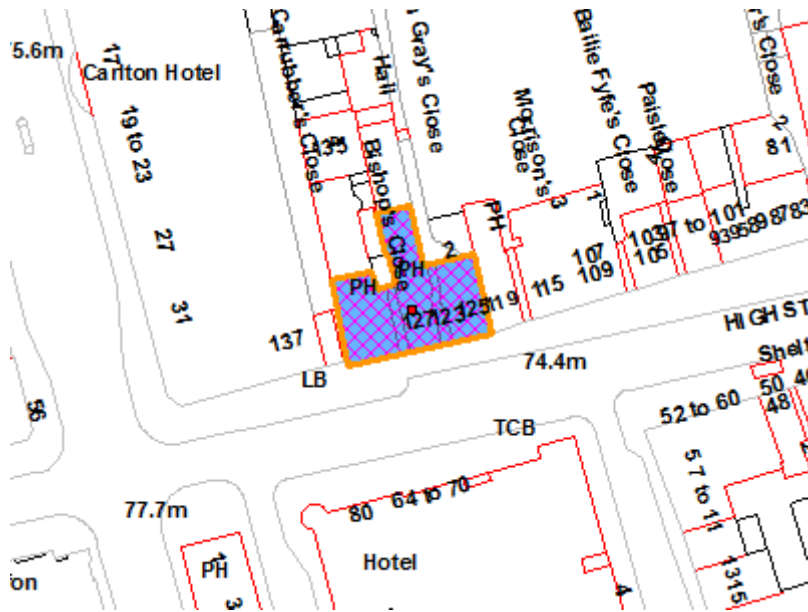
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 5 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of Use (retrospective) from residential to short-term let (Sui Generis)

**Item – Committee Decision
Application Number – 22/01689/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, second floor flat above commercial premises located on the northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 2,129 High Street - 22/01697/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL

Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Lack of benefit to the local economy
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 5- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01689/FUL has been taken up.
1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 7 April 2022

Drawing Numbers/Scheme

01, 02B

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

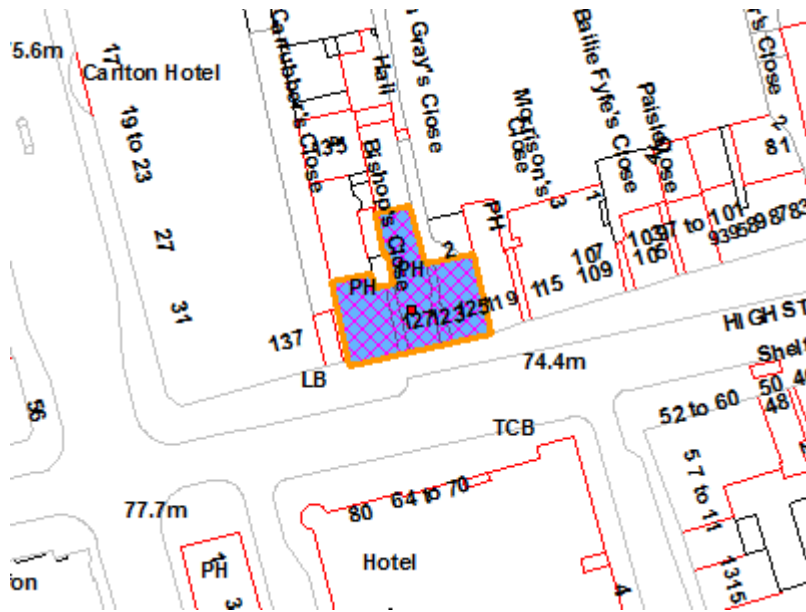
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 6 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of Use (retrospective) from residential to short-term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01690/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 northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 2,129 High Street - 22/01697/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL

Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL
Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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.

Section C - Conditions/Reasons/Informatives

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 6- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01690/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 7 April 2022

Drawing Numbers/Scheme

01, 02A

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

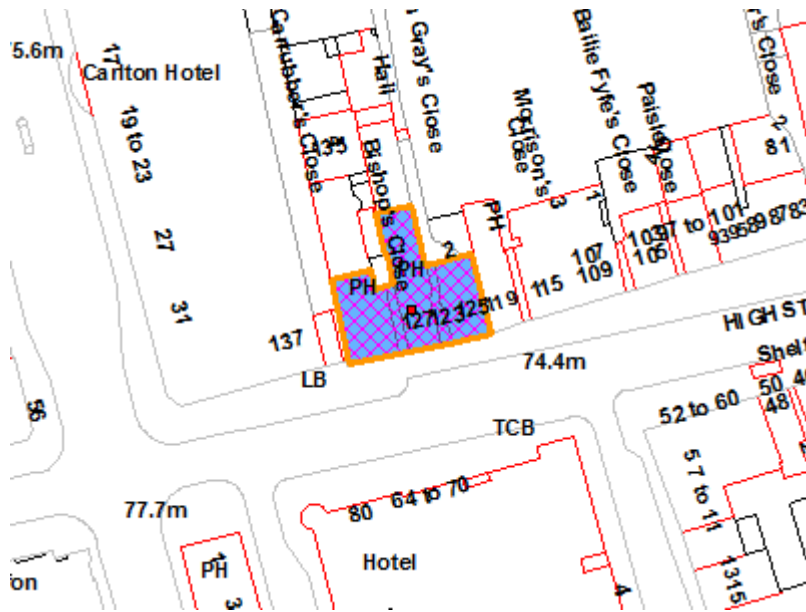
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 7 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01693/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 northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 2,129 High Street - 22/01697/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL

Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL
Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 7- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01693/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

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, 02C

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

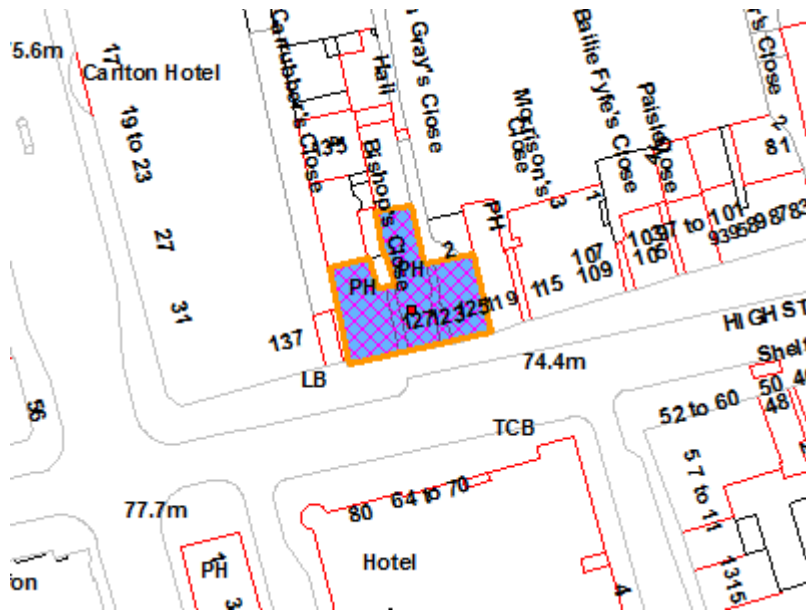
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 8 129 High Street, Edinburgh, EH1 1SG**

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

**Item – Committee Decision
Application Number – 22/01692/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 northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1, 129 High Street - 22/01695/FUL
Flat 2, 129 High Street - 22/01697/FUL
Flat 3, 129 High Street - 22/01682/FUL
Flat 4, 129 High Street - 22/01685/FUL
Flat 5, 129 High Street - 22/01689/FUL
Flat 6, 129 High Street - 22/01690/FUL
Flat 7, 129 High Street - 22/01693/FUL
Flat 9, 129 High Street - 22/01696/FUL
Flat 10, 129 High Street - 22/01801/FUL

Flat 11,129 High Street - 22/01802/FUL
Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 8- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01692/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 7 April 2022

Drawing Numbers/Scheme

01, 02C

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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

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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 9 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

**Item – Committee Decision
Application Number – 22/01696/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, fourth floor flat above commercial premises located on the northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 2,129 High Street - 22/01697/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL

Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL
Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 9- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01696/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

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

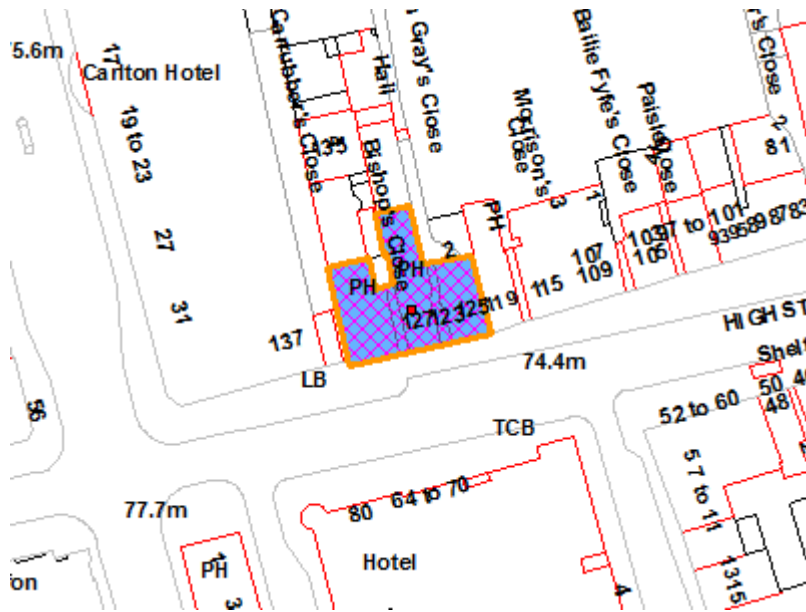
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 10 129 High Street, Edinburgh, EH1 1SG**

Proposal: Change of Use from residential to short term let (sui-generis) (in retrospect)

**Item – Committee Decision
Application Number – 22/01801/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, fourth floor flat above commercial premises located on the northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1, 129 High Street - 22/01695/FUL
Flat 2, 129 High Street - 22/01697/FUL
Flat 3, 129 High Street - 22/01682/FUL
Flat 4, 129 High Street - 22/01685/FUL
Flat 5, 129 High Street - 22/01689/FUL
Flat 6, 129 High Street - 22/01690/FUL
Flat 7, 129 High Street - 22/01693/FUL
Flat 8, 129 High Street - 22/01692/FUL
Flat 9, 129 High Street - 22/01696/FUL

Flat 11,129 High Street - 22/01802/FUL
Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- The application is retrospective.
- Management statement inaccuracies
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 10- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01801/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

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

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

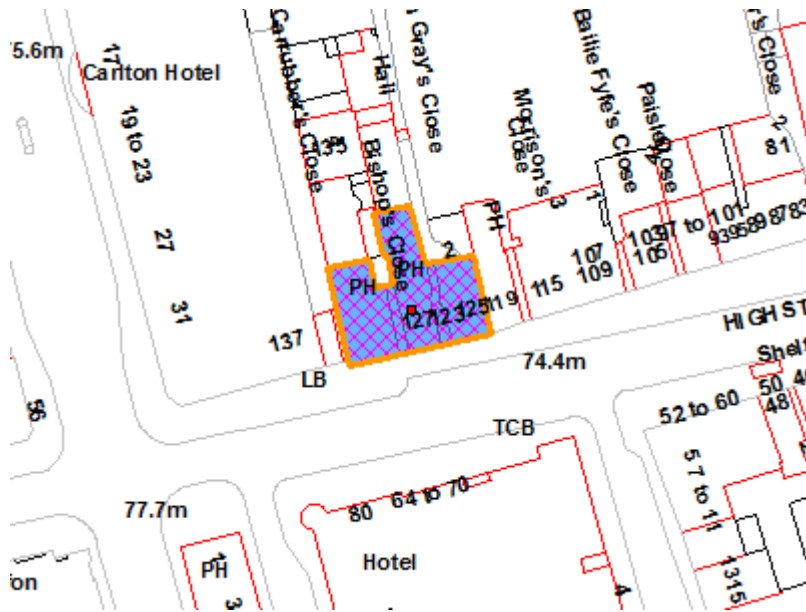
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 11 129 High Street, Edinburgh, EH1 1SG**

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

**Item – Committee Decision
Application Number – 22/01802/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, fourth floor flat above commercial premises located on the northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

15/04096/FUL
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

15/04096/LBC
123 High Street
Edinburgh
EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).
Granted
7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1,129 High Street - 22/01695/FUL
Flat 2,129 High Street - 22/01697/FUL
Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL

Flat 12,129 High Street - 22/04537/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 25 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: 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which is now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair have applied for planning permission to enter STL use, or to retrospectively regularise their use as STLs. A suspensive condition is attached to each of these permissions to ensure that all enter STL use at the same time and the potential for impact on neighbouring amenity is avoided.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion and traffic noise. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.

non-material considerations

- The person(s) owning this property and other properties in the stair.
- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 11- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/01802/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 12 April 2022

Drawing Numbers/Scheme

01, 02A

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

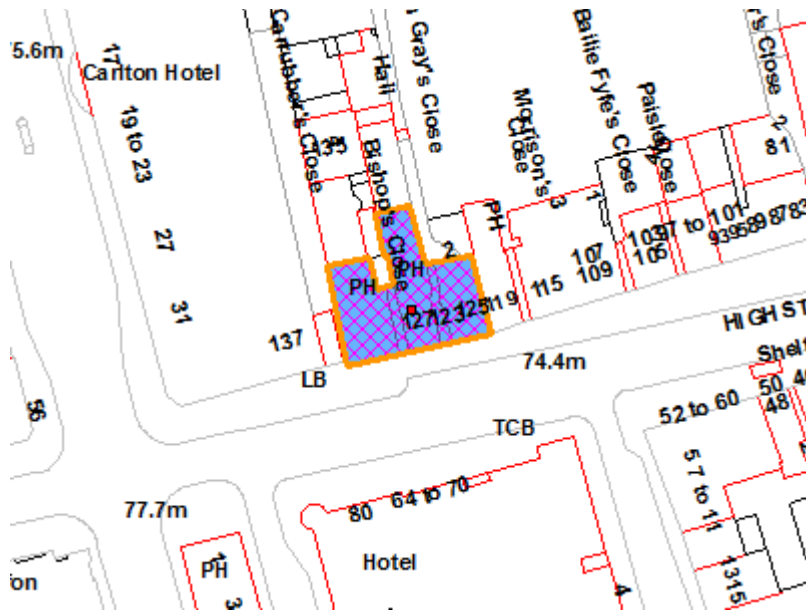
Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 12 129 High Street, Edinburgh, EH1 1SG**

Proposal: Retrospective change of use from residential to Short Term Let (sui-generis).

**Item – Committee Decision
Application Number – 22/04537/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, fifth floor flat above commercial premises located on the northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

22/01676/FUL

Flat 12 129 High Street

Edinburgh

EH1 1SG

Change of use from residential to short term let (sui generis) (in retrospect).

Refused

9 June 2022

15/04096/FUL

123 High Street

Edinburgh

EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).

Granted

7 January 2016

15/04096/LBC

123 High Street

Edinburgh

EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).

Granted

7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1, 129 High Street - 22/01695/FUL

Flat 2, 129 High Street - 22/01697/FUL

Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL
Flat 13,129 High Street - 22/04538/FUL

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 27 September 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which has now applying for planning permission (non-retrospectively) to change its use to an STL.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

A previous application for the same proposal at this property was refused in June 2022 (22/01676/FUL) due to there being a property within the stair having a lawful residential use. However, a suspensive condition which has been agreed with the applicant has been attached to each of these permissions to ensure that all the properties enter STL use at the same time and the potential for impacts to neighbouring amenity is avoided. This condition addresses the reason for refusal of the previous application.

The combination of residential use and short term let use within a shared stair can have negative impacts on neighbouring residential amenity. The provision of outdoor amenity space in STL use, in this case a private balcony, can have similar negative impacts on neighbours. However, in this instance there are no neighbours within the stair or proximity to the balcony that could be impacted as all the applications are to enter STL use at the same time.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.
- Lack of differentiation between this and a previous application at the same property. Addressed in Section C.

non-material considerations

- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 12- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/04537/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 9 September 2022

Drawing Numbers/Scheme

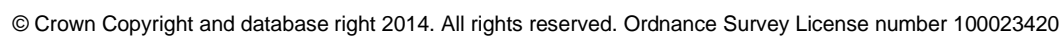
01, 02

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

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 13 129 High Street, Edinburgh, EH1 1SG**

Proposal: Retrospective change of use from residential Short Term Let (sui-generis).

**Item – Committee Decision
Application Number – 22/04538/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, fifth floor flat above commercial premises located on the northern side of High Street. The property shares its access to the street via a communal stair.

High Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, 127 and 129 High Street, LB29043, 11/01/1989

The application site is in the Old and New Towns of Edinburgh World Heritage Site and Old Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement

Relevant Site History

22/01680/FUL

Flat 13 129 High Street

Edinburgh

EH1 1SG

Change of use (retrospective) from residential to short term let (Sui Generis).

Refused

9 June 2022

15/04096/FUL

123 High Street

Edinburgh

EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).

Granted

7 January 2016

15/04096/LBC

123 High Street

Edinburgh

EH1 1SG

Modify existing planning consent 03/04038/FUL (10 flats with additional 3 flats).

Granted

7 January 2016

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

Flat 1, 129 High Street - 22/01695/FUL

Flat 2, 129 High Street - 22/01697/FUL

Flat 3,129 High Street - 22/01682/FUL
Flat 4,129 High Street - 22/01685/FUL
Flat 5,129 High Street - 22/01689/FUL
Flat 6,129 High Street - 22/01690/FUL
Flat 7,129 High Street - 22/01693/FUL
Flat 8,129 High Street - 22/01692/FUL
Flat 9,129 High Street - 22/01696/FUL
Flat 10,129 High Street - 22/01801/FUL
Flat 11,129 High Street - 22/01802/FUL
Flat 12,129 High Street - 22/04538/FUL

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

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

Publicity and Public Engagement

Date of Neighbour Notification: 27 September 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 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 states:

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. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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 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.

Proposed Use

The application site is situated in the Urban Area 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 STCVA 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 twelve other residential units, eleven of which have applied retrospectively for planning permission having been in use as STLs since 2019, and one of which has now applying for planning permission (non-retrospectively) to change its use to an STL..

A previous application for the same proposal at this property was refused in June 2022 (22/01680/FUL) due to there being a property within the stair having a lawful residential use. However, a suspensive condition which has been agreed with the applicant has been attached to each of these permissions to ensure that all the properties enter STL use at the same time and the potential for impacts to neighbouring amenity is avoided. This condition addresses the reason for refusal of the previous application.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The combination of residential use and short term let use within a shared stair can have negative impacts on neighbouring residential amenity. The provision of outdoor amenity space in STL use, in this case a private balcony, can have similar negative impacts on neighbours. However, in this instance there are no neighbours within the stair or proximity to the balcony that could be impacted as all the applications are to enter STL use at the same time.

The character of High Street is of a busy thoroughfare, with considerable pedestrian footfall and vehicle traffic passing along the street. The application site is directly above two public houses that operate into the early hours, and in close proximity to a range of leisure and night-time uses, which contribute to high ambient noise levels in the street during the daytime and night-time.

In these circumstances, despite the presence of residential properties on High Street and in the surrounding area, the impact of the STL use is acceptable given the background noise levels from uses 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 proposed change of use to 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 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 an STL will not be of significant 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.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 and local economy. Addressed in Section C.
- Impact on traffic congestion. Addressed in Section C.
- Impact on 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.
- Contradicts LDP policies. Addressed in Section C.
- Lack of differentiation between this and a previous application at the same property. Addressed in Section C.

non-material considerations

- The property could not change to other uses after changing use to STL without Planning Permission.
- Shortage of housing.
- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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

Conditions

The recommendation is subject to the following.

1. Notwithstanding the grant of retrospective planning permission for the use of property Flat 13- 129 High Street, Edinburgh shall cease as a short stay let until such time as planning permission 22/01695/FUL Flat 1 - 129 High Street, Edinburgh has been implemented in full as a short stay let. Confirmation shall be submitted in writing to the Planning Authority that the use granted under permission 22/04538/FUL has been taken up.

Reasons: -

1. In order to protect residential amenity.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 9 September 2022

Drawing Numbers/Scheme

01, 02

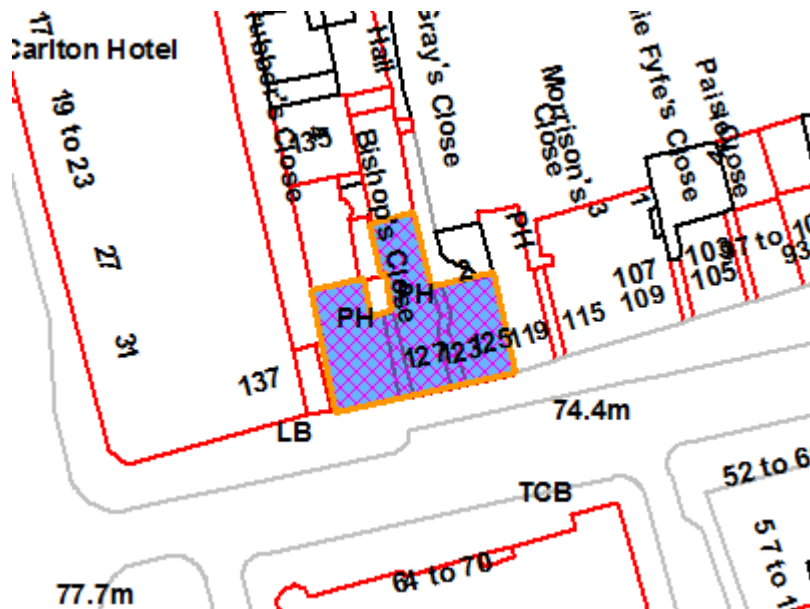
**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

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

Summary of Consultation Responses

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 7 December 2022

**Application for Planning Permission
Flat 1, 5 Hill Street, Edinburgh.**

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

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

**Item – Committee Decision
Application Number – 22/01729/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, ground floor flat located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted
4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted
11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01736/FUL, 5/2 Hill Street
- 22/01737/FUL, 5/3 Hill Street
- 22/01738/FUL, 5/4 Hill Street
- 22/01739/FUL, 5/5 Hill Street
- 22/01740/FUL, 5/6 Hill Street
- 22/01741/FUL, 5/7 Hill Street
- 22/01742/FUL, 5/8 Hill Street

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: 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 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.
- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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.

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

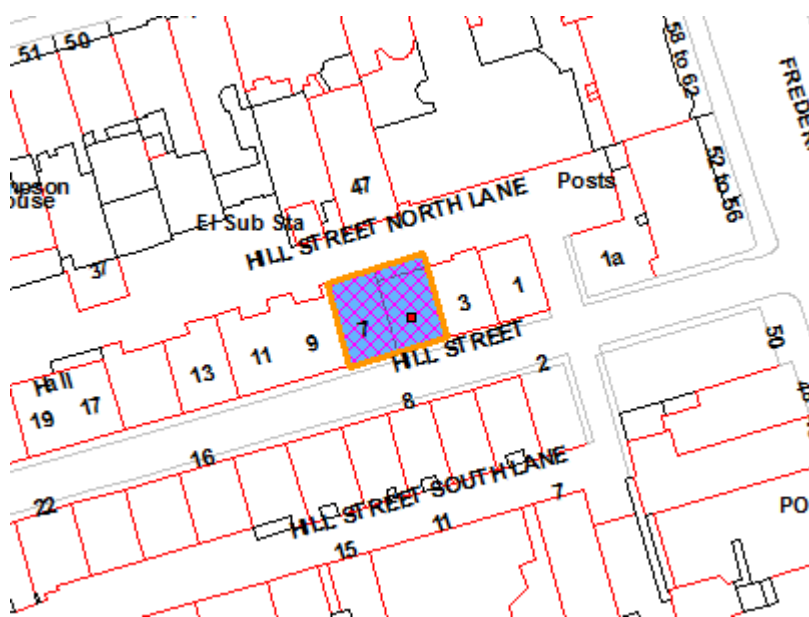
NAME: Historic Environment Scotland

COMMENT: No comment/ objection

DATE: 30 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 7 December 2022

**Application for Planning Permission
Flat 2, 5 Hill Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01736/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, ground floor flat located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted

4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted

11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01729/FUL, 5/1 Hill Street
- 22/01737/FUL, 5/3 Hill Street
- 22/01738/FUL, 5/4 Hill Street
- 22/01739/FUL, 5/5 Hill Street
- 22/01740/FUL, 5/6 Hill Street
- 22/01741/FUL, 5/7 Hill Street
- 22/01742/FUL, 5/8 Hill Street

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: 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 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

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

- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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;

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

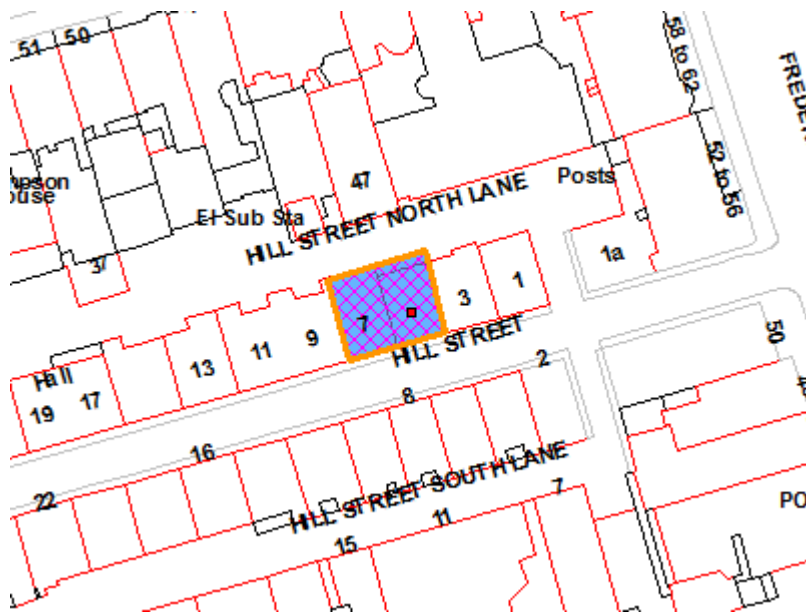
NAME: Historic Environment Scotland

COMMENT: No comment and objection.

DATE: 30 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 7 December 2022

**Application for Planning Permission
Flat 3 5 Hill Street, Edinburgh, EH2 3JP**

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

**Item – Committee Decision
Application Number – 22/01737/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 located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted
4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted
11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01729/FUL, 5/1 Hill Street
- 22/01736/FUL, 5/2 Hill Street
- 22/01738/FUL, 5/4 Hill Street
- 22/01739/FUL, 5/5 Hill Street
- 22/01740/FUL, 5/6 Hill Street
- 22/01741/FUL, 5/7 Hill Street
- 22/01742/FUL, 5/8 Hill Street

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: 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 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location.. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.
- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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;

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

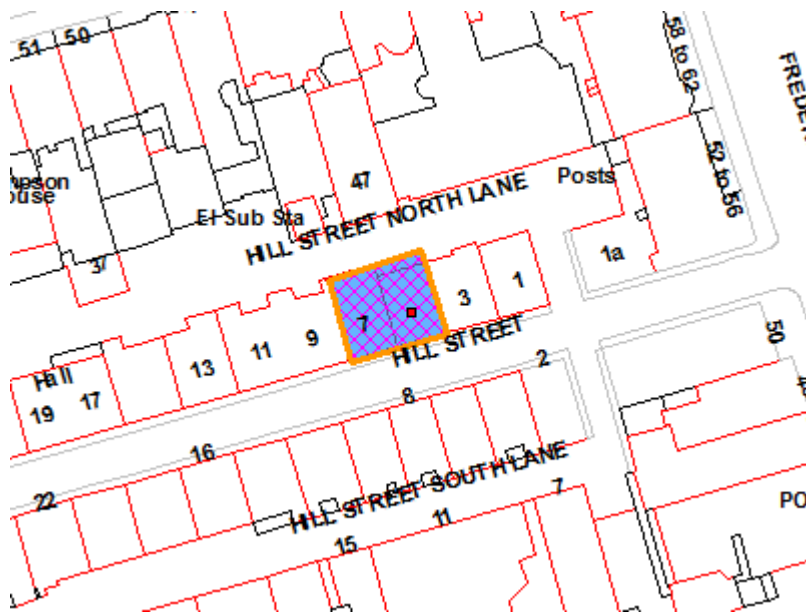
NAME: Historic Environment Scotland

COMMENT: No comment.

DATE: 27 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 7 December 2022

**Application for Planning Permission
Flat 4, 5 Hill Street, Edinburgh**

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

**Item – Committee Decision
Application Number – 22/01738/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 located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted

4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted

11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01729/FUL, 5/1 Hill Street
- 22/01736/FUL, 5/2 Hill Street
- 22/01737/FUL, 5/3 Hill Street
- 22/01739/FUL, 5/5 Hill Street
- 22/01740/FUL, 5/6 Hill Street
- 22/01741/FUL, 5/7 Hill Street
- 22/01742/FUL, 5/8 Hill Street

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: 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
- 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.
- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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;

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

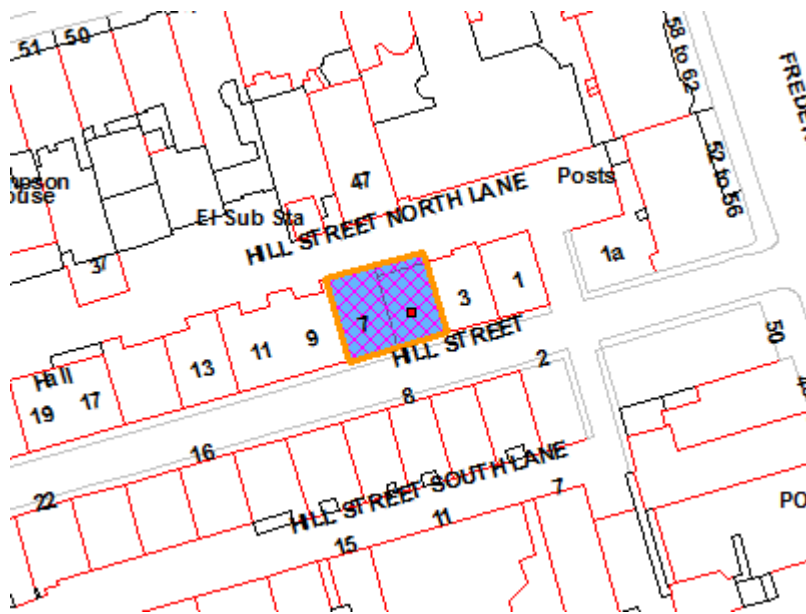
NAME: Historic Environment Scotland

COMMENT: No comment.

DATE: 27 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 7 December 2022

**Application for Planning Permission
Flat 5, 5 Hill Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01739/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 located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted

4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted

11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01729/FUL, 5/1 Hill Street
- 22/01736/FUL, 5/2 Hill Street
- 22/01737/FUL, 5/3 Hill Street
- 22/01738/FUL, 5/4 Hill Street
- 22/01740/FUL, 5/6 Hill Street
- 22/01741/FUL, 5/7 Hill Street
- 22/01742/FUL, 5/8 Hill Street

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: 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 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.
- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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;

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

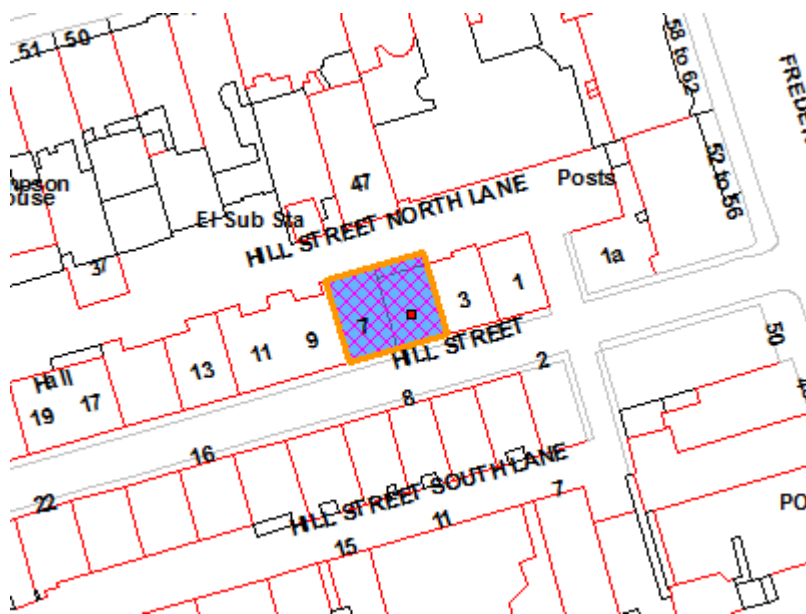
NAME: Historic Environment Scotland

COMMENT: No comment/ objection

DATE: 30 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 7 December 2022

**Application for Planning Permission
Flat 6, 5 Hill Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01740/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 located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted
4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted
11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01729/FUL, 5/1 Hill Street
- 22/01736/FUL, 5/2 Hill Street
- 22/01737/FUL, 5/3 Hill Street
- 22/01738/FUL, 5/4 Hill Street
- 22/01739/FUL, 5/5 Hill Street
- 22/01741/FUL, 5/7 Hill Street
- 22/01742/FUL, 5/8 Hill Street

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: 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 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.
- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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.

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

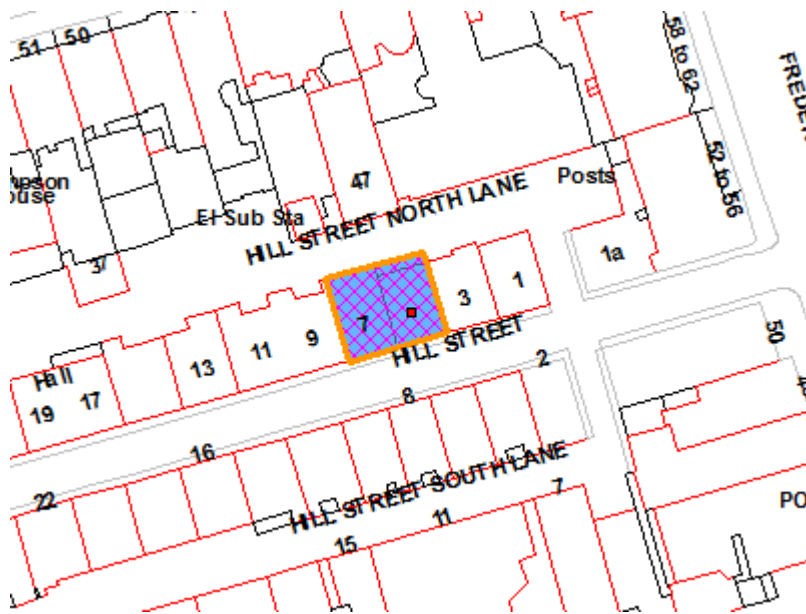
NAME: Historic Environment Scotland

COMMENT: No comment/ objection.

DATE: 27 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 7 December 2022

**Application for Planning Permission
Flat 7, 5 Hill Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01741/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 located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted

4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted

11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01729/FUL, 5/1 Hill Street
- 22/01736/FUL, 5/2 Hill Street
- 22/01737/FUL, 5/3 Hill Street
- 22/01738/FUL, 5/4 Hill Street
- 22/01739/FUL, 5/5 Hill Street
- 22/01740/FUL, 5/6 Hill Street
- 22/01742/FUL, 5/8 Hill Street

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: 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 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.
- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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:-

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

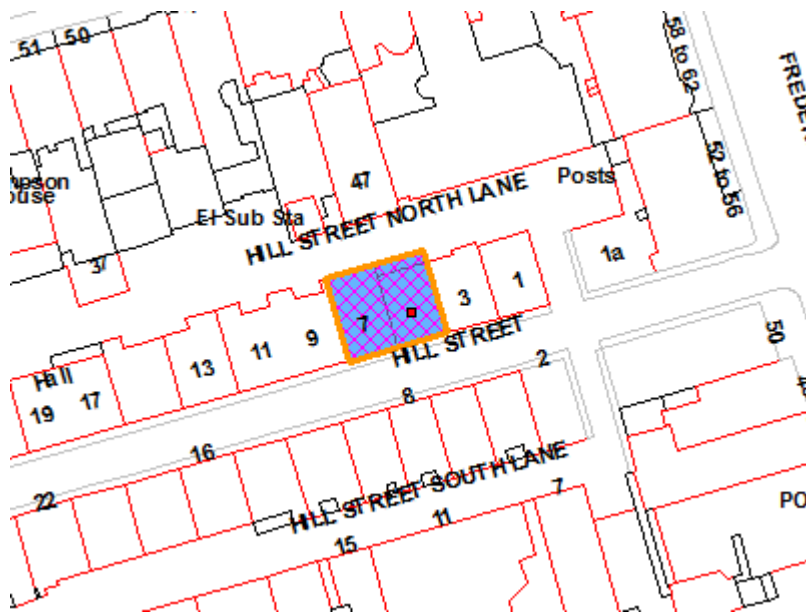
NAME: Historic Environment Scotland

COMMENT: No comment/ objection.

DATE: 27 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 7 December 2022

**Application for Planning Permission
Flat 8, 5 Hill Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01742/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 located on the northern side of Hill Street. The property shares its access to the street via a communal stair.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application property is part of a category A listed building, 5-9 (Odd Nos) Hill Street, LB43296, 03/03/1966

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

Description of the proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2014.

Supporting Information

- Planning Statement
- Management Statement

Relevant Site History

13/02953/FUL
5 - 7 Hill Street
Edinburgh
EH2 3JP

Change of use and alterations to existing office buildings to form 8 (eight) residential dwellings. Works include reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer etc).

Granted
4 October 2013

13/02950/LBC
5 - 7 Hill Street
Edinburgh
EH2 3JP

Alterations to existing office buildings to form 8 (eight) residential dwellings. Works include internal alterations, reinstatement of rear single storey outshot, extension and alterations of existing outshot, new dormer to No. 5 front facade and alterations to existing rear dormers (as amended to delete front dormer and other elements).

Granted
11 November 2013

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:

- 22/01729/FUL, 5/1 Hill Street
- 22/01736/FUL, 5/2 Hill Street
- 22/01737/FUL, 5/3 Hill Street
- 22/01738/FUL, 5/4 Hill Street
- 22/01739/FUL, 5/5 Hill Street
- 22/01740/FUL, 5/6 Hill Street
- 22/01741/FUL, 5/7 Hill Street

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: 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 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 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 short term commercial visitor accommodation (STCVA) 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 STLs since 2014. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in this circumstance there are no neighbours within the stair to be impacted, as all the units within the stair are already in STL use, and each has applied for planning permission to regularise the use.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority can ensure that any conflict between STL uses, and potential residential uses can be assessed as part of the planning application process.

The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. In these circumstances, there would not be a significant impact on neighbouring amenity as a result of the STL use.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day the impact of this on neighbouring amenity is likely to be comparatively small, with amenity impacts masked by the other uses in the street.

The proposal complies with LDP policy Hou 7.

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 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 New Town Conservation Area. The proposal complies with the Development Plan.

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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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)
- Lack of historic noise or disruption (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 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)
- Appropriate use in this part of the city (addressed in section C)

non-material considerations

- Loss of residential accommodation. This is not a material consideration under the current LDP. 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.
- Responsiveness to maintenance issues by the property's management.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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;

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

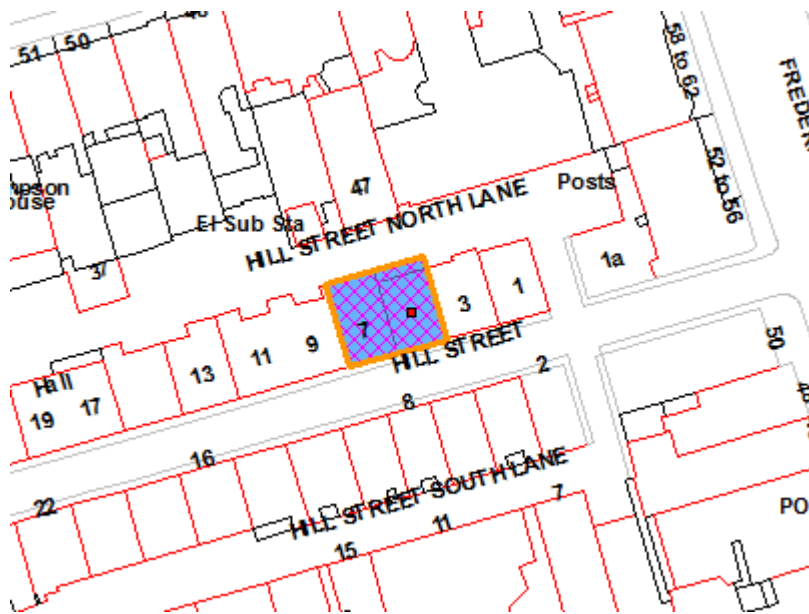
NAME: Historic Environment Scotland

COMMENT: No comment/ objection.

DATE: 27 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 7 December 2022

**Application for Planning Permission
5 Melville Street Lane, Edinburgh, EH3 7QB.**

Proposal: Retrospective change of use from residential mews to short-term let apartment (Sui Generis).

**Item – Committee Decision
Application Number – 22/01939/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Recommendation

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

Summary

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

The proposal will not harm the character or the appearance of the conservation area and will have no adverse effect on the Edinburgh World Heritage Site. The proposal complies with the relevant policies within the local development plan (LDP). There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site relates to 5 Melville Street Lane. A one-bedroom studio flat, fronting Melville Street Lane on the first floor. Access is gained via a private entrance from Melville Street Lane.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

11/01196/FUL

5 Melville Street Lane

Edinburgh

EH3 7QB

Proposed change of use from existing ground floor workshop and upper floor office/store to residential flat and ancillary garage accommodation.

Granted

9 June 2011

11/01196/LBC

5 Melville Street Lane

Edinburgh

EH3 7QB

Proposed change of use from existing ground floor workshop and upper floor office/store to residential flat and ancillary garage accommodation.

Granted

7 July 2011

Other Relevant Site History

No further relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

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

Publicity and Public Engagement

Date of Neighbour Notification: 29 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 13 May 2022.

Site Notices Date(s): 10 May 2022.

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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:

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 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a commercial premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

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

The non-statutory Listed Building and Conservation Area Guidance and the non-statutory guidance for businesses are material considerations that are relevant when considering LDP policy Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). It was concluded that the change of use would not 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 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 site is located in close proximity to the junction of Melville Street Lane and Drumsheugh Gardens which has a range of residential and commercial uses. The lane itself has a mix of garages, car parking and residential uses. The application site is located close to the junction mitigating the effect that guests could have on the residential amenity of the street. Furthermore, the site is located directly behind a large hotel, which is associated with high levels of visiting guests. An objection has raised concerns regarding noise and anti-social behaviour in the lane. A STL Licensing Scheme is now in place which can investigate and manage noise disturbance and anti-social behaviour associated with the STL use. The nature of this vicinity is one in which STL use can be supported in principle.

The additional servicing that operating a property as a short term let requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day, this will not have a significant impact on neighbouring amenity.

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 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.

Parking standards

There is off street car parking available within the site, however, no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

The application received one objection.

material considerations

- Located next to a new hotel, will only exacerbate the noise in the lane at antisocial hours. The lane is a cul-de-sac enclosed by terraced housing perpetuating the noise causing disturbance to the local amenity. The effect of the residential amenity has been discussed in section C

non-material considerations

- No non-material considerations were made.

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 LDP 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;

Reasons:-

1. 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: 11 April 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

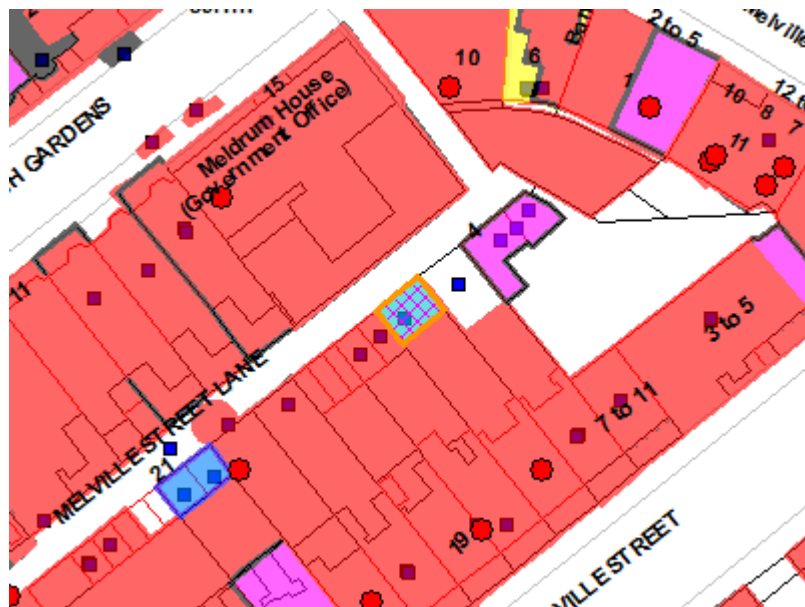
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

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 7 December 2022

**Application for Planning Permission
17 South Charlotte Street, Edinburgh, EH2 4AS.**

Proposal: Change of use (retrospective) from flat to short-term let apartment (Sui Generis).

**Item – Local Delegated Decision
Application Number – 22/02650/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 within the local development plan and the 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 self-contained, basement flat in South Charlotte Street at the junction with Rose Street. The property has two bedrooms, a living/dining area, kitchen and bathroom. It has its own main door which is accessed via a set of steps from South Charlotte Street. There is no shared/private outdoor amenity space.

South Charlotte Street is a mix of residential uses and offices. The property is in the basement of a four storey Georgian terrace. The floors above are in residential and self/catering residential use. South Charlotte Street is in the city centre and is well served by public transport.

The application site is an A listed building (ref: LB 28515: date of listing 1.1.03).

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

Description of the Proposal

The application seeks permission to change the residential use to a short term let apartment. No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since 2017. The application is therefore retrospective.

Supporting Information

Supporting statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

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: 1 June 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 10 June 2022;

Site Notices Date(s): 6 June 2022;

Number of Contributors: 0

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: Interim Guidance on the principles of listed building consent.
- 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 or its setting. It is therefore acceptable with regard to Sections 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

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:

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

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 Businesses is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

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 sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 South Charlotte Street is one of a very busy thoroughfares, 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 restaurants, 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 on the floors above, 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.

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 New 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

No representations have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

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: 23 May 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

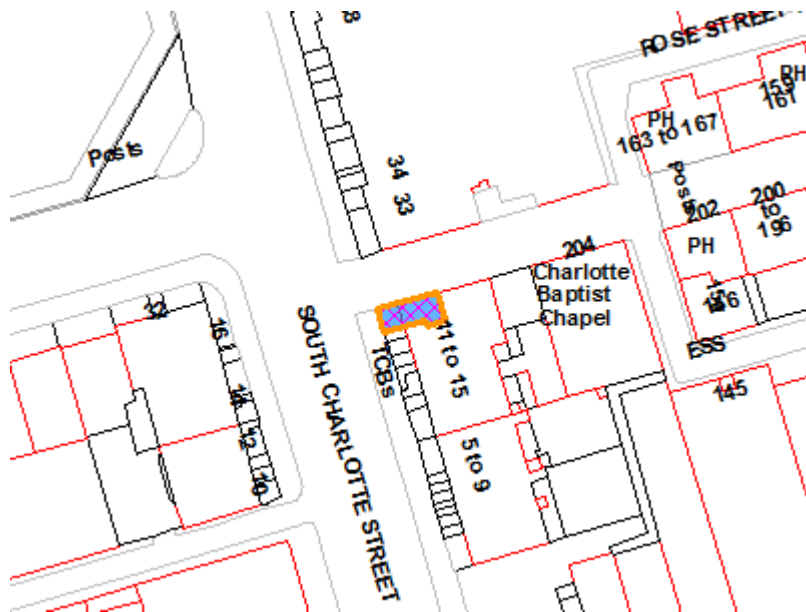
NAME: Historic Environment Scotland

COMMENT: No comments.

DATE: 14 June 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 7 December 2022

**Application for Planning Permission
50/2 Thistle Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/02135/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a second floor, one - bedroom flat, fronting Thistle Street. Access is gained through a shared entrance and hallway. The block comprises two apartments, a retail unit on the ground and retail offices on the first floor. The remaining flat currently has a pending application for change of use from residential to short term lets.

The flat is situated within a B listed building (43363), statutorily listed on 13/01/1996. A late 18th century, three story - three bay tenement with attic.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site.

Description Of The Proposal

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

Supporting Information

Planning Statement

Relevant Site History

02/00655/FUL
50 Thistle Street
Edinburgh
EH2 1EN

Change of use from office to shop and joining two properties to form larger shop
Granted
9 May 2002

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and reference is;

50/3 Thistle Street - 22/02314/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 5 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 13 May 2022.

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.

The proposal complies with the objectives of LDP Policy Env 4.

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 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world."*

The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building 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 STCVA 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 site location is mixed use in nature, comprising flats and commercial uses including retail, offices bars and restaurants and other existing tourist accommodation. The immediate area sees high levels of pedestrian traffic throughout the day and night. Therefore, the nature of the vicinity is one in which STL use can be supported in principle.

The property is accessed by a shared doorway and stairwell - this access is used by two further properties, a residential flat which has also applied for a change of use to a STL and a retail business. The retail business has access to both the shared entrance and a private access located from the street. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no other neighbours to be impacted.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

The application received four contributions, three objections and one neutral. A summary of the representations is provided below:

material considerations

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section C.
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C.
- Risk of unnecessary damage to historic structures. This is addressed within section C.
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C.
- The local economy is being detrimentally affected during the off-peak tourist periods, leading to some local businesses closing. The effect on business has been discussed within section C.

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications.
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.

- Short term lets creating unequal competition within the housing market making housing unaffordable.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 5 May 2022

Drawing Numbers/Scheme

01

Scheme 1

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

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
50 /3 Thistle Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/02134/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a third floor, one - bedroom flat, fronting Thistle Street. Access is gained through a shared entrance and hallway. The block comprises two apartments, a retail unit on the ground and retail offices on the first floor. The remaining flat currently has a pending application for change of use from residential to short term lets.

The flat is situated within a B listed building (43363), statutorily listed on 13/01/1996. A late 18th century, three story - three bay tenement with attic.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site

Description of the Proposal

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

Supporting Information

Planning Statement

Relevant Site History

02/00655/FUL
50 Thistle Street
Edinburgh
EH2 1EN

Change of use from office to shop and joining two properties to form larger shop
Granted
9 May 2002

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and reference is;

50/2 Thistle Street - 22/02315/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 5 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 13 May 2022;

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.

The proposal complies with the objectives of LDP Policy Env 4.

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 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world."*

The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building 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 STCVA 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 site location is mixed use in nature, comprising flats and commercial uses including retail, offices bars and restaurants and other existing tourist accommodation. The immediate area sees high levels of pedestrian traffic throughout the day and night. Therefore, the nature of the vicinity is one in which STL use can be supported in principle.

The property is accessed by a shared doorway and stairwell - this access is used by two further properties, a residential flat which has also applied for a change of use to a STL and a retail business. The retail business has access to both the shared entrance and a private access located from the street. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no other neighbours to be impacted.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

The application received four contributions, three objections and one neutral. A summary of the representations is provided below:

material considerations

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section C.
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C.
- Risk of unnecessary damage to historic structures. This is addressed within section C.
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C.
- The local economy is being detrimentally affected during the off-peak tourist periods, leading to some local businesses closing. The effect on business has been discussed within section C.

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications.
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.

- Short term lets creating unequal competition within the housing market making housing unaffordable.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 5 May 2022

Drawing Numbers/Scheme

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

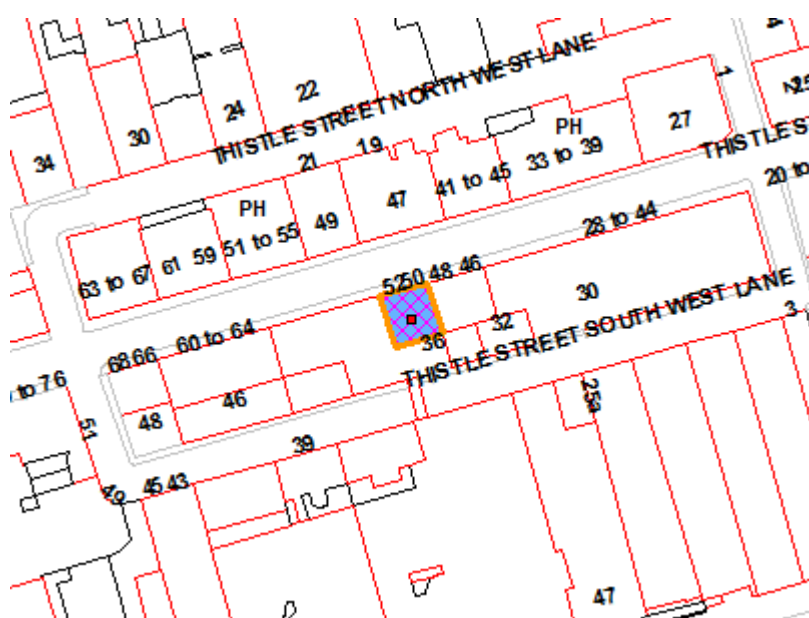
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 1 23 Thistle Street South West Lane, Edinburgh, EH2 1EW.

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

Item – Committee Decision

Application Number – 22/01780/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a two bedroom flat on the first floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Contradicts LDP Policy Hou 7. Addressed in b) above.
- Give consideration to 'Guidance for businesses'. Addressed in b) above.
- -Adequate bins should be provided. The applicant should agree an appropriate waste arrangement with CEC's Waste Services.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Will increase house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 31 March 2022

Drawing Numbers/Scheme

01A, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

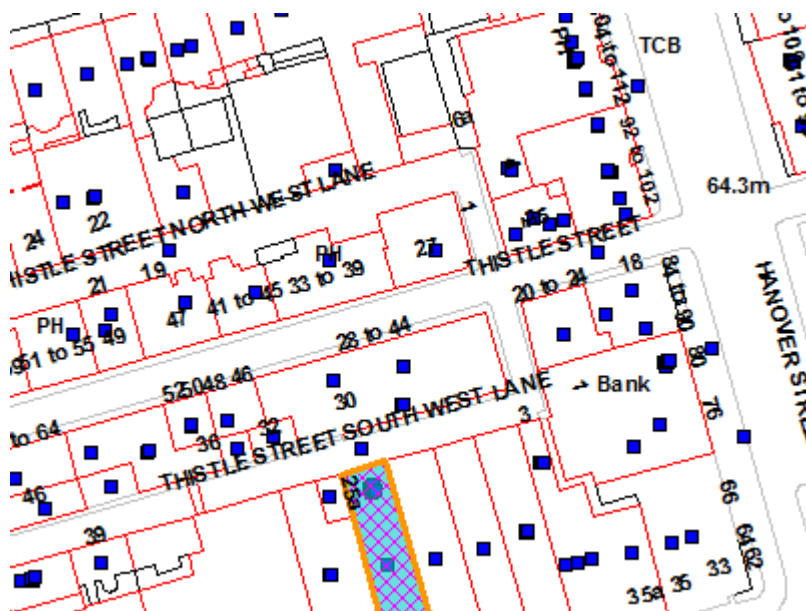
Contact: Lesley Porteous, Planning Officer
E-mail:lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 2, 23 Thistle Street South West Lane, Edinburgh.

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

Item – Local Delegated Decision

Application Number – 22/01781/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a two bedroom flat on the second floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01780/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There are no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Contradicts LDP Policy Hou 7. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste policy with CEC's Waste Services.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increase house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 31 March 2022

Drawing Numbers/Scheme

01A, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

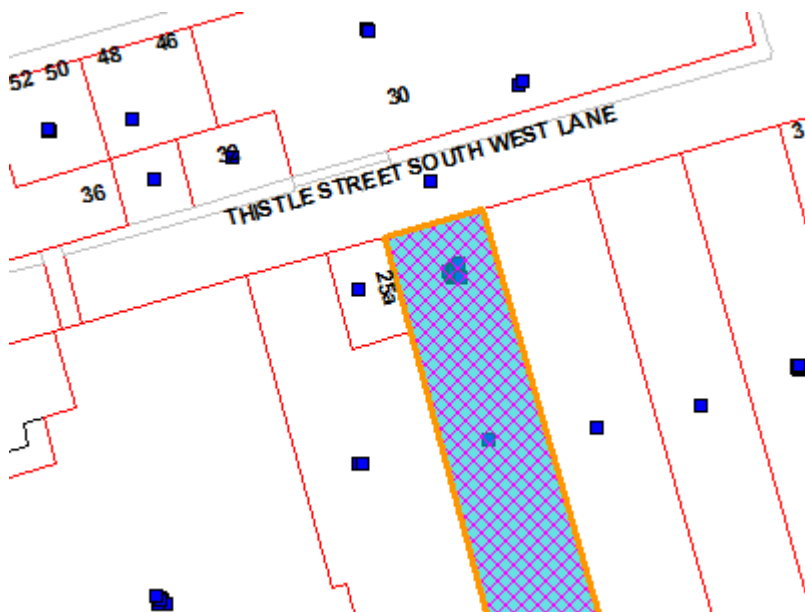
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 3, 23 Thistle Street South West Lane, Edinburgh.

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

Item – Local Delegated Decision

Application Number – 22/01804/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the second floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01780/FUL
22/01781/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone-built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not have a negative impact on the character of the conservation area.

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

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 Area

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste policy with CEC's Waste Services.
- Contradicts LDP Policy Hou 7. Addressed in b) above.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increase in house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 1 April 2022

Drawing Numbers/Scheme

01A, 02A

Scheme 1

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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 4 23 Thistle Street South West Lane, Edinburgh, EH2 1EW.

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

Item – Local Delegated Decision

Application Number – 22/01785/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a two bedroom flat on the third floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC's Waste Services.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Contradicts LDP policy Hou 7. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increase in house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 31 March 2022

Drawing Numbers/Scheme

01A, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

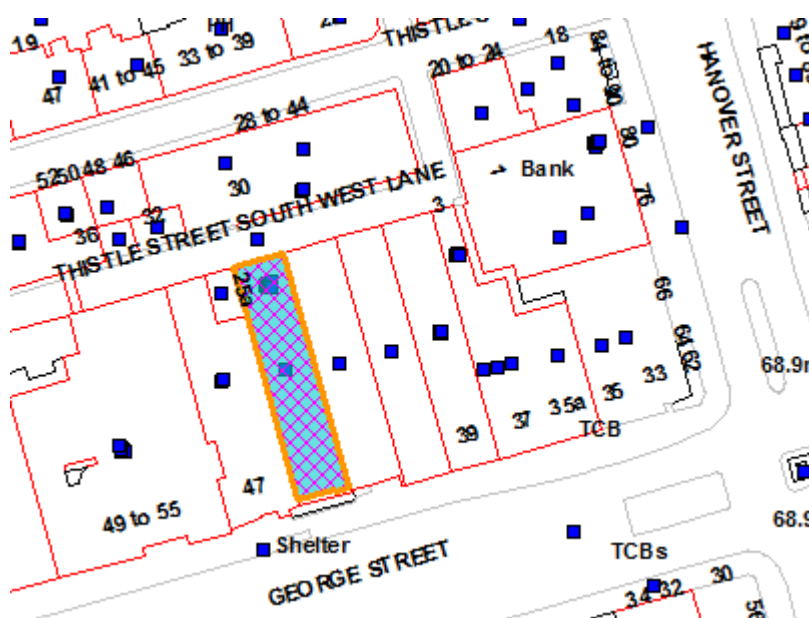
Contact: Lesley Porteous, Planning Officer
E-mail:lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 5, 23 Thistle Street South West Lane, Edinburgh.

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

Item – Local Delegated Decision

Application Number – 22/01794/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the third floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 3

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair. Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents.

In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There are no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC Waste Services
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Contradicts LDP policy Hou 7. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 31 March 2022

Drawing Numbers/Scheme

01A, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

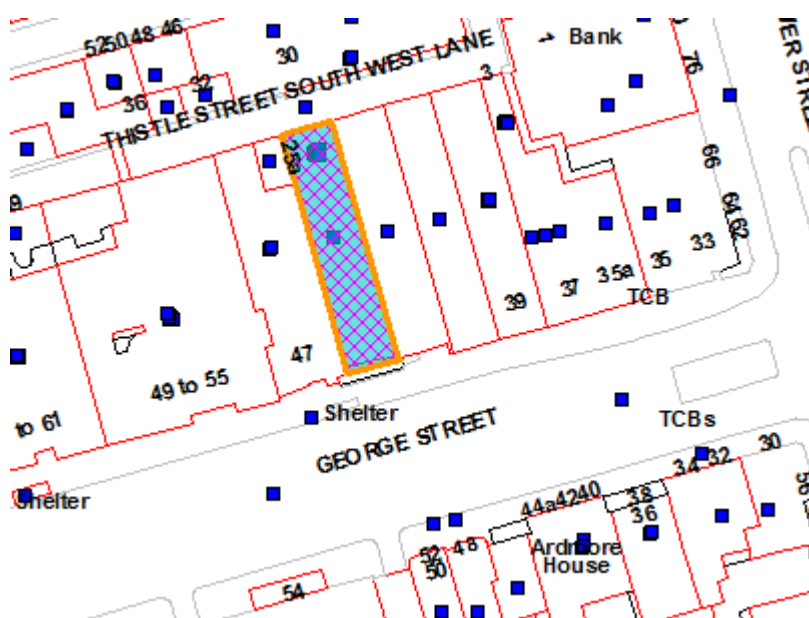
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 6, 23 Thistle Street South West Lane, Edinburgh.

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

Item – Local Delegated Decision

Application Number – 22/01798/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the fourth floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 25 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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

b) 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 Environment Policies Env 1 and Env 6.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

LDP Delivering the Strategy Policy Del 2.

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC's Waste Services.
- Contradicts LDP policy Hou 7. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increase house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 7 April 2022

Drawing Numbers/Scheme

01A, 02A.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

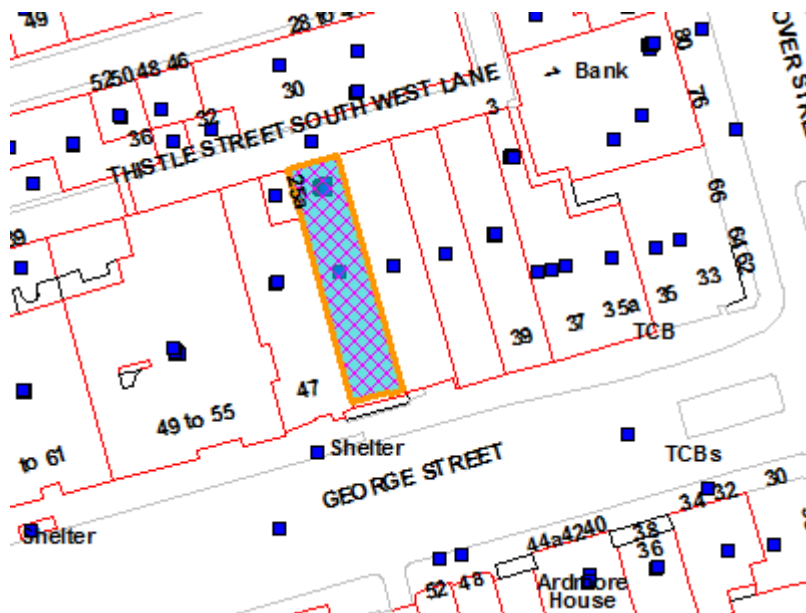
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 7 23 Thistle Street South West Lane, Edinburgh, EH2 1EW.

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

Item – Local Delegated Decision

Application Number – 22/01675/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the fourth floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a communal or private garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 12 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 0

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

b) 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 Environment Policies Env 1 and Env 6.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.
- LDP Delivering The Strategy Policy Del 2.

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

No representations have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 31 March 2022

Drawing Numbers/Scheme

01A, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

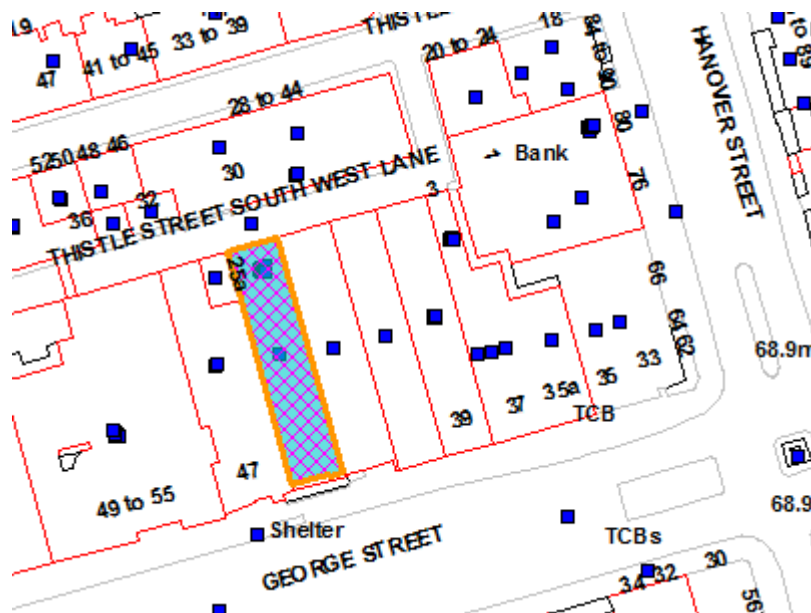
Contact: Lesley Porteous, Planning Officer
E-mail:lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 8 23 Thistle Street South West Lane, Edinburgh, EH2 1EW.

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

Item – Local Delegated Decision

Application Number – 22/01679/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the fifth floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01683/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC Waste Services.
- Contradicts LDP policy Hou 7. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increase house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 7 April 2022

Drawing Numbers/Scheme

01A, 02A.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 9 23 Thistle Street South West Lane, Edinburgh, EH2 1EW.

Proposal: Change of use (retrospective) from residential to short term let (Sui Generis).

Item – Local Delegated Decision

Application Number – 22/01683/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the fifth floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01688/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC's Waste Services.
- Contradicts LDP policy Hou 7. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- -Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increase house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 31 March 2022

Drawing Numbers/Scheme

01A, 02A.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

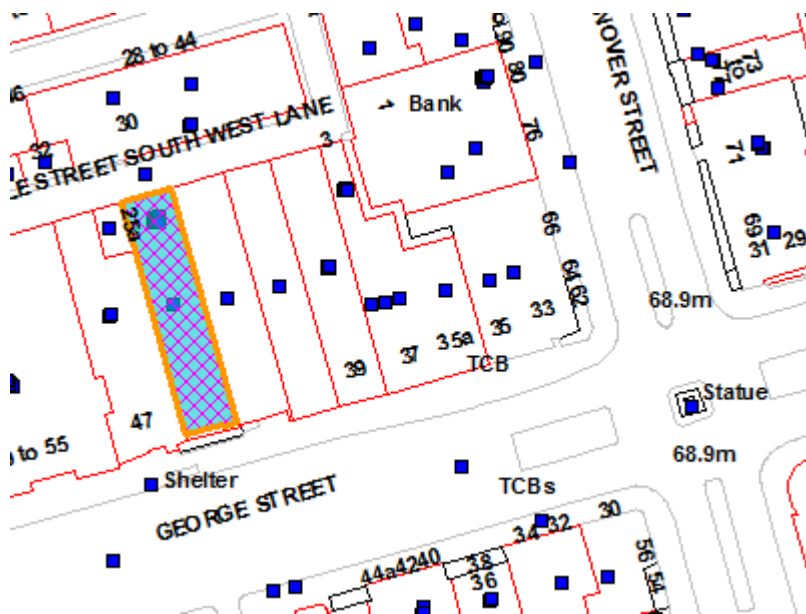
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 10 23 Thistle Street South West Lane, Edinburgh, EH2 1EW.

Proposal: Change of Use (retrospective) from residential to short-term let (Sui Generis).

Item – Local Delegated Decision

Application Number – 22/01688/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the sixth floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01691/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 Sites

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC's Waste Services.
- Contradicts LDP policy Hou 7. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increase house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 7 April 2022

Drawing Numbers/Scheme

01A, 02A.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk
Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 11 23 Thistle Street South West Lane, Edinburgh, EH2 1EW.

Proposal: Change of Use (retrospective) from residential to short-term let (Sui Generis)

Item – Local Delegated Decision

Application Number – 22/01691/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 A – Application Background

Site Description

The application site is a one bedroom flat on the sixth floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01780/FUL
22/01781/FUL
22/01804/FUL
22/01785/FUL
22/01794/FUL
22/01798/FUL
22/01675/FUL
22/01679/FUL
22/01683/FUL
22/01688/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 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 that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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.

b) 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 Environment Policies Env 1 and Env 6.

- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.
- LDP Delivering the Strategy Policy Del 2.

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

The combination of residential use and STL 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 STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair.

Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents. In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit will ensure that their lawful use will be as STLs. 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 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.

Parking Standards

There is no off street car parking available within the site however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity and will preserve the character and appearance of the conservation area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

c) 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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 objections

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC's Waste Services.
- Contradicts LDP policy Hou 7. Addressed in b) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.
- Increases house prices generally. Not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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;

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: 7 April 2022

Drawing Numbers/Scheme

01A, 02A.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

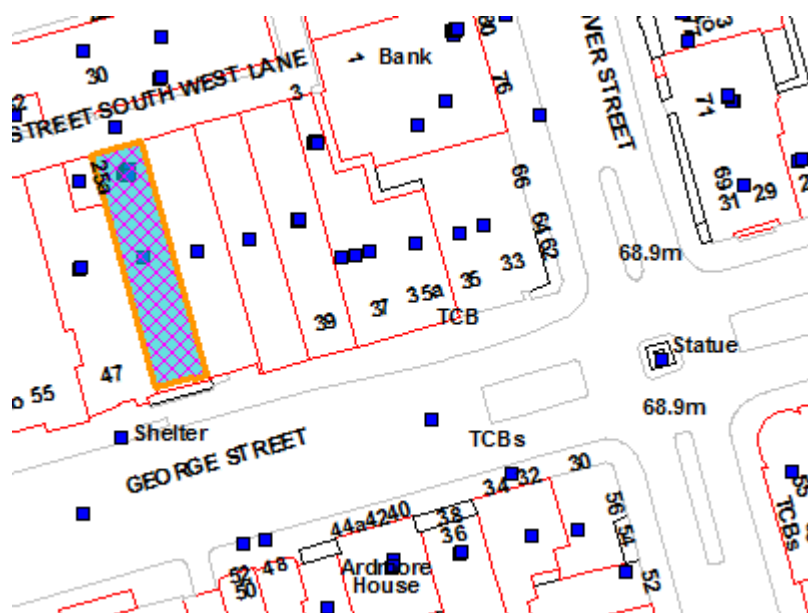
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 1 8 Torphichen Street, Edinburgh, EH3 8JQ.**

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

**Item – Committee Decision
Application Number – 22/01784/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a one-bedroom, ground floor flat, fronting onto Torphichen Street. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use of a residential flat to a short-term let accommodation.

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

HES

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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance."*

The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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 :-

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02 A

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

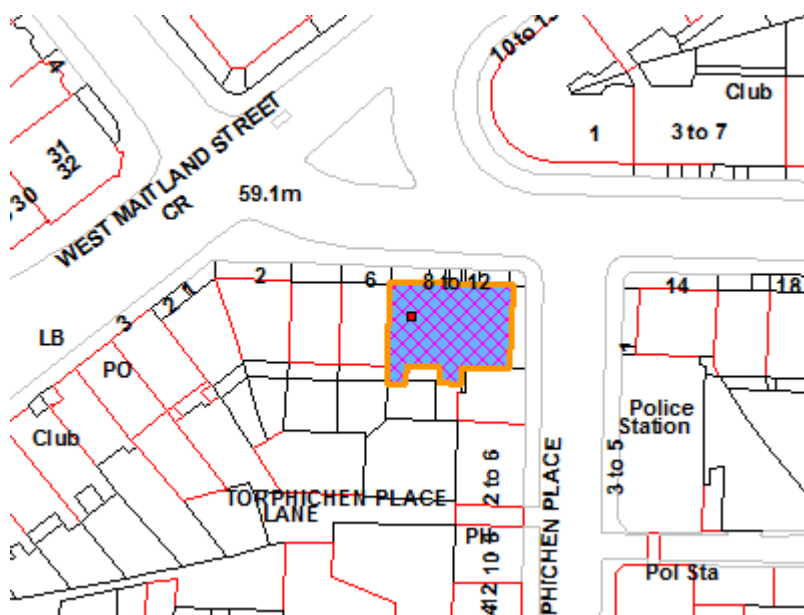
NAME: HES

COMMENT: No comments.

DATE: 23 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 7 December 2022

**Application for Planning Permission
Flat 2, 8 Torphichen Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01789/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to two - bedroom studio lower ground floor flat, fronting Torphichen street. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/02535/FUL

BF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from office to one residential unit at part lower ground floor and form window from existing basement door.

Granted

22 July 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:-

Flat 1 Torphichen Street - 22/01784/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 25 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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance."*

The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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:-

1. 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: 12 April 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

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

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 3, 8 Torphichen Street, Edinburgh.**

**Proposal: Change of Use from residential to short term let (sui-
generis) (in retrospect)**

**Item – Committee Decision
Application Number – 22/01790/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to one - bedroom ground floor flat, fronting Torphichen place lane. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 5 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 13 May 2022;

Site Notices Date(s): 10 May 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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995"*

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C
- *non-material considerations*
- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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:-

Conditions: -

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

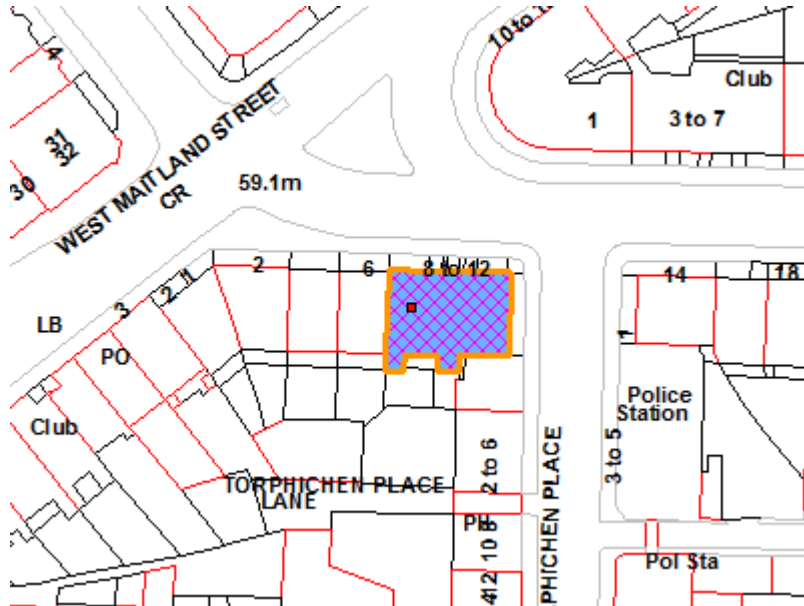
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 4 8 Torphichen Street, Edinburgh, EH3 8JQ.**

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

**Item – Committee Decision
Application Number – 22/01791/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to Flat 4 at No. 8 Torphichen Street. A one-bedroom ground floor flat, spanning the front and back of the property onto Torphichen Street and Torphichen Place. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 6 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 13 May 2022.

Site Notices Date(s): 10 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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance."*

The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C
- *non-material considerations*
- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

- As this application is part of a group of applications within the same block should they rather be considered under a different change of use application as they will be functioning as aparthotel or hotel. The application must be assessed on its own merit and not as collective application.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

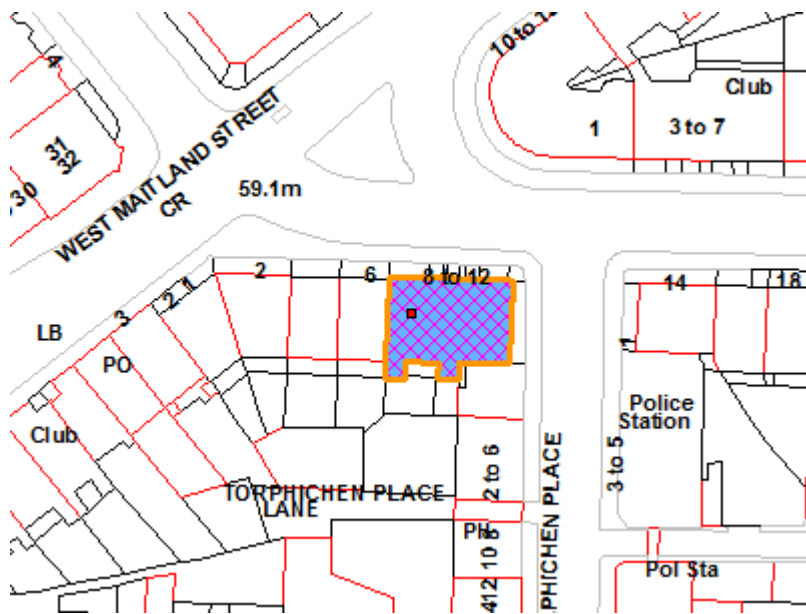
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 5 8 Torphichen Street, Edinburgh, EH3 8JQ.**

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

**Item – Committee Decision
Application Number – 22/01796/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to one - bedroom studio ground floor flat, fronting Torphichen Street and Torphichen place lane. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995*

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

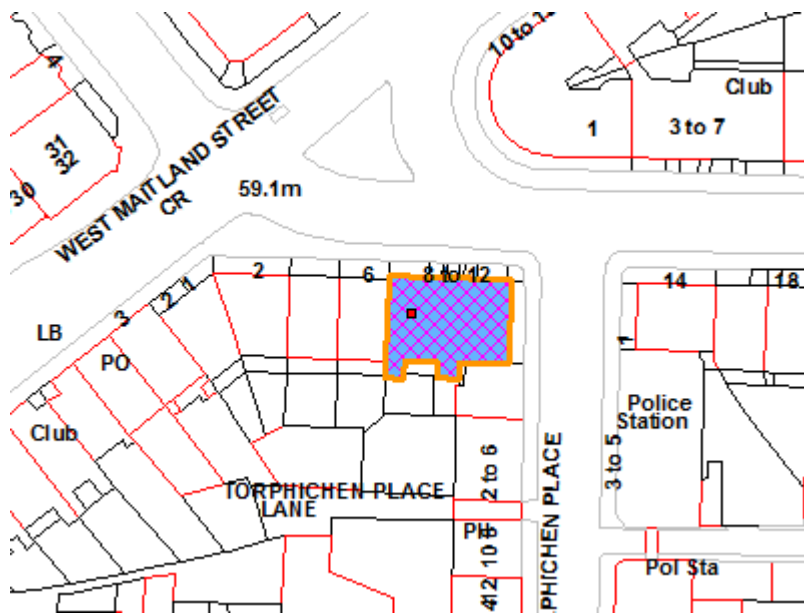
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 6 8 Torphichen Street, Edinburgh, EH3 8JQ.**

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

**Item – Committee Decision
Application Number – 22/01792/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to one - bedroom studio first floor flat, fronting Torphichen place lane. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995*

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

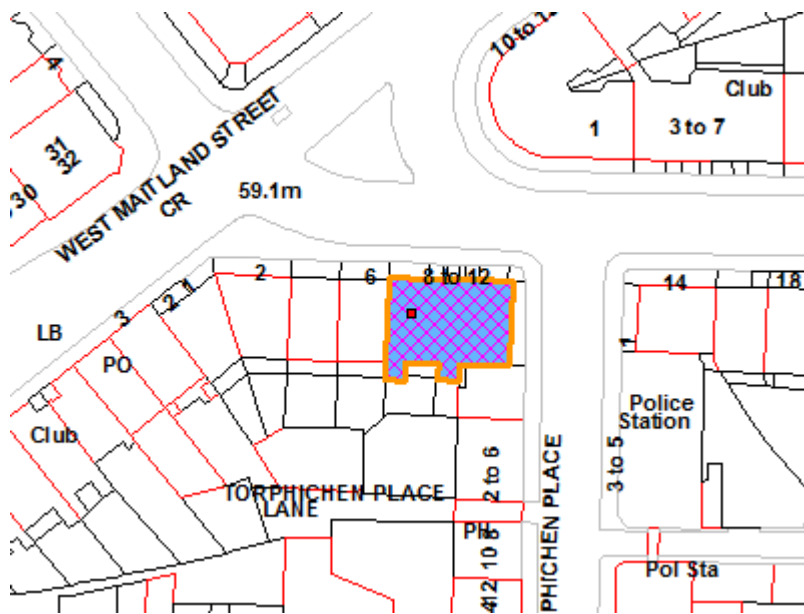
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 7 8 Torphichen Street, Edinburgh, EH3 8JQ**

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

**Item – Committee Decision
Application Number – 22/01797/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to one - bedroom first floor flat, fronting Torphichen Street. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:-

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995"*

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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:-

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

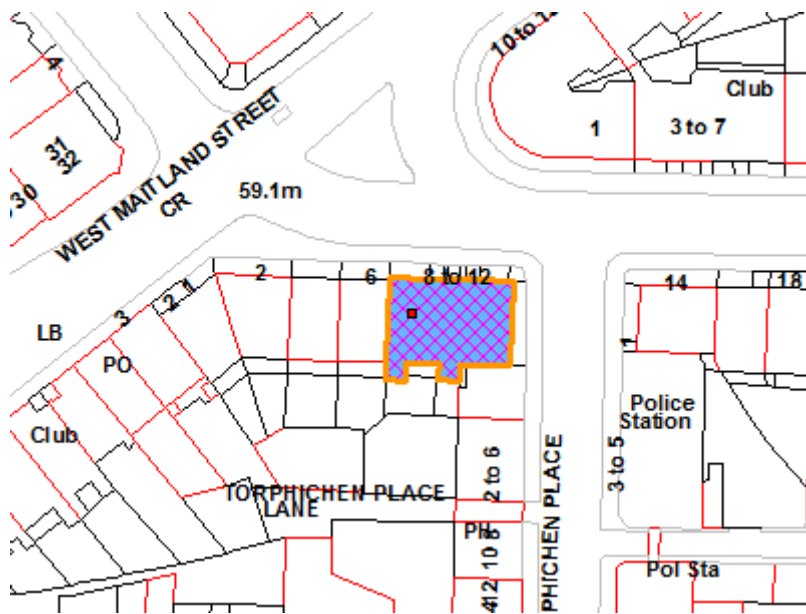
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 8, 8 Torphichen Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01793/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to one - bedroom studio first floor flat, fronting Torphichen street and Torphichen place. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:-

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995*

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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:-

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

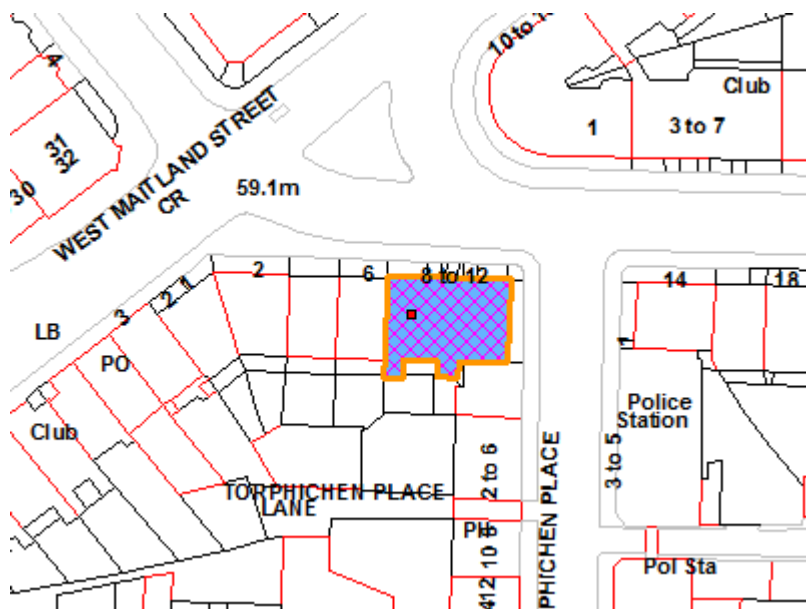
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 9, 8 Torphichen Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01795/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to Flat 9 at No. 8 Torphichen Street. A second floor one - bedroom flat, fronting Torphichen Place Lane. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance."*

The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C
- *non-material considerations*
- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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: -

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

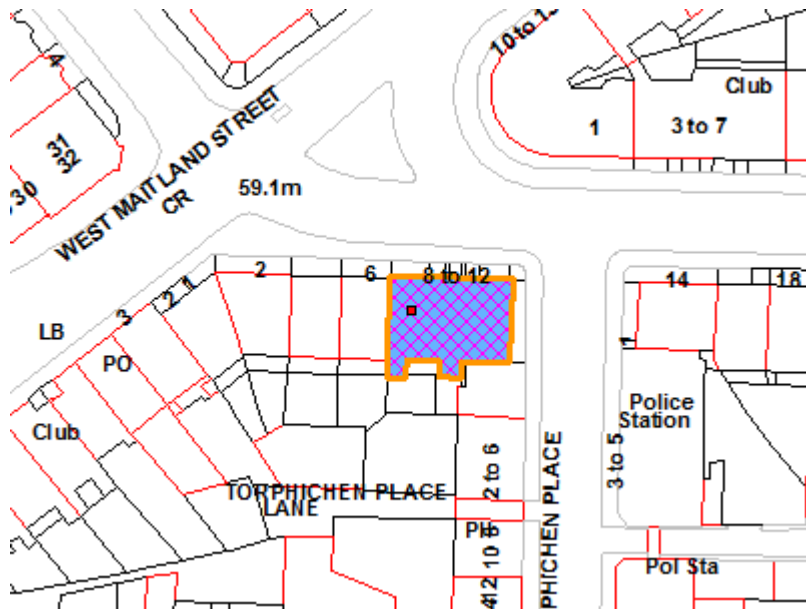
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 10, 8 Torphichen Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01786/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a two-bedroom second floor flat, fronting Torphichen Place Lane. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 3 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 13 May 2022;

Site Notices Date(s): 10 May 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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance."*

The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C
- *non-material considerations*
- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

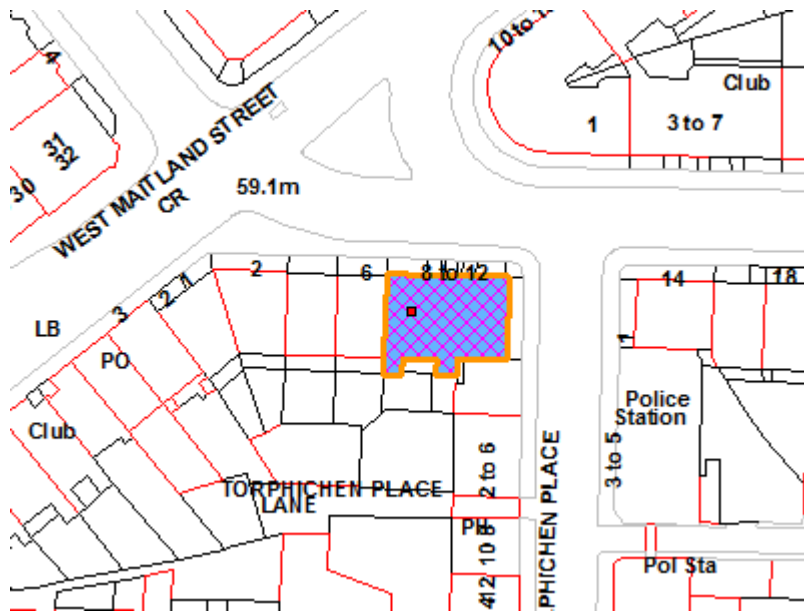
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 11 8 Torphichen Street, Edinburgh, EH3 8JQ**

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

**Item – Committee Decision
Application Number – 22/01787/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a two-bedroom second floor flat, fronting Torphichen street. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are:-

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 12 Torphichen Street - 22/01788/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995*

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C
- *non-material considerations*
- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

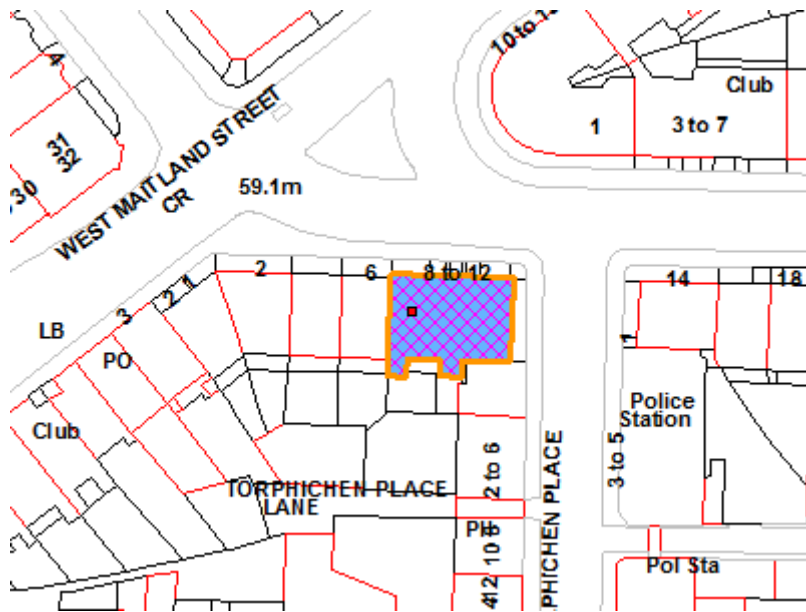
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 12 8 Torphichen Street, Edinburgh, EH3 8JQ**

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

**Item – Committee Decision
Application Number – 22/01788/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to one - bedroom studio second floor flat, fronting Torphichen street and Torphichen Place. Access is gained through a shared entrance hallway. The building comprises eleven other flats - the remaining flats currently have applications pending consideration for change of use from residential to short term lets (STL).

The flat is situated within a B listed building (44923), statutorily listed on 14/12/1970. An early-mid 19th century classical pavilion.

The property is located within the West End Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/00816/FUL

GF

8 - 12 Torphichen Street

Edinburgh

EH3 8JQ

Change of use from offices to residential apartments partially at lower ground level, and also at ground, first and second floors.

Granted

22 April 2015

Other Relevant Site History

Planning applications relating to the other flats within the stair have been submitted for 'Change of use (retrospective) from residential to short term let (Sui Generis)'.

The status of the applications are pending decision to grant.

Site address and references are;

Flat 1 Torphichen Street - 22/01784/FUL

Flat 2 Torphichen Street - 22/01789/FUL

Flat 3 Torphichen Street - 22/01790/FUL

Flat 4 Torphichen Street - 22/01791/FUL

Flat 5 Torphichen Street - 22/01796/FUL

Flat 6 Torphichen Street - 22/01792/FUL

Flat 7 Torphichen Street - 22/01797/FUL

Flat 8 Torphichen Street - 22/01793/FUL

Flat 9 Torphichen Street - 22/01795/FUL

Flat 10 Torphichen Street - 22/01786/FUL

Flat 11 Torphichen Street - 22/01787/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 11 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 West End Conservation appraisal states *"The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance."*

The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced. The Conservation Area was originally designated in 1980 and amended in 1995

The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street."

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 is located on the corner of Torphichen Street and Torphichen Place. The character of the immediate area is primarily commercial, with elements of short term lets and low levels of residential. Torphichen Street is a busy thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle.

The property forms part of a larger apartment building, previously in commercial use. It shares access with eleven other units, each of which has applied retrospectively for planning permission, to regularise their use as STLs.

The combination of residential use and STL 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.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 Planning Authority 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section 'B and C'
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section 'A'
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C
- *non-material considerations*
- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 and DES5. These policies are not applicable to a change of use.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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;

1. 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: 31 March 2022

Drawing Numbers/Scheme

0102 A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

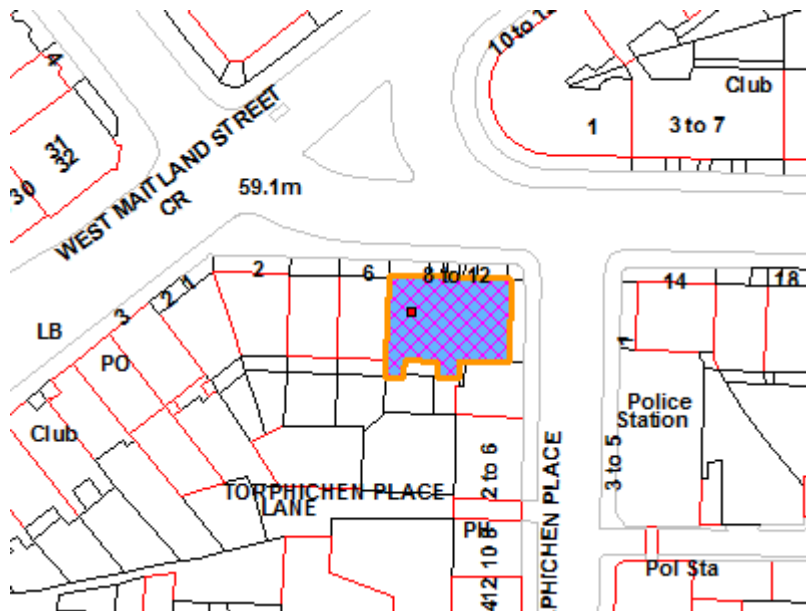
Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 1, 9 South St Andrew Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01752/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 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 A – Application Background

Site Description

The application site relates to Flat 1, 9 South St Andrew Street. It is a two bedroom, first floor flat. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses, including offices, retail, cafes/restaurants and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui generis) for the 10 remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Building and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 is acceptable with regard to LDP Policy Env 6.

World Heritage Site

The applicant has stated that there will be no external alterations to the building. The proposed change of use to a short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off street car parking available within the site. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP Policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- -Reduces quality of life. This is not a material planning consideration.
- -Contradicts LDP policy Env 4. This is not a relevant LDP Policy.
- -Contradicts LDP policy Des 1. This is not a relevant LDP Policy.
- -Contradicts LDP policy Des 5. This is not a relevant LDP Policy.

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;

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: 31 March 2022

Drawing Numbers/Scheme

01, 02A.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

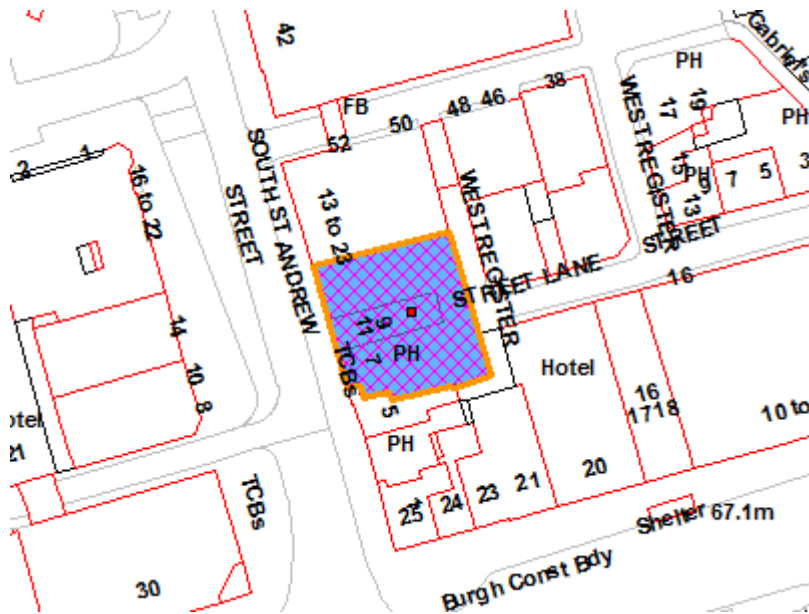
Contact: Lesley Porteous, Planning Officer
E-mail:lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 2, 9 South St Andrew Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01754/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 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 A – Application Background

Site Description

The application site relates to Flat 2, 9 South St Andrew Street. It is a one bedroom flat on the second floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01752/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Settings

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off street car parking available within the site. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP Policy Hou 7. Addressed in c) above.
- -Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- -Reduces quality of life. This is not a material planning consideration.
- -Contradicts LDP policy Env 4. This is not a relevant LDP policy.
- -Contradicts LDP policy Des 1. This is not a relevant LDP policy.
- -Contradicts LDP policy Des 5. This is not a relevant LDP policy.

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;

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: 31 March 2022

Drawing Numbers/Scheme

01,02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

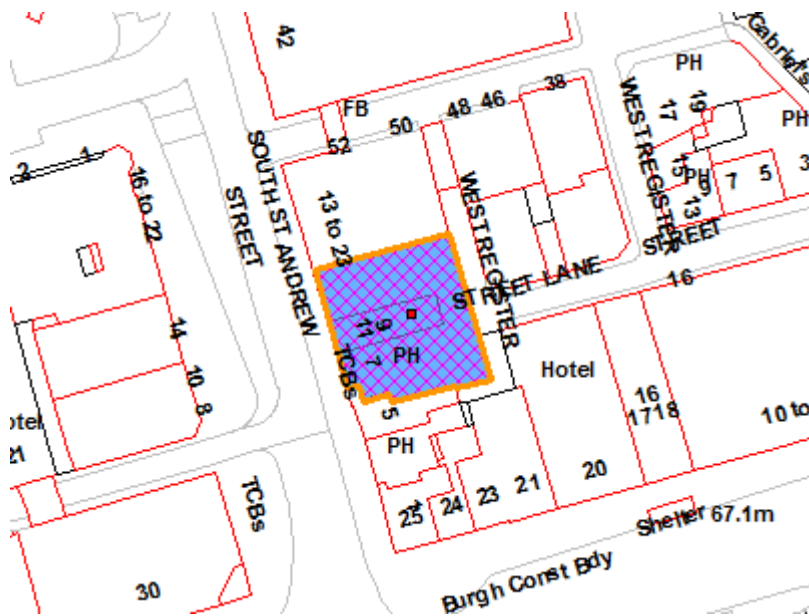
Contact: Lesley Porteous, Planning Officer
E-mail:lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 3, 9 South St Andrew Street, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01755/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 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 A – Application Background

Site Description

The application site relates to Flat 3, 9 South St Andrew Street. It is a one bedroom, first floor flat. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block:-

22/01752/FUL
22/01754/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Building and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 is acceptable with regard to LDP Policy Env 6.

World Heritage Site

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off street car parking available within the site. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Threatens the sense of place and community in the World Heritage Site. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Does not respect the World Heritage Site's special characteristics of history and place. Addressed in c) above.
- LDP Policy Hou 7 should be considered. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- -The proposals do not relate to every property within the tenement. This application has to be considered on its individual merits.
- -Reduces quality of life. This is not a material planning consideration.
- -Contradicts LDP policy Env 4. This is not a relevant LDP Policy.
- -Contradicts LDP policy Des 1. This is not a relevant LDP Policy.
- -Contradicts LDP policy Des 5. This is not a relevant LDP Policy.

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;

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: 31 March 2022

Drawing Numbers/Scheme

01, 02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

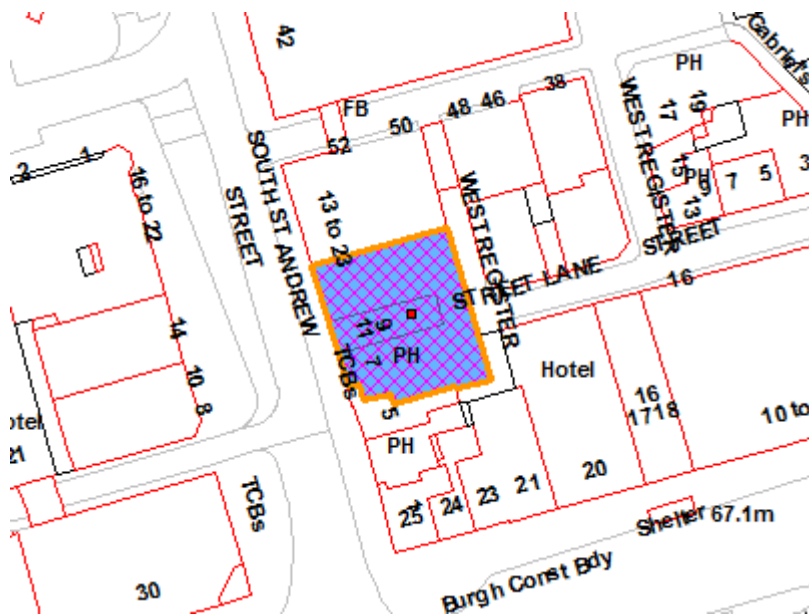
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 4, 9 South St Andrew Street, Edinburgh**

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

**Item – Committee Decision
Application Number – 22/01756/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 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 A – Application Background

Site Description

The application site relates to Flat 4, 9 South St Andrew Street. It is a one bed flat on the second floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There are no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- -Reduces quality of life. This is not a material planning consideration.
- -Contradicts LDP policy Env 4. This is not a relevant LDP policy.
- -Contradicts LDP policy Des 1. This is not a relevant LDP policy.
- -Contradicts LDP policy Des 5. This is not a relevant LDP policy.

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.

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: 31 March 2022

Drawing Numbers/Scheme

01,02A

Scheme 1

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 5, 9 South St Andrew Street, Edinburgh**

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

**Item – Committee Decision
Application Number – 22/01757/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 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 A – Application Background

Site Description

The application site relates to Flat 5, 9 South St Andrew Street. It is a one-bedroom flat on the second floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants, and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscriptions of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There are no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP Policy.
- Contradicts LDP policy Des 1. This is not a relevant LDP Policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP Policy.

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.

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: 31 March 2022

Drawing Numbers/Scheme

01,02A.

Scheme 1

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 6, 9 South St Andrew Street, Edinburgh**

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

**Item – Committee Decision
Application Number – 22/01758/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 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 A – Application Background

Site Description

The application site relates to Flat 6, 9 South St Andrew Street. It is a one-bedroom flat on the third floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 11 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: 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 harms neither the listed building, its setting or the conservation area. It is therefore acceptable about Sections 59 and 64 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 that the area is typified by the formal plan layout, spacious stone-built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four-storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposals are acceptable with regards 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 Environment Policies Env 1, Env 3 and Env 6.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.
- LDP Delivering the Strategy Policy Del 2.

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The change of use of one flat from residential to short term let will not harm the setting of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There are no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP policy.
- Contradicts LDP policy Des 1. This is not a relevant LDP policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP policy.

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.

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: 31 March 2022

Drawing Numbers/Scheme

01,02A

Scheme 1

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 7, 9 South St Andrew Street, Edinburgh**

Proposal: Change of Use from residential to short term let (sui-generis) (in retrospect)

**Item – Committee Decision
Application Number – 22/01759/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 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 A – Application Background

Site Description

The application site relates to Flat 7, 9 South St Andrew Street. It is a one-bedroom flat on the third floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants, and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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 is typified by the formal plan layout, spacious stone-built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four-storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.

- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP policy.
- Contradicts LDP policy Des 1. This is not a relevant LDP policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP policy.

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.

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: 12 April 2022

Drawing Numbers/Scheme

01,02A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

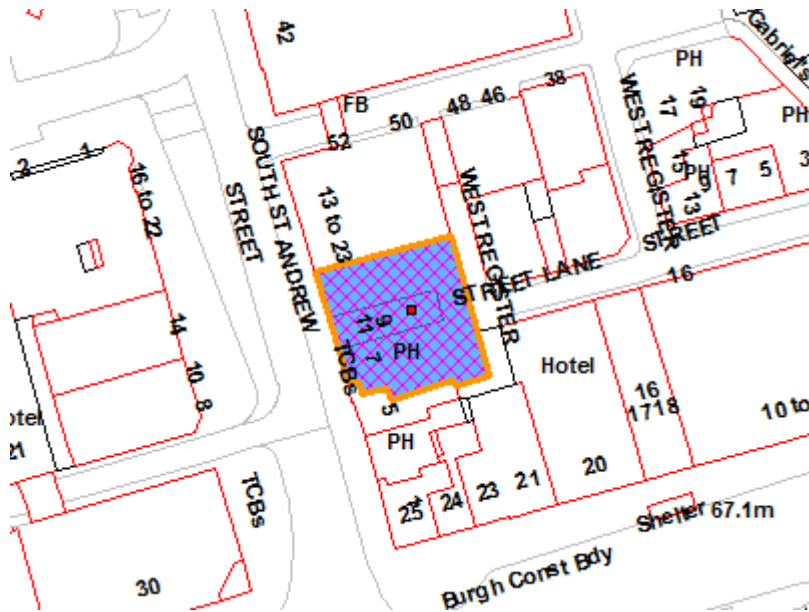
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 8 9 South St Andrew Street, Edinburgh, EH2 2AU

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

Item – Committee Decision

Application Number – 22/01760/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 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 A – Application Background

Site Description

The application site relates to Flat 8, 9 South St Andrew Street. It is a one-bedroom flat on the third floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants, and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01762/FUL
22/05039/FULSTL
22/01753/FUL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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 is typified by the formal plan layout, spacious stone-built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four-storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let will not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP policy.
- Contradicts LDP policy Des 1. This is not a relevant LDP policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP policy.

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.

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: 31 March 2022

Drawing Numbers/Scheme

01,02A

Scheme 1

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

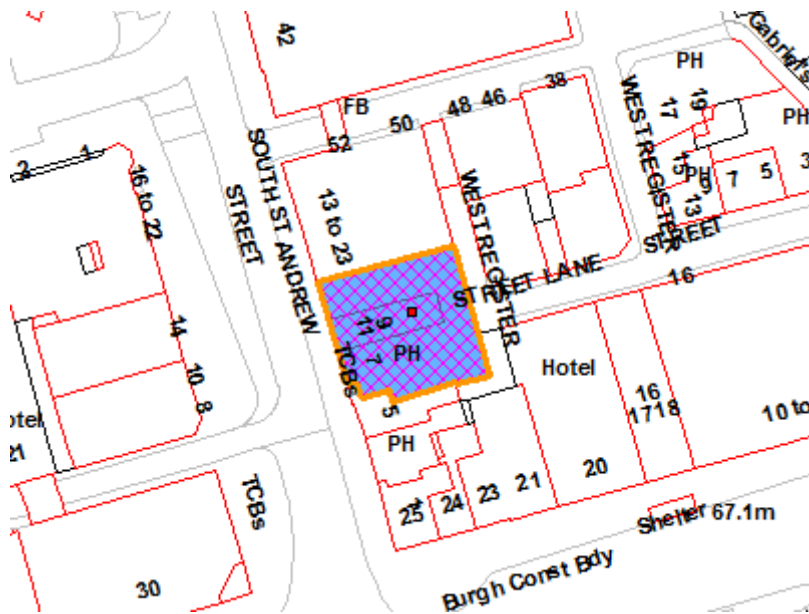
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 9 9 South St Andrew Street, Edinburgh, EH2 2AU

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

Item – Committee Decision

Application Number – 22/01762/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 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 A – Application Background

Site Description

The application site relates to Flat 9, 9 South St Andrew Street. It is a one-bedroom flat on the third floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants, and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/05039/FULSTL
22/01753/FUL

Pre-Application process

Consultation Engagement

No consultations undertaken.

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: 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 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.

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 is typified by the formal plan layout, spacious stone-built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four-storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposals are acceptable with regards 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 Environment Policies Env 1, Env 3 and Env 6.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.
- LDP Delivering the Strategy Policy Del 2.

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There are no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property will be managed by a company which will undertake the maintenance of the communal areas.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP Policy.
- Contradicts LDP policy Des1. This is not a relevant LDP Policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP Policy.

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.

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: 31 March 2022

Drawing Numbers/Scheme

01A, 02A

Scheme 1

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

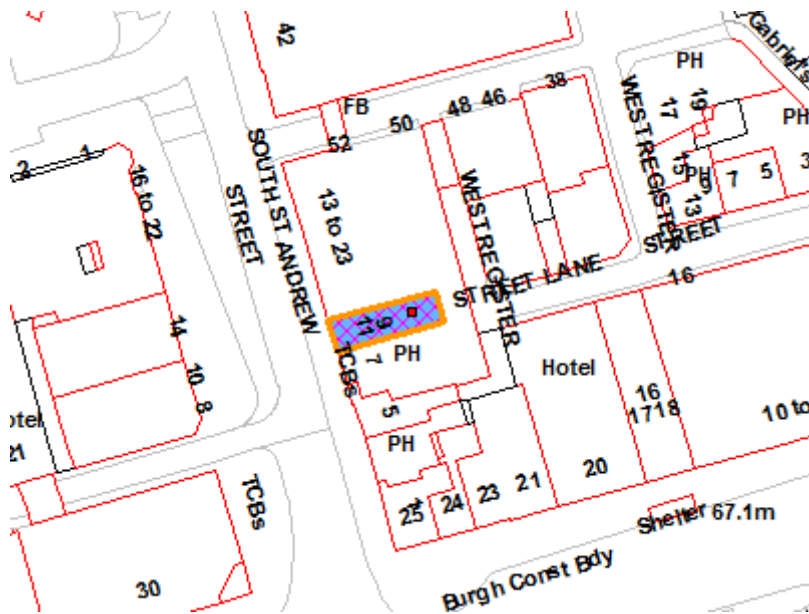
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission STL

Flat 10 9 South St Andrew Street, Edinburgh, EH2 2AU

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

Item – Committee Decision

Application Number – 22/05039/FULSTL

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 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 A – Application Background

Site Description

The application site relates to Flat 10, 9 South St Andrew Street. It is a two-bedroom, fourth floor flat. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/01753/FUL

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 27 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 4 November 2022.

Site Notices Date(s): 1 November 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 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.

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

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Building and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 is acceptable with regard to LDP Policy Env 6.

World Heritage Site

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited 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

- Detrimental to residential amenity. Addressed in c) above.
- Impact on World Heritage Site's special characteristics. Addressed in c) above.
- Contradicts LDP Policy Hou 7. Addressed in c) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Does not accord with Scottish Government Housing Policy on More Homes. The application has to be assessed against the Strategic and Local Development Plans.
- Not supportive of SPP on 'socially sustainable places' and 'supporting delivery of accessible housing'. The application has to be assessed against the Strategic and Local Development Plans.
- The applications should be treated as an aparthotel and not as a series of individual applications. This planning application must be assessed on its merits.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP Policy.
- Contradicts LDP policy Des 1. This is not a relevant LDP Policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP Policy.

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.

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: 26 October 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

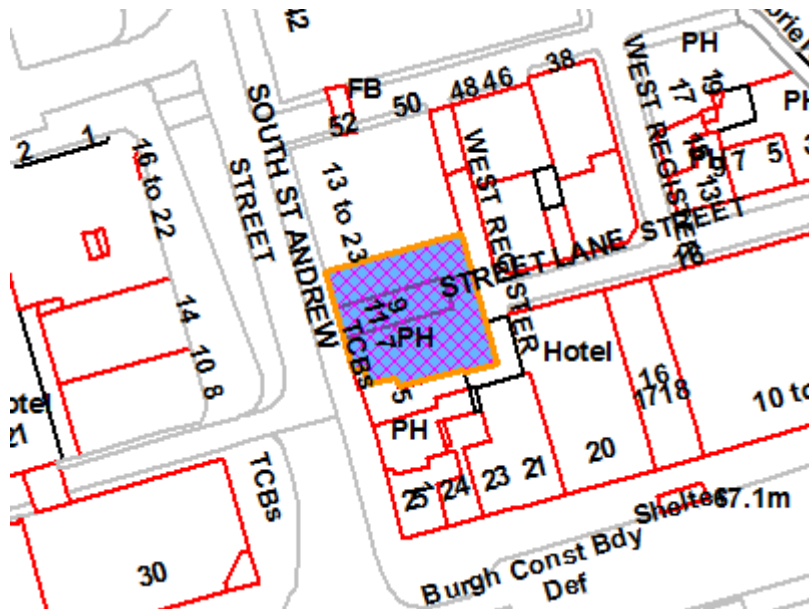
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 11, 9 South St Andrew Street, Edinburgh**

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

**Item – Committee Decision
Application Number – 22/01753/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 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 A – Application Background

Site Description

The application site relates to Flat 11, 9 South St Andrew Street. It is a two-bedroom flat on the fourth floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

Description of the Proposal

The application is for a 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 since 2013. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui-generis) for the ten remaining flats in the same residential block.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

The following planning applications are being considered within the same residential block: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/01762/FUL
22/05039/FULSTL

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

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: 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 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.

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

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

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:

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

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

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let will not affect the reasons for the inscription of the Edinburgh World Heritage Site, nor its sense of place and community.

The proposal complies with LDP Policy Env 1.

Proposed Use

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 (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2013.

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. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known 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 STLs. 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 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 off-street car parking available within the site. The site is highly accessible by public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with 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 of the 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) above.

non-material considerations

- Impact on availability of affordable housing. This is not a material consideration under the current LDP. 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.
- Impact on maintenance of communal areas and listed buildings and/or buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP policy.
- Contradicts LDP policy Des 1. This is not a relevant LDP policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP policy.

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.

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: 31 March 2022

Drawing Numbers/Scheme

01, 02A

Scheme 1

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

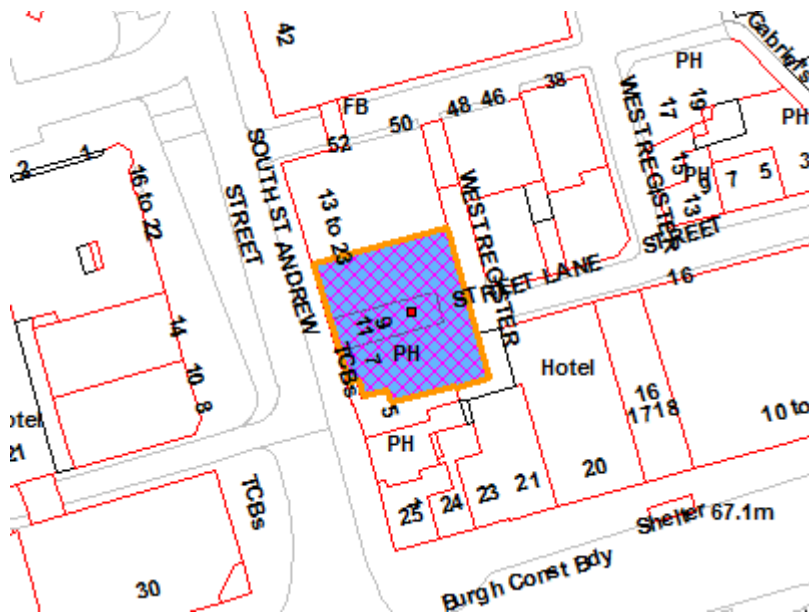
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
24A York Place, Edinburgh, EH1 3EP.**

Proposal: Change of use (retrospective) from flat to short-term let apartment (Sui Generis).

**Item – Committee Decision
Application Number – 22/02533/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a three-bedroom basement flat at 24A York Place. Fronting York Place on the lower ground floor basement level. Access is gained via a private entrance from York Place separate from flats in the wider property.

The flat is within an A listed building (LB29985), listed on 14/09/1966.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

No relevant site history.

Other Relevant Site History

Other applications within the property for proposed short-term let use are planning references 22/01730/FUL, 22/01731/FUL, 22/01734/FUL and 22/01735/FUL

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: 1 June 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 10 June 2022;

Site Notices Date(s): 6 June 2022;

Number of Contributors: 0

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 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy, Del 2.

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building 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 STCVA 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 is located on York Place. The character of the immediate area is primarily commercial, with low levels of residential. York Place is a busy vehicular and pedestrian thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle, as any noise and disturbance associated with such uses will be largely masked by background noise and activities.

The application property forms part of a larger five storey property. The four further units share a separate access at the ground floor level, each of which has applied retrospectively for planning permission, having been in use as STLs.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

The application received no contributions.

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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP 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:-

1. 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: 11 May 2022

Drawing Numbers/Scheme

01

Scheme 1

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

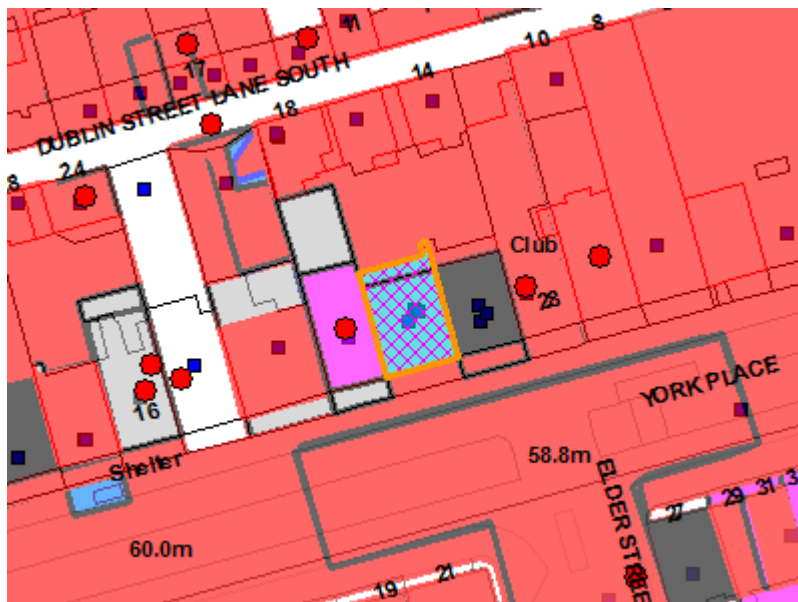
NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE:

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 7 December 2022

**Application for Planning Permission
Flat 1, 24 York Place, Edinburgh**

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

**Item – Committee Decision
Application Number – 22/01730/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a two-bedroom flat at 24 York Place. Fronting York Place on the ground floor level. Access is gained via a shared entrance from York Place separate from 24A York Place. The shared access is used by three further properties.

The flat is within an A listed building (LB29985), listed on 14/09/1966.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site

Description Of The Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/02349/FUL
24 York Place
Edinburgh

Change of use from office to form 4 flatted dwellings with external alterations, including dormer windows and new window to rear.

Granted

17 July 2015

Other Relevant Site History

Other applications within the property for proposed short-term let use are planning references 22/02533/FUL, 22/01731/FUL, 22/01734/FUL and 22/01735/FUL

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy Del 2

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building 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 is located on York Place. The character of the immediate area is primarily commercial, with low levels of residential. York Place is a busy vehicular and pedestrian thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle, as any noise and disturbance associated with such uses will be largely masked by background noise and activities.

The application property forms part of a larger five storey property. This flat share an access at the ground floor level with three further flats, each of which has applied retrospectively for planning permission, having been in use as STLs.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

The application received one objection and one neutral. A summary of the representations is provided below:

material considerations

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section C
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section C
- Detrimental effect on amenity and the living conditions of immediate and nearby residents. This is addressed within section C
- Already a substantial number of short term lets on the street leading to a loss of a sense of community. This has been discussed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- Short term lets creating unequal competition within the housing market making housing unaffordable.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02 A

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

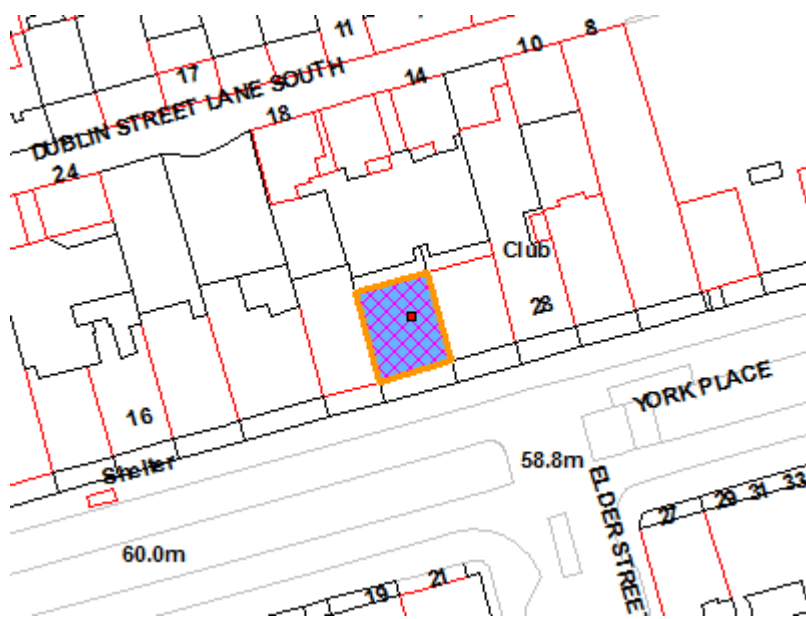
NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE:

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 7 December 2022

**Application for Planning Permission
Flat 2 24 York Place, Edinburgh, EH1 3EP**

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

**Item – Committee Decision
Application Number – 22/01731/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a two-bedroom flat at 24 York Place. Fronting York Place on the first floor level. Access is gained via a shared entrance from York Place separate from 24A York Place. The shared access is used by three further properties.

The flat is situated within an A listed building (29985), statutorily listed on 14/09/1966. A late 18th century, three storey - four bay.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site

Description Of The Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui-generis).

Supporting Information

Planning Statement

Relevant Site History

15/02349/FUL
24 York Place
Edinburgh

Change of use from office to form 4 flatted dwellings with external alterations, including dormer windows and new window to rear.

Granted

17 July 2015

Other Relevant Site History

Other applications within the property for proposed short-term let use are planning references 22/02533/FUL, 22/01730/FUL, 22/01734/FUL and 22/01735/FUL

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy Del 2

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building 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 is located on York Place. The character of the immediate area is primarily commercial, with low levels of residential. York Place is a busy vehicular and pedestrian thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle, as any noise and disturbance associated with such uses will be largely masked by background noise and activities.

The application property forms part of a larger five storey property. This flat shares an access at the ground floor level with three further flats, each of which has applied retrospectively for planning permission, having been in use as STLs.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

The application received one objection and one neutral. A summary of the representations is provided below:

material considerations

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section C
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section C
- Detrimental effect on amenity and the living conditions of immediate and nearby residents. This is addressed within section C
- Already a substantial number of short term lets on the street leading to a loss of a sense of community. This has been discussed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition, or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- Short term lets creating unequal competition within the housing market making housing unaffordable.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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. 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: 8 April 2022

Drawing Numbers/Scheme

01, 02 A

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

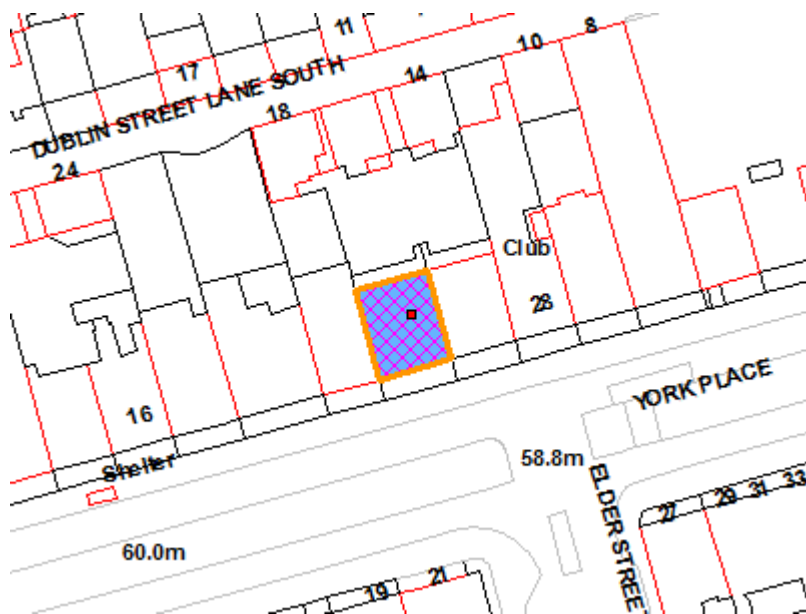
NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE:

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 7 December 2022

**Application for Planning Permission
Flat 3, 24 York Place, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01734/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a three-bedroom flat at 24 York Place. Fronting York Place on the second floor level. Access is gained via a shared entrance from York Place separate from 24A York Place. The shared access is used by three further properties.

The flat is situated within an A listed building (29985), statutorily listed on 14/09/1966. A late 18th century, three storey - four bay.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/02349/FUL
24 York Place
Edinburgh

Change of use from office to form 4 flatted dwellings with external alterations, including dormer windows and new window to rear.

Granted

17 July 2015

Other Relevant Site History

Other applications within the property for proposed short-term let use are planning references 22/02533/FUL, 22/01730/FUL, 22/01731/FUL and 22/01735/FUL

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy Del 2

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building 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 is located on York Place. The character of the immediate area is primarily commercial, with low levels of residential. York Place is a busy vehicular and pedestrian thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle, as any noise and disturbance associated with such uses will be largely masked by background noise and activities.

The application property forms part of a larger five storey property. This flat shares an access at the ground floor level with three further flats, each of which has applied retrospectively for planning permission, having been in use as STLs.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

The application received one objection and one neutral. A summary of the representations is provided below:

material considerations

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section C
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section C
- Detrimental effect on amenity and the living conditions of immediate and nearby residents. This is addressed within section C
- Already a substantial number of short term lets on the street leading to a loss of a sense of community. This has been discussed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- Short term lets creating unequal competition within the housing market making housing unaffordable.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02 A

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

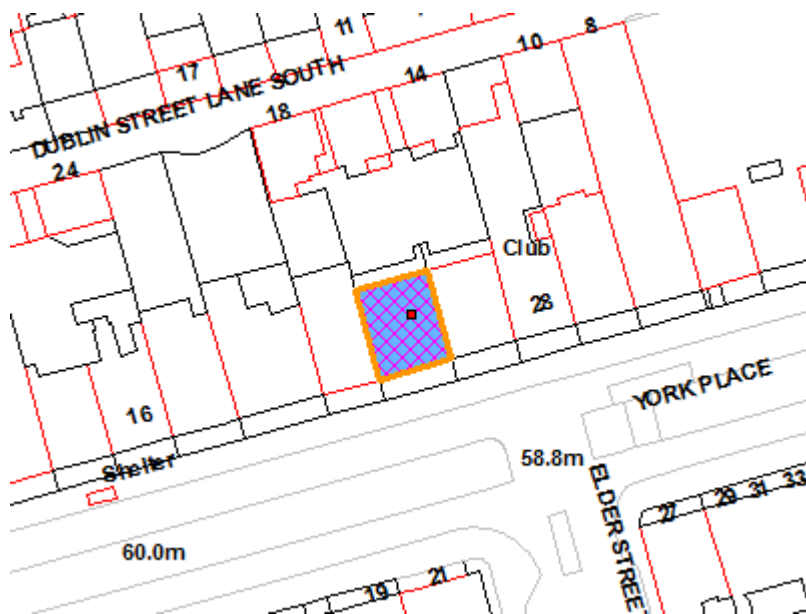
NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE:

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 7 December 2022

**Application for Planning Permission
Flat 4, 24 York Place, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01735/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 Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

SECTION A – Application Background

Site Description

The application site relates to a five-bedroom flat at 24 York Place. Fronting York Place on the third floor and attic level. Access is gained via a shared entrance from York Place separate from 24A York Place. The shared access is used by three further properties.

The flat is situated within an A listed building (29985), statutorily listed on 14/09/1966. A late 18th century, three storey - four bay.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/02349/FUL
24 York Place
Edinburgh

Change of use from office to form 4 flatted dwellings with external alterations, including dormer windows and new windows to rear.

Granted

17 July 2015

04/02196/FUL
24 York Place
Edinburgh
EH1 3EP

Conversion of attic to form additional flat, new dormer windows and new sash and case window (as amended)

Granted

2 September 2004

Other Relevant Site History

Other applications within the property for proposed short-term let use are planning references 22/02533/FUL, 22/01730/FUL, 22/01731/FUL and 22/01734/FUL

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: 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 New Town Conservation 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world."*

The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy Del 2

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building 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 is located on York Place. The character of the immediate area is primarily commercial, with low levels of residential. York Place is a busy vehicular and pedestrian thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle, as any noise and disturbance associated with such uses will be largely masked by background noise and activities.

The application property forms part of a larger five storey property. This flat shares an access at the ground floor level with three further flats, each of which has applied retrospectively for planning permission, having been in use as STLs.

The retrospective grant of planning permission will ensure that their lawful use will be as STLs. 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 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.

Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

The application received one objection and one neutral. A summary of the representations is provided below:

material considerations

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section C
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C
- Risk of unnecessary damage to historic structures. This is addressed within section C
- Detrimental effect on amenity and the living conditions of immediate and nearby residents. This is addressed within section C
- Already a substantial number of short term lets on the street leading to a loss of a sense of community. This has been discussed within section C

non-material considerations

- The application is under separate ownership, and not owned by the management company which has submitted the applications
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.
- Short term lets creating unequal competition within the housing market making housing unaffordable.

- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use.

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. 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: 31 March 2022

Drawing Numbers/Scheme

01, 02 A

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

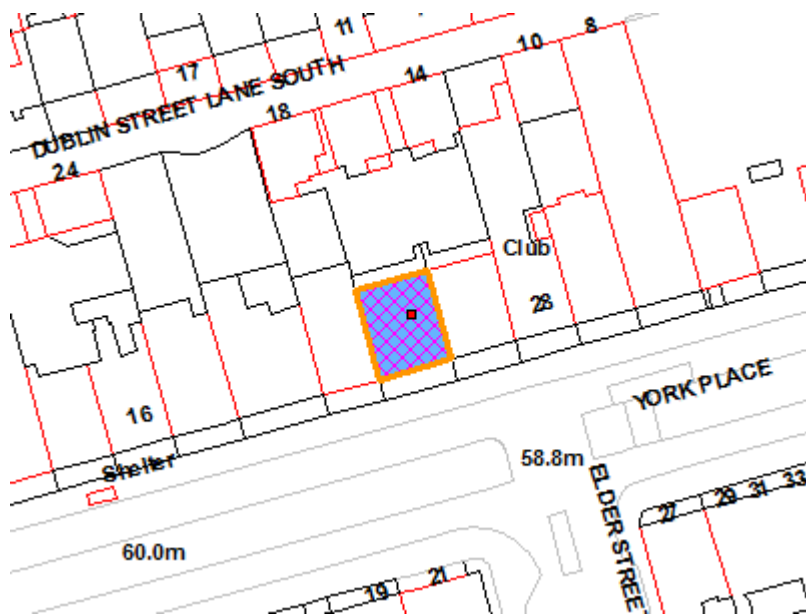
NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE:

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 7 December 2022

**Application for Planning Permission
24 Young Street North Lane, Edinburgh, EH2 4JD.**

**Proposal: Change of Use (retrospective) from flat to short-term let
(sui generis)**

**Item – Committee Decision
Application Number – 22/02316/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 first floor, two bedroom flat located above private garages on the southern side of Young Street North Lane. The property has its own access to the street.

Young Street North Lane is of mixed character, the southern side of the street comprises a mix of residential properties and office developments, and the northern side of the street serving as the rear entrances to hotels, offices or parking for properties that have their primary access facing onto Queens Street. The surrounding area contains a mix of different uses, including offices, retail, cafes/restaurants, hotels and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category A listed building, 15 Young Street And 24 Young Street Lane North, LB43366, 03/03/1966.

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 New Town Conservation area.

Description of the Proposal

The application is for a retrospective change of use from residential to short term let (STL) (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 since 2016.

Supporting Information

- Planning Statement
- Annotated Street Plan

Relevant Site History

No relevant site history.

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: 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: 0

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 short term commercial visitor accommodation (STCVA) 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 is a first floor, two-bedroom flat, with its own access to the street. The overall character of Young Street North Lane is a mix of residential and commercial uses, with a moderate degree of activity in the immediate vicinity of the property, though this is reduced at night. In this case the property has its own access, with the front door to the property exiting directly into the street, meaning any noise and disturbance will be in the street outside.

Whilst there are residential properties in the street, the rear hotel accesses are in closer proximity to the residences than the proposed STL use is. There is a low to moderate level of activity in the lane at all times as a result of the various uses.

Regarding servicing, it is likely cleaning staff would need to visit the property after each visit. The impact of these visits would be minor however, given the other daytime activities occurring in the lane in closer proximity to the residential uses present.

On balance, the impact of the STL use would be minimal given the background noise levels created by the existing uses.

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 not have a materially adverse impact 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 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 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 New 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 Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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

No public representations were received.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

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: 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

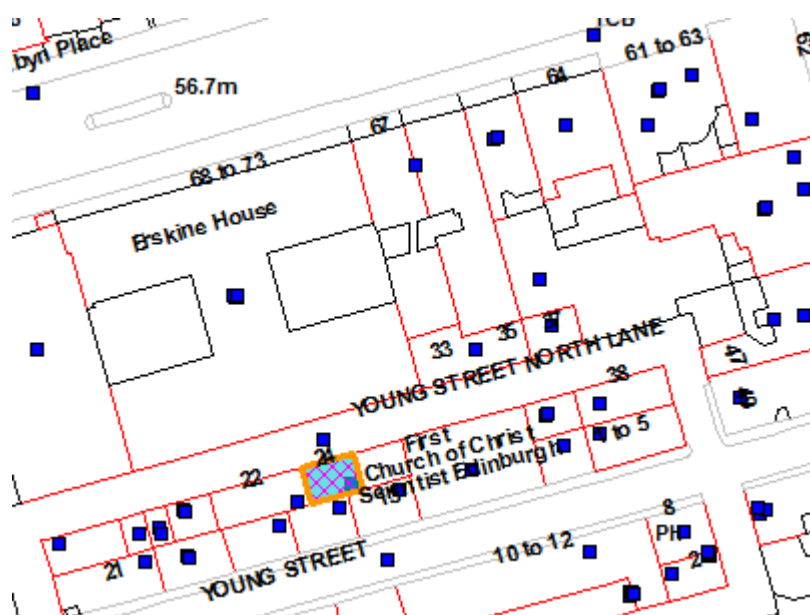
NAME: Historic Environment Scotland

COMMENT: No comments/objections.

DATE: 14 June 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 7 December 2022

Application for Planning Permission

Site 117 Metres Southwest Of 6, New Market Road, Edinburgh.

Proposal: 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.

Item – Committee Decision

Application Number – 22/00670/FUL

Ward – B09 - Fountainbridge/Craiglockhart

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because 16 material objections have been received and it is recommended for approval. 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

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in terms of preserving the parts and features of the listed buildings that embody the special architectural and historic interest which the buildings possess.

Overall, the development is in accordance with the development plan. The proposals will deliver a sustainable and well-designed urban residential scheme that draws on the industrial heritage of the site to create a strong sense of place and will support the adjacent mixed uses surrounding the site. Any deviations from Council policy or guidance are relatively minor and balanced by the wider benefits of the development in terms of the provision of housing with an appropriate affordable element on a redundant brownfield site, along with reduced reliance on car usage. Moreover, this is an exceptional situation where opportunities for development on this site are severely restricted by the need to preserve representative parts of important listed buildings.

Alternative uses are limited for the category B listed former cattle sheds in particular, due to the industrial form, extent and condition of these structures.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

Other material considerations support the presumption to grant planning permission.

SECTION A – Application Background

Site Description

The application site measures 1.78 hectares and is located to the south-west of New Market Road, on the south side of New Mart Road.

The site is occupied by a range of buildings that formed part of the historic 'New Markets' built between 1905 and 1918 which include the Corn Exchange to the north of the site. A significant area of the site is occupied by the category B listed former Livestock Sheds dating from 1912 by James A Williamson, Superintendent of Works, comprising a five-aisled, steel-framed cattle shelter with a corrugated asbestos and glass roof (reference LB30283, listed on 16.06.1992). These are in use as five aside football pitches. The associated rendered range of buildings along the south-east edge of the site comprising the former Milch Cow Byres and Sales Ring are listed as part of the curtilage and are in use as a tenpin bowling alley and snooker/pool hall.

The main buildings of the historic market complex are located to the north-east of the site on New Market Road and north of the site on New Mart Road as follows:

- 11 New Market Road, Corn Exchange, category B listed (reference LB30282, listed on 16.06.1992);
- 8-9 New Market Road, Newmarket Pockets, Former Market Refreshment Rooms, category C listed (reference LB30281, listed on 16.06.1992);
- 6 New Market Road, St Cuthbert's Association Cattle Depot, category B listed (reference LB30280, listed on 10.06.1992); and
- New Mart Road, John Swan and Sons Livestock Market including Caretaker's House, gates and gatepiers, category B listed (reference LB30317, listed on 01.07.1994).

The site is mainly level with a marked drop in level between the adjacent Asda supermarket car park and range of buildings containing the tenpin bowling alley and snooker/pool hall. The primary access into the site for pedestrians and vehicles is off New Market Road and there is a historic entrance to the west of this access which is now used for servicing and deliveries to the Corn Exchange complex. Another vehicular entrance accesses the south-west corner of the site off New Mart Road through locked gates.

The surrounding area is mixed-use in character, including predominantly three-storey, modern residential flats to the immediate north beyond the former John Swan and Sons Livestock Market, now in use as offices and small-scale business units.

The Corn Exchange buildings, restored in 1999, are in use as a concert and entertainments venue with a bar/bistro occupying the former Market Refreshment Rooms and a meat wholesaler is in the historic St Cuthbert's Association Cattle Depot. An Asda supermarket and associated car park lies to the south-east of the site and a gym with extensive car parking occupies the land to the south-west of the site. The Risk Factory community centre is beyond the gym site beside the Water of Leith.

Description of the Proposal

The proposal includes the partial demolition of the former cattle sheds, cow byres and modern sheds on the site and erection of a mixed-use development comprising 393 built-to-rent (BTR) apartments and student accommodation totalling 406 bed spaces. Ancillary to this the proposed development includes residents' leisure uses - lounges, gyms, wellness spaces, games rooms, etc. and community uses, including a café/restaurant, co-working area and a wellness/yoga studio. Significant public realm, landscaping and access works form part of the application.

Demolitions/Alterations of Existing Buildings

Approximately 12% of the former Livestock Sheds will be retained in the form of four central bays of the frames (two bays wide and two bays deep) along with elements of the roof structure, including the cupola frames and timber lined 'gables. Six additional columns will be retained as freestanding elements within the landscape, including girder trusses to link the two columns immediately behind the retained shed bays. These bays will be moved forward (to the east) by one bay depth to form a central part of the masterplan design. The frames will be dismantled to ascertain which segments are in the best condition and which original/existing cladding materials can be retained. Two new pavilion buildings forming the main entrances to the will be erected below the retained structures.

The proposals seek the retention of three eastmost bays of the Milch Cow Byres and Sales Ring, equating to approximately 38% of the existing range. The section which contained the auction ring is included, along with the former milking byres and one bay of the livestock byres, which has a clock on the front facade. New community uses will be accommodated within these structures.

In addition to the larger structures detailed above, several feature elements of the listed buildings will be retained within the proposed landscaping, including several columns of the Livestock Sheds in their existing locations and stonework detailing from the former cow byres.

Site Masterplan and New Buildings

The proposed layout comprises a formal public square enclosed on two sides by the retained shed frames and auction ring/byre structures and existing buildings/enclosures outwith the development site to the east and north. The new build blocks will sit to the west of the retained historic structures, aligned north-south and with east-west running elements creating street frontages to New Mart Road to the north and the "Asda Road" to the south. A central path between the Livestock Shed frames will lead through to the more private residential areas of the site with a north-south running, tree-lined main thoroughfare.

The proposed BTR element is composed of three, seven-storey flatted blocks (Blocks 1 and 2 and Affordable), stepped down at the north-west edge of the site to four storeys (Block 1 facing New Mart Road). The new student accommodation block has a total of eight storeys and will sit to the west of the affordable block.

The architectural style of the proposed development is a blend of historic industrial inspired forms with contemporary detailing. The materials are a similar blend of traditional and modern, comprising a mix of multi-tone red and buff brick and varieties of fibre cement cladding - grey and buff with a linear texture and smooth white and buff, for the elevations. The roofs will be clad in grey standing-seam cladding. The windows, exterior doors and balustrades will be in metal. Plant will be housed mainly at lower ground and roof level throughout the buildings.

Accommodation Schedule

- BTR market price: three-bedroom x 56, two-bedroom x 82, one-bedroom x 119 and studio x 26 = 293
- BTR affordable: three-bedroom x 22, two-bedroom x 28 and one-bedroom x 50 = 100 (25% of total BTR units)
- student accommodation: shared flats - studio x 100 and ensuite cluster x 306 = 406

Landscaping/Amenity

Significant areas of soft and hard landscaping are proposed throughout the scheme, forming the new public square, main thoroughfares, connecting paths and private gardens.

There are no trees within the site. Two semi-mature Norway maples at the south-east corner of the Nuffield gym car park will be pruned back to the boundary. Semi-mature trees, including Rowan and pear, will be planted along the central avenue, within the public square and on the Asda Road edge of the site and smaller ornamental trees will be planted in the communal gardens. Raingardens will feature throughout the site along with other planted features, including shrubs, hedging, grasses and bulbs. Green roofs will form the majority of roof surfacing for the purpose of water management and biodiversity, rather than accessible green space.

The hardstanding areas will be formed in a mix of non-permeable and permeable concrete pavements in light and dark grey tones and the garden paths will be surfaced in clay paving in warm, green/yellow tones. Tactile paving will be employed on potentially hazardous areas. Private garden boundaries will be demarcated by timber fencing and hedging and gates will be formed in Corten weathered steel. The proposed street furniture comprises mainly timber-topped metal benches and cube seats.

The proposed storytelling wall of the site history located within the communal garden south of the public square will be formed of acid etched/sandblasted concrete panels with metal inserts and measure two metres in height and two and a half metres in length. Opportunities will be taken to include interactive areas of public art throughout the site.

The BTR and student units at ground floor level will have small private, soft landscaped gardens. There are areas of communal garden space for the BTR residents to the east of Blocks 1 & 2 and off the central avenue and, for the student residents, at the east end of the student block.

Lighting

Column lighting will illuminate the public and residential walkways and seating areas and feature areas, structures and trees will be highlighted by ground recessed and surfaced mounted spotlights. Bollard and LED strip lighting will also be used within the scheme.

Access

Currently, public access to the site is from New Market Road only into the north-east side, via a lane between the former Market Refreshment Rooms and St Cuthbert's Association Cattle Depot buildings. The site plan will create new pedestrian access points from the north-west (New Mart Road), south-west (Water of Leith) and south-east (Asda Road).

Within the site, the main accesses to the BTR apartments will be on the east side of Blocks 1 and 2 (through the retained cattle shed frames) and from the proposed central avenue to the east side of Block 1. The main entrance to the student accommodation will be at the south-east corner of the building. All these accesses are level.

The development is proposed as a car parking-free scheme, so vehicle access is only required for change of term (students), accessible parking, car club members, refuse collection, deliveries, maintenance and emergency vehicles. Vehicular access to the site will be from New Mart Road via a shared street (allowing vehicle access at slow speeds while prioritising pedestrians and cyclists).

A new pedestrian crossing point will be formed on Asda Road (south-east boundary) which will connect to new steps and an accessible platform lift, addressing an existing 2.5 metre level difference between the site and road. Stepped access to the site will also be introduced on this road in the form of two flights: one between the former St Cuthbert's cattle depot and retained auction ring building and the other flight running past the east end of the student block. (The new platform lift will sit at the foot of this flight.) Otherwise, the site's terrain is flat.

Bus services to and from the city centre can be accessed within a five-minute walk from New Market Road on Chesser Avenue and Slateford Road. Slateford Rail Station is a five-minute walk from the site.

The site has nearby existing active travel links including the Water of Leith path.

Servicing

Deliveries, maintenance and emergency vehicles will access the site from New Mart Road. Refuse collection will be via the same access road and bin stores have been located adjacent to the street for all new build blocks in line with CEC requirements. The existing O2 (Corn Exchange) servicing arrangement will be maintained which will involve vehicles entering the site from New Mart Road and exiting onto New Market Road via a separate lane on the eastern side.

Car/Cycle Parking

The proposal is for a car parking-free development. Two accessible parking spaces with EV charging points are proposed for tenants or visitors within the residential street. Three car club spaces will be introduced as part of the scheme on the north side of New Mart Road.

The total number of secure cycle spaces proposed is over 1,200, equating to 100% provision for the Buy-to-Rent and student accommodation tenants. These spaces will be accommodated in several cycle stores at ground level within each BTR block (including the affordable block) and at lower ground floor level of the student block via a ramp as follows:

BTR (market rent) 174 (148 sqm)

BTR (affordable) 230 (177 sqm)

BTR (communal store in former auction ring building) 356 (293 sqm + 20 sqm for non-standard spaces)

PBSA 406 (271 sqm)

All stores will be accessed via a lockable security system. There will also be a large communal store on the ground floor of the retained former auction ring building incorporating additional space for a range of cycle parking provisions as well as the potential for workshop/maintenance facilities.

Eighty-eight Sheffield cycle stands are proposed within the landscape design for short stays and visitors.

Scheme 1

The original scheme proposed:

- the retention of only the steel frames of the Livestock Sheds, without key elements of the roof structure and coverings or timber gable infills;
- 434 BTR apartments and
- a refuse store at ground floor level within the former auction ring building.

An associated application for listed building consent has been submitted for the demolition and alteration of the existing buildings on the site (application number 22/00671/LBC).

Supporting Information

- Pre-application Consultation Report;
- Heritage Statement;
- Condition Survey;
- Planning Statement;
- Social Value Statement;
- Design and Access Statement and visualisations;
- Daylight/Sunlight and Amenity Assessment;
- Phase 1 Site Investigation
- Noise Impact Assessment;
- Air Quality Assessment;
- Sustainability Form S1;
- Sustainability Statement;
- Energy Statement;
- Flood Risk Assessment and Drainage Strategy;
- Surface Water Management Plan;
- Affordable Housing Statement;
- Transport Statement;
- Waste Management information;
- Phase 1 Ecology Assessment;
- Bat Survey and
- Tree Survey.

The application has been screened for an Environmental Impact Assessment (EIA) and no EIA is required.

Relevant Site History

21/04830/PAN
Site 117 Metres Southwest Of 6
New Market Road
Edinburgh

Redevelopment to form build-to-rent housing and purpose-built student accommodation with associated ancillary development, demolitions, public realm, landscaping and access.

Pre-application Consultation approved.
28 September 2021

Other Relevant Site History

97/00474/FUL
Site to rear of
11 New Market Road
Edinburgh
Erection of a leisure and retail development
Planning permission approved on appeal.
28 January 1998

Pre-Application process

Pre-application discussions took place including a review by the Edinburgh Urban Design Panel on 24 November 2021. The Panel's report can be viewed on the Planning and Building Standards Portal.

Consultation Engagement

Archaeologist

Hutchison/Chesser Community Council

Economic Development

Affordable Housing

Communities and Families

Flood Prevention

Scottish Water

SEPA

Edinburgh Airport

Parks and Greenspace

SportScotland

Edinburgh Access Panel

Police Scotland

Lothian and Borders Fire Brigade

Waste Services

Transport Planning

Environmental Protection

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

Publicity and Public Engagement

Date of Neighbour Notification: 1 March 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 4 March 2022;

Site Notices Date(s): Not Applicable;

Number of Contributors: 18

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: Use and Adaptation of Listed Buildings
- Managing Change: Demolition of Listed Buildings
- Managing Change: Setting

Demolition

HES emphasises the importance of retaining listed building and only resorting to demolition if every other option has been explored. Keeping listed buildings in an existing use or finding a new use that has the least possible impact, are the best way to protect them. Alterations to a building, even if extensive, is better than losing the building entirely.

In this case, the approach taken is to retain representative, characteristic parts of the former cattle sheds along with a section of the curtilage buildings, including the part that contained the auction ring and use these elements to inspire positive change within the area. The historic architecture has been used to influence the design of the new development and this, along with a "heritage journey" through the site will retain the essence of the site's historic industrial past and physical evidence of how it once appeared.

The assessment of this proposal falls between the first two HES Managing Change publications listed above. Under the "Use and Adaptation of Listed Buildings" the section on 'selective demolition' is most applicable, although the extent of removal in this case is substantial. However, HES defines selective demolition as involving the removal, or demolition, of parts of a listed building to enable the significant parts of a listed building to be retained. In this sense, the proposed level of demolition falls into this category, given that elements of the structures to be demolished include less important component parts of the original buildings and later additions of little interest.

The final option in the "Use and Adaptation" document is 'enabling development' which in this case would mean using new build development to enable retention of more of the listed asset. However, this site is constrained in area and there is no prospect of obtaining adjacent land, so the enabling development option is not available. Even then, a fine balance has had to be reached in terms of new build development to allow meaningful retention of key elements of the listed buildings without compromising planning policy and guidance to an unacceptable extent.

HES's publication, "Demolition of Listed Buildings" applies even if part of a building is to be retained, but the proposed works would result in the loss of most of the listed building. The proposed scheme involves minority retention, even if the most representative parts, so has been assessed against the four situations described by HES. If one of the following situations applies, then the loss of a listed building is likely to be acceptable if this is clearly demonstrated and justified.

Is the building no longer of special interest?

The category B listed Livestock Sheds are of special historic interest forming part of a surviving range of buildings that formed part of the historic 'New Markets' complex, dating from the early 20th century. These markets were intended to replace and consolidate the various outmoded market facilities in central Edinburgh and were associated with two major new railway sidings providing the principal transport infrastructure serving the site. The layout for the site was set out in a master plan devised by the Public Works Office under the direction of James Williamson.

Whilst the former cattle sheds are relatively functional, backland structures, in contrast to the more former and decorative, sandstone frontage buildings, which include the Corn Exchange, they have intrinsic historic and architectural interest as a fine example of this building type and construction. This is derived from the structural scale and repetitive rhythms of the functional engineering required at this time to form five large clear span enclosures for sheltering livestock. In addition, the design is high quality with intricately detailed steel framing and glazed roof sections providing natural daylight.

The former Milch Cow Byres, although listed only as curtilage buildings, are part of this agricultural market range and form the south-east edge of the site, although facing into the site. This relatively modest, mainly rendered structure has historic interest as the site of the former auction ring and architectural interest in terms of the rhythm of its gable-on bays and stone wall head feature panels and glazed cupolas in two of the bays.

Unsympathetic alterations over the years, notably those undertaken to form the current football, bowling and snooker complexes, have had a detrimental impact on the character of both listed structures. In particular, the widening of the westernmost structural bay of the former cattle sheds involved the replacement of original columns with functional steel supports which has upset the internal structural rhythm and authenticity of this bay. Also, partial-height concrete masonry walls, netting and metal cladding were erected to enclose open areas around the perimeter of the sheds detracting from the relatively open nature of the structures. The authenticity of the roof coverings of the sheds has been affected by functional localised repairs and the original interior of the former milch byres was lost in the conversion to the current use, including the installation of suspended ceilings throughout.

However, despite these alterations, the Livestock Sheds and Milch Cow Byres remain listed structures of significant interest.

Is the building incapable of meaningful repair?

This issue is separate to that of the economic viability of any repairs, which is considered below. Most traditionally constructed buildings, even those in an advanced state of decay, can be repaired. A summary of the condition surveys carried out on these listed structures is detailed below.

Livestock Sheds

The former cattle sheds comprise five main bays of steel framed structures, covered with a series of pitched and flat roofs, with a rendered changing room block on the north side. The frames consist of cushion capital columns carrying segmental-arched lattice beams which support segmental-arched roof trusses. The external elevations are formed in a mix of masonry walls with part roughcast finish, timber boarding and corrugated metal cladding and netting.

The condition survey concludes that the metal pitched roofs covering most of the football complex are in a very poor condition and need to be replaced in full, along with the existing roof light formations. Whilst the adjoining and detached pitched roofs are in a serviceable condition, these would require remedial work.

The structural steel columns and beams appear to be fair condition, with surface corrosion to the steelwork in some areas and especially at the junction of the steel beams and segmental-arched lattices. However, the structural integrity of these areas has not been established. The various types of external walling are in poor condition and require repairs/replacement.

Milch Cow Byres

The associated milch byres have masonry external walls clad in concrete roughcast with exposed sandstone features and the north elevation is painted. Overall, the structures appear to be in fair condition, with repairs required to the external elevations, although the external structure was not visible during the condition survey due to the extent of the external and internal coverings and numerous cracks in the render finish and areas of bossing were noted. The roof structure and slated pitches are in fair condition, with slates failing in localised areas. The windows which are single glazed, painted Crittal are in reasonable condition with spot corrosion.

In summary, neither of these buildings are incapable of meaningful repair, although the repairs required are extensive and costly, these would not diminish the buildings' special interest.

Is the demolition of the building essential to delivering significant benefits to economic growth or the wider community?

The proposed development will deliver benefits to the wider community in terms of housing and associated economic growth in the area. However, these benefits are not of public significance to the extent that they could be seen to outweigh the strong presumption in favour of retaining listed buildings.

Economic viability?

The final question is whether the repair and reuse of these listed buildings is not economically viable, that is the cost of retaining the structures would be higher than their end value. In such cases, the difference in repair cost to end value is known as the 'conservation deficit'. The principle of demolition should only be accepted where it has been demonstrated that all reasonable efforts have been made to retain the listed building.

In terms of use, the applicant's current operations at New Market Road are no longer sustainable due to the need to modernise the present facilities across the complex to meet and compete with modern requirements along with high ongoing costs of repair and maintenance of the structures across the complex. In particular, the cost of the repair and/or replacement of the roofs and glazed structures of the former cattle sheds and byres is unsustainable and cannot be avoided as some sections are now hazardous. This existing situation was compounded by a period of continuous shut down during the pandemic.

The economic viability of retaining all or parts of the listed fabric has been assessed by the applicant through a series of detailed speculative development appraisals based on condition surveys of the existing buildings and cost estimates, along with a marketing exercise. A substantial "conservation deficit" has been identified across the site which would render the redevelopment of the site with full retention of the existing listed fabric, through minimum intervention, adaptation or extension, not economically viable. Also, the redevelopment of less sensitive parts of the site alone would be insufficient to cross fund the full retention of the existing listed structures. On this basis, the applicant has explored which alternative options would enable the viable retention of the most important representative elements of the listing buildings, within a relevant context. These options included alternative uses along with varying degrees of selective demolition and new build.

In assessing the associated application for listed building consent, Historic Environment Scotland (HES) accepts that there is a substantial conservation deficit, especially if listed buildings on the site are retained, but has noted concerns with the marketing process undertaken in terms of price, which should be the current market value of the site with its existing buildings, reflecting location and condition, and including a guide price on the marketing information. HES has also stated concern that the marketing was over prescriptive by way of considering interest for the retention and refurbishment of the existing premises only, excluding alternative uses. That acknowledged, these listed buildings, in particular the former cattle sheds, are difficult to re-use and adapt due to their form and scale, so the normal marketing guidance is less applicable for this site.

Economic Development has studied the applicant's calculations and found these to be generally acceptable with a reasonable, if below normal, profit margin. The proposal preferred by HES would not have been economically viable.

Retained Heritage Assets

The elements of the listed structures to be retained encapsulate the functional and historic use of these buildings, illustrating where the livestock were housed, milked and auctioned. These remnants also capture many key historic architectural features, including roof vents, stone banding, access doors, rainwater outlets, a hayloft door and trolley point. The original construction materials of sandstone, harling, slate, timber, metal and glass will also be evident in the retained structures.

Livestock Sheds

The significance of the main listed structures will be acknowledged in the proposed use as covered areas of the proposed "Heritage Square" leading to the entrance lobbies of the new BTR apartments.

The original ornate columns, primary trusses and finer, main-span secondary trusses of the cast iron frames will be fully refurbished and exposed to allow viewing of the original detailing. These are impressive, essential components of the sheds' construction.

Due to structural wind loadings and maintenance concerns, it is not proposed to retain the glazed elements of the roofs. However, the corrugated iron sheeting will be retained to the front two bays of the sheds. Some of this sheeting is understood to be original, but some parts have been replaced and altered for the existing use. The space below the retained frames will form part of the main public realm space of the new development and two pavilion buildings will be sited below the second bays of the historic frames, connecting with the proposed BTR buildings. The omission of roof coverings over these second two bays (to the west) is acceptable to provide sufficient daylight to the new build structures.

The retention of the cast iron cupola structure over all four retained bays will keep an important record of the most visually decorative element of the roof and how daylight and ventilation, through the side louvered vents, was provided. The sheds were constructed with open sides and high-level timber-boarded infills on their end 'gables'. This cladding will be retained, along with the overhanging eaves, bargeboards and decorative plaque on the existing central bay. These are key elements of the historic roof structures which will give the retained bays visual and physical presence when viewed from the "Heritage Square" when entering the site from New Market Road and Asda Road. The decorative plaque will be placed on the first bay seen (to the south) to showcase the detailing of the historic architecture.

This showcasing of essential components of the Livestock Sheds will be continued through the retention of several original columns in their existing locations as part of the landscape design. These columns, in particular the linked columns immediately behind the retained shed bays will indicate the original extent of the livestock sheds.

Conditions have been applied to ensure that all the historic structures on the site are officially recorded and that a robust methodology statement is submitted for approval before any historic structures or features are demolished, relocated or removed from the site.

Milch Cow Byres and Sales Ring

The three bays of this range to be retained will be restored externally using original and matching materials and there are no surviving historic internal features of significance. The proposed uses, including a café/restaurant and wellness/yoga studio acknowledges the historic purpose of the auction area where people would gather to buy and sell livestock and a gives a humorous nod to where the cows were milked and fed in terms of the new food and drink use. Retained stonework and other significant architectural details from the livestock byres will be included in the new landscaping scheme to bring the site's industrial past to life.

A condition has been applied to ensure that the detailing of any alterations to the main façade to form new openings for the commercial uses will be of appropriate scale and detailing.

The industrial heritage of the site will be encapsulated in physical and narrative form. Apart from the retained elements of the actual structures, elements of the forms, detailing and materials of the proposed new build development will reflect those of the former cattle sheds and byres and this consideration of the history of the site will continue in the proposed landscaping through surface patterns and materials in the landscaping and street furniture. A new storytelling wall within the public square will provide a written and pictorial narrative.

Demolition Summary

In this case, based on a combination of the current condition of the main B listed structures and prohibitive repair costs, combined with the viability of the existing use without essential repairs being carried out, the only realistic way to save any key parts of the buildings is through radical intervention. Whilst the level of demolition is substantial, this is the minimum action necessary to preserve key elements of the special interest of these listed buildings which is also economically viable.

Whilst the extent of retention in terms of percentages of the listed structures on site is low at 12% of the Livestock Sheds and 37% the former Milch Cow Byres, the refined proposals include a level of retention in terms of representative parts and detailing which is sufficient to support the extent of demolition. A level of impact is unavoidable with this amount of demolition, although this is mitigated by the retention of key elements that contribute most to the buildings' respective special characters.

Setting

Historic Environment Scotland's document 'Managing Change in the Historic Environment - Setting' states;

"Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced."

The proposed redevelopment of this site will have an impact on the setting of the adjacent listed buildings which formed the public face of the historic 'New Markets' complex and define the street frontages of New Market Road. These buildings include the category B listed Corn Exchange and St Cuthbert's Association Cattle Depot and category C listed Market Refreshment Rooms to the east of the site. The street presence of these buildings as viewed from Hutchison Terrace is emphasised by the extensive area of fenced grass in front.

The category B listed retained façade of John Swan and Sons Livestock Market on the north side of New Mart Road and flanking façade of the Corn Exchange opposite presented the main secondary frontage to the complex. The southeast facade of St Cuthbert's Association Cattle Depot is prominent in views from the east.

Currently, the gables of the Livestock Sheds are just visible in the longer views from Chesser Avenue and in glimpsed views between the buildings fronting New Market and New Mart Road. Due to a change in site levels, only the roofs of the Milch Byres and Sales Ring and Livestock Sheds are visible from the east.

Whilst the proposed new build development will alter these views, most significantly when viewed from the junctions of Hutchison Terrace and New Mart Road and Asda Road and New Market Road, the scale, massing and design of the new structures will maintain an appropriate setting for the historic frontage buildings. Given the projection above the height of the listed buildings on New Market Road, the fragmentation and variation of the roofscape is a well-considered aspect of the new build design and the choice of materials in type and tone will create an appropriate and complementary backdrop to the listed frontage buildings. Importantly, the physical presence of the "New Markets" in the wider local area will be preserved.

In terms of the setting of the retained elements of the former livestock sheds and cow byres and auction ring, the proposed "Heritage Square" will maintain the openness, public nature and hardstanding character of the historic yard, whilst introducing an appropriate level of soft landscaping to provide visual and physical amenity for the new uses whilst improving water attenuation. The re-purposing of the former auction ring building as a community space will help reaffirm the building's importance as a key historical node on the site and emphasise the significance of the retained frames of the former cattle sheds. The proposed storytelling wall, retained heritage features and new landscaping elements influenced by the site's historic function and architecture will enrich the setting of the retained listed structures on the site, as well as the historic frontage buildings.

Conclusion in relation to the listed building

Overall, the proposed development will result in a degree of impact to the listed buildings in terms of the substantial loss of original fabric. However, this is justified as being the minimum level of intervention necessary to preserve key elements of the special interest of these listed buildings due to the current condition of the buildings, constraints of the site and need to devise an economically viable scheme which will bring wider public benefits. The treatment of the retained elements of the listed cattle sheds and significant curtilage buildings will preserve their historic and architectural character.

The proposed new buildings are of appropriate scale, massing, detailing and materials and along with new complementary landscaping, will have no detrimental impact on the setting of the retained listed structures on the site and other listed buildings in the immediate vicinity.

Conditions have been applied to ensure that the specifications for all proposed external materials for repairs and alterations to the retained historic assets on the site and proposed new buildings and landscaping are appropriate.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance as the proposals preserve the features of these listed buildings that embody the special architectural and historic interest which the buildings possess.

b) 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 Environment Policies Env 2, Env 3, Env 4, Env 9, Env 12, Env 16, Env 20 and Env 21
- LDP Shopping and Leisure Policies Ret 5 and Ret 11
- LDP Des 1, Des 3, Des 4, Des 5, Des 6, Des 7 and Des 8
- LDP Housing Policies Hou 2, Hou 3 and Hou 4
- LDP Transport Policies Tra 1, Tra 2, Tra 3 and Tra 4
- LDP Delivery Policy Del 1

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 2, Env 3 and Env 4.

The 'Edinburgh Design Guidance' is a material consideration that is relevant in the consideration of the Housing, Design and Transport policies and other Environment policies listed above.

Principle of Development

The site lies within an urban area and Local Centre as defined in the Edinburgh Local Development Plan (LDP).

Policy Hou 1 gives priority to the delivery of the housing land supply on suitable sites within the urban area provided proposals are compatible with other policies in the plan. Given the surrounding residential character, this is a suitable site for housing and the proposals will contribute to a mix of uses in the local area. The site benefits from good public and active travel links and is located nearby to education and health facilities and local green spaces. Compatibility with other policies is assessed elsewhere in this report.

Policy Hou 8 presumes in favour of proposals for purpose-built student accommodation if the proposal meets both criteria a) and b). This site is on regular bus route which serves the city centre and campuses on the west side of the city, and there is scope for active travel to some campuses, such as the Edinburgh Napier Craiglockhart Campus (approximately 16 minutes on foot or 5 minutes by bike). Examples of the available bus routes include the no. 4 Lothian Bus from Slateford Road to Edinburgh Napier Craiglockhart Campus (a totally journey of around 11 minutes) and the no. 35 and 34 buses from Chesser Avenue and Slateford Road respectively to Napier's Sighthill Campus in a total journey time of approximately 14-19 minutes.

In terms of concentration of students living in the area the 406 rooms proposed will result in a substantial increase. However, the 393 build-to-rent apartments will dilute this student concentration, as a high number of non-students will also reside on the site. The latest available accurate data, from the 2011 Census, shows that there was a low concentration of students living in this area as defined by the Fountainbridge/Craiglockhart Ward (between 11.73% and 16.31%). Including the 2,603 approved student beds since the 2011 Census, this percentage increases to between 22.65% and 28.87% and the proposed development would result in a further increase of between 1.5% and 1.69%.

Whilst the proposed level of student accommodation will increase the student population living in this area, the resulting concentration will not be excessive or to an extent that would be detrimental to the existing community.

In terms the existing uses on the site, which comprise covered, astro-turf five-a-side football pitches, a bowling alley, snooker/pool hall and sports bar, there is no LDP plan policy that seeks to prevent the loss of such leisure uses. However, the loss of these facilities is detrimental to the local community and this issue must be given weight. Alternative facilities and green spaces providing similar activities are available in the local area, including Meggetland, Craiglockhart and Saughton sports centres and Saughton public park. Whilst these facilities are around a ten- to fifteen-minute walk away from the site, they will provide some mitigation for the loss of the existing leisure uses. SportScotland has no objection to the proposals and considers the issue outwith its remit. There is no prospect of this site being used for similar leisure purposes, given the condition of the existing buildings on site and need to redevelopment the site in an economically viable way. Also, the loss of the existing leisure use has to be balanced against the significant benefits of using this brownfield site for housing of a significant scale.

Policy Ret 5 presumes against proposals for non-retail development in a local centre which would have a detrimental impact on the function of the centre. The site is located within Chesser local centre, and the proposal does not involve any loss of retail units.

Whilst the proposals are for a non-retail development, comprising build-to-rent homes, student accommodation and ancillary community facilities, these uses are unlikely to have a detrimental effect on the function of local centre. The increased footfall generated by a substantial increase in the number of people living in the local area should be of significant benefit to the function of the local centre, especially as the development will be car free, except for a few accessible spaces. The transport and shopping habits of new residents will have a positive impact on the surrounding area, whilst the new amenity facilities on the site are likely to encourage people to stay more in their local area. The promotion of the historic interest of the site, along with these new amenities could attract other people to visit the area.

Policy Ret 11 presumes against the change of use to Class 3 if likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti-social behaviour to the detriment of living conditions for nearby residents. The proposed cafe/restaurant is part of the new community facilities and ancillary to the main residential use and of a scale and location that would not cause any significant disruption for residents, both on and outwith the site.

The development is therefore acceptable in principle and complies with LDP policies Hou 1, Hou 8, Ret 5 and Ret 11.

Character and Setting of Listed Buildings

This has been assessed in section a) and the proposals comply with LDP Policies Env 2, Env 3 and Env 4.

Sustainability, Design and Sense of Place

The redevelopment of the key listed buildings into appropriate and sustainable uses, will regenerate New Mart Road into a thriving mix development area, delivering an increase in housing, mobility and accessibility. The proposed uses are compatible with the surrounding area. The sites' location being close to a mix of public transport routes and active travel networks, gives quick access to the city centre and encourages sustainable travel. This development will positively rejuvenate and improve the character of the immediate area, improving a sense of community, mobility and opportunity for active travel.

Sustainability

The proposed development will provide sustainable, high-quality housing, whilst increasing pedestrian permeability through the development via a new publicly accessible "Heritage Square" and improving access to the Water of Leith walkway and the national cycling network (route NCR 75). There will be increased inter-connectivity between New Mart Road and the Asda supermarket to the immediate south of the site.

The design strategy incorporates the principles of sustainable design and construction. Accessibility, connectivity and passive efficiency are also significant elements of the design. The strategy has taken proficient consideration of the retention of heritage elements, including the most representative parts of the existing structural elements and use of some of the material from demolition in the development. The proposed design incorporates passive measures to reduce energy demand for heating, cooling, ventilation and lighting. The installation of photovoltaic (PV) panels, heat pumps and low energy lighting will contribute to carbon reduction.

In terms of sustainable transport, the site is located on multiple bus routes and within easy walking distance of Slateford Rail Station. Proficient and secure off-street cycle parking will be provided for the BTR, and student residents and the site has good access to existing active travel networks. No car parking is proposed, except for a limited number of accessible spaces.

The applicant has submitted the sustainability form in support of the application. Part A of the standards is met through the provision of low and zero carbon air source heat pump technology and PV panels for heating and hot water and no fossil fuel use is proposed on site.

This is major development and has been assessed against Part B of the standards. The proposals meet the essential criteria with additional desirable measures including green roofs, rainwater harvesting and communal recycling.

Design

Architecture and Materials

The design concept draws upon the positive characteristics of the site and surrounding area, clearly taking consideration of the roof line and facades of surrounding listed buildings. The result is a coherent and integrated design from a variety of views and perspectives.

In terms of form and detailing, the proposed architecture is a modern re-interpretation of the historic industrial structures on the site, reflecting the level of architectural consistency evident in the utilitarian, but rhythmic forms of the former livestock sheds and cow byres. The proposed buildings incorporate key characteristics of the original forms and proportions with high density, sustainable construction and contemporary design details which results in distinctive, but complementary architecture. Though the development is of a larger scale than the original massing, the overall composition is sympathetic to the industrial feel of the site and forms an appropriate backdrop for the retained heritage assets and new setting for the adjacent listed buildings. The height of the new development will have no impact on any of Edinburgh's Protected Skyline Views.

The proposed materials palette is appropriate in this mixed-construction context, using a blend of contemporary and traditional industrial to complement the retained historic structures and evoke the architectural character of what was formerly on the site. The retention and reuse of original heritage fabric and use of traditional materials within the site will situate the development contextually, while the selected materials and tones for the new build elements will ensure that these structures sit unobtrusively behind the listed frontage buildings on New Market Road and New Mart Road. The inclusion of two different tones of brickwork, a variety of cement cladding in terms of detailing and colour and grey standing-seam roof cladding will make the new buildings fit in with the mixed materials palette of the surrounding area. The positioning and variation of materials will also differentiate blocks of accommodation and key nodal points within the development, whilst adding visual interest.

The pavilion buildings which sit below the historic cattle shed frames will be clad in dark grey fibre cement cladding with a linear texture to provide a definite contrast in material between the old and new structures, whilst signposting the central entrances to the BTR blocks.

A condition has been applied to ensure that the materials specifications are acceptable in terms of finer detailing, precise finish/tone and sustainability.

Views

Verified views of the proposed development have been produced from five important vantage points: Market Square (the new public square within the development), Hutchinson Terrace (junction with New Market Road), Chesser Avenue (where it meets Hutchinson Terrace), New Mart Road and the Asda car park. These demonstrate that the new buildings will affect the existing views, but in a positive, rather than negative, way.

From Market Square, the proposed image illustrates how the new build elements will sit positively with the retained heritage structures within a new, enhanced landscaped setting. In the view from Chesser Avenue, the roofscape and gable facades are clearly visible due to the height of the new development compared to that of Corn Exchange and adjacent frontage buildings on New Market Road. However, this added height is acceptable as it adds visual interest to the current scene without visually dominating these listed buildings. The latter's prominence is maintained through respectful and carefully positioned roof forms and materials.

The four-storey section of the BTR block and parts of the higher sections behind are conspicuous from New Mart Road. However, these elements sit in a non-domineering and complementary way across from the retained façade of the former John Swan and Sons Livestock Market and new-build office block alongside. Views of part of the gable and rear section of the Corn Exchange will also be impacted by the development but not in a negative way.

The Asda development has taken prominence in the view of St Cuthbert's Association Cattle Depot from Hutchison Terrace. The new Affordable BTR and student accommodation blocks will sit below the height of the historic corner tower from this viewpoint and will not be highly conspicuous. The height of these particular blocks is most apparent in the view from the Asda car park. However, the current view comprises mainly the side elevation of the existing modern shed on the site and the listed curtilage buildings and former St Cuthbert's cattle depot are not prominent from this viewpoint. The proposed buildings will provide an attractive new street frontage to Asda Road, as well as an improved sense of place and community, and increased security.

Density

The proposed 393 BTR units and 406 student bed spaces arranged within three- to eight-storey blocks is higher in density in comparison to the typical flatted developments within this area. However, this higher density is acceptable on this site which is relatively close to the city centre and with a good level of public transport accessibility. There is a rationale in this case for higher density development in terms of making efficient use of a brownfield site, helping to maintain the vitality and viability of the local businesses and services and encouraging the effective provision of public transport and active travel routes.

Also, the number of units proposed is linked to the viability of the scheme, given the heritage issues involved and on-site affordable housing provision, so a higher density than that of the surrounding area is acceptable in this context. The development will not be detrimental to the local character, environmental quality or residential amenity of the area.

The proposals therefore comply with LDP Policy Hou 4.

Housing Mix and Size

The BTR development will provide a mix of housing types from studios to three-bedroom family units. The latter apartments constitute 20% of the total BTR provision, which meets the requirements of the Edinburgh Design Guidance. Several of the larger units (including the two-bedroom) have direct access to private gardens and all have access to the communal gardens and shared car-free spaces which are generally safe areas for children to play.

The number of smaller units proposed reflects current market demand for BTR housing amongst a relatively young professional and well-educated workforce, particularly in the city centre of Edinburgh and along arterial routes. This location is particularly suitable being close to Slateford rail station and bus and active travel routes.

The Edinburgh Design Guidance includes minimal internal floor areas for flats and the proposed BTR units, including the affordable element, meet on average with the recommended minimum sizes, ranging from 36-43sqm (studio), 51-59 sqm (one-bedroom), 62-78 sqm for two-bedroom and 89-101sqm (three-bedroom). Any deviation is minor and affects-open plan flats only. The guidance allows flexibility in minimum floor areas where flats are open plan.

Criterion d) of the Student Housing Guidance requires student housing to comprise a mix of type of accommodation. The proposed mix of studio and cluster rooms each with en-suite shower rooms will meet the varying needs of students.

The proposals are in compliance with LDP Policy Hou 2.

Landscaping

Significant areas of soft and hard landscaping are proposed throughout the project, drawing heavily on the historic industrial use of the site as cattle sheds, in particular the retention of significant areas of hardstanding in the new public square which was a central yard when the sheds, auction ring and cow byres were in operation.

The project introduces an extensive amount of planting throughout, introducing trees, shrubs, hedging and ground cover planting appropriate to the localised site conditions. The size and species proposed are appropriate and will provide shelter, rainwater attenuation and visual interest within the site.

Greenery will be used to enhance the sense of space and hierarchy of spaces throughout the development and trees will create an avenue along the active travel route as a way of signposting.

The proposed hardstanding and street furniture materials are appropriate to the site's former industrial character. The siting and specifications have been selected to reflect the historic materials of the site whilst working for the proposed uses and water management, as well as adding visual interest and softness and demarcating distinct spaces.

Accessibility/Public Realm

As the development will be car free development, the opportunity has been taken to provide new active travel routes through the site and improve proposal permeability by introducing access nodes on all sides of the site. This includes the provision of platform lift and two flights of steps on the south side of the site where it meets Asda Road, to make the site accessible from the one edge where there is a distinct change of level.

The proposed development will open the site to the public, with the creation of a central square and thoroughways, delivering opportunities for the new and existing communities to grow. Pedestrians and cyclists will be attracted to enter and use the site as a secure amenity area and a connecting route from New Mart Road to the Asda store and the business and services within the Chesser Area, as well as to the Water of Leith and beyond.

The form of the new public realm is governed by the practical functions of hard-landscaped spaces, drainage, levels, light and access. The proposed hard materials palette is simple and high quality to reinforce the site's industrial past character and these materials are arranged to emphasise the hierarchy of public spaces and key routes across the site. Appropriately located and specified soft landscaping will provide an appropriate balance between respecting the historic setting of the retained listed structures, whilst providing amenity for residents and visitors in terms of shelter and visual softness and colour, increased biodiversity and improved natural drainage.

Sense of Place

The proposed development will create a new, distinguishable place which is rooted in the historic physical and operational characteristics of the site. This will be achieved through the interrelationship between the remaining parts of the original market buildings and new build elements and landscaping, along with a permanent on-site exhibition in the form of a story-telling wall explaining the processes that took place across the site. The use of the retained former auction ring/cow byre building as a community facility facing onto the main public space will further enforce a sense of place and encourage this area to become a hub for leisure and living activities.

Summary

In conclusion, the design of the development is based on a strong sustainable concept which draws upon the positive characteristics of the site and surrounding area and will create a new sense of place, in compliance with LDP Policy Des 1, Des 3, Des 4, Des 6, Des 7 and Des 8.

Archaeological Remains

The site is within an area of archaeological significance as it contains historic structures that formed part of Edinburgh's 'new markets' complex constructed by the Public Works Office in the early 20th century. A significant area of the site is occupied by the category B listed Livestock Sheds dating from 1912.

Whilst the scale of retention and re-use of the historic structures on site is limited, in this case there are valid grounds for permitting the extent of demolition proposed. However, it is important that the details of these buildings in their existing form are recorded prior to demolition and any significant archaeological remains revealed

Accordingly, a condition has been applied to ensure that a comprehensive programme of archaeological work is undertaken. This programme will include detailed historic building surveys prior to and during demolition/strip out works affecting the listed buildings on the site, a programme of public/community engagement during development and incorporation of the history of the site in the final design.

The development will therefore conserve any significant archaeological features, in compliance with LDP Policy Env 9.

Residential Amenity

Use

The proposed residential and student accommodation uses, along with the ancillary commercial uses, are compatible with the mixed, but predominantly residential, character of this area and will not lead to an unacceptable loss of amenity for any residential properties in the vicinity.

Communal/Private Outdoor Space

The total site area measures 16,892 sqm, 3631 sqm (21.5%) of which will be provided as usable green space, meeting the 20% target set out in LDP Policy Hou 3. To clarify, the definition of green useable space in the applicant's calculations is that where there is no mass planting (which would prevent useable access) or large areas of hard paved surfacing.

Further broken down, the proposed 392 BTR units, excluding the 39 units with private external spaces (1136 sqm in total), will have 2,544 sqm of useable external green space which equates to 7.2 sqm per unit. Policy Hou 3 requires that flatted developments provide 10 sqm of green communal space per flat (excluding any units with private gardens), so the proposed provision falls short under this measure.

The private gardens are not large but meet the minimum 3-metre depth as specified in the Edinburgh Design Guidance.

New Public Square

The shortfall in the normal standard for usable green open space will be mitigated to an extent by the communal open space provided within the proposed public square (2,472 sqm). This space includes appropriate green landscaping which will create an attractive amenity space with sheltered areas.

In terms of the Council's Open Space Strategy regarding play space, the nearest space of at least good play value is Saughton Park which is just within 800m of the site (around a 10- to 15-minute walk) and there are other smaller green spaces, such as Redhall Park (with play equipment) within this range. Craiglockhart Hills East and West and Dovecot Park are within a mile of the site on foot. In addition, the Water of Leith walkway is within a short walking distance and forms a green link to local green infrastructure.

The overall level of external amenity provided will be appropriate, given the heritage constraints of this site. The retained historic structures will provide an attractive backdrop and in part, functional element, of the communal amenity spaces created. The proposed spaces are varied in terms of type and appearance and there are sheltered seating areas with furniture and lighting designed to enhance the experience for users. The specified path surfaces, including within the greenspaces, will allow the use of these outdoor areas for, including people using wheelchairs and pushchairs.

Whilst several green roofs are proposed, these will only function for water management and biodiversity purposes and not as accessible green spaces. However, there are a couple of external communal terraces in BTR Block 1 and a number of units in the affordable block have small balconies.

Policy Hou 3 does not apply to housing built for occupation by particular groups such as students. However, an appropriate level of external green space is proposed amounting to 1183 sqm of communal space (3.4 sqm per unit) and 195 sqm of private space.

Internal Amenity Space

The BTR housing will have a good range of dedicated internal amenity spaces, including lounges, exercise facilities, working from home and study spaces and large shared kitchens.

An appropriate level of internal amenity space will be provided for the student accommodation, comprising 430 sqm of a range of communal amenity spaces, with direct access to private external terraces.

Aspect

The Edinburgh Design Guidance (EDG) requires a minimum of 50% dual aspect flats. In this case, the proposed BTR development achieves 33% dual aspect flats (29% dual aspect in the private BTR blocks and 44% in the affordable block). When the studio flats are excluded from the total number of private BTR flats, these blocks achieve 33% dual aspect and no studios are proposed in the affordable block.

The EDG allows for a flexible approach to be taken for BTR housing where open-plan layouts are proposed (75% of flats in this development), given that such layouts allow light to penetrate more deeply into the units. Whilst the percentage of dual aspect dwellings does not meet the normal EDG standards, the proposed ratio of dual to single aspect flats is due to the significant site constraints and the built costs which will be relatively high. Only 4.5% of all the rooms of the single aspect analysed will not meet the daylighting standards.

All flats will have full-length windows with small Juliette balconies and those living on the upper floors will enjoy views across the city and beyond, so this will compensate for lack of dual aspect.

Daylighting and Sunlight

A Daylight and Sunlight Report has been submitted which tests the effect of the proposed development on daylighting levels for the neighbouring residential properties and future occupants of the new flats. The daylighting levels will meet the requirement as set out in the EDG within this urban context.

Daylight

The nearest residential properties in New Mart Square are too away far from the proposed development to be affected in terms of loss of daylight, so no calculations have been undertaken in relation to the impact on the surrounding residences.

As regards future occupiers of the development, the report demonstrates that 1,367 of the 1,436 rooms analysed (93%) will fully satisfy the EDG daylight distribution target. The majority of the remaining 96 rooms which will not meet the target level are bedrooms and a significant number will only fail marginally. These results are comparable with other mixed use BTR and student accommodation developments of this scale and density in Edinburgh and appropriate in this context where full compliance with the standards is challenging due to the heritage constraints of the site need to make the scheme viable.

Sunlight

A solar study has been carried out to the specifications set out in the EDG. The study shows that the minimum standard for sunlight hours will not be met within all the open space areas, although the level of failure overall is marginal (4%). The proposed Market Square accounts for 28% of the open space on the site and achieves two hours of sunlight over 50% of its area by this standard.

The proximity of the buildings has been driven by the creation of this public space to preserve the setting of the retained listed structures in central and eastern locations on the site, so a degree of overshadowing is inevitable. This level of sunlight for the new amenity areas is acceptable, given the proximity of the site to the Water of Leith and public parks. Also, the retained heritage assets will provide a level of amenity in terms of visual character and sense of place.

Privacy/Overlooking

The site is immediately adjacent to a performance venue, offices, a supermarket and fitness centre, including the associated car parks of the latter two and no residential properties overlook the site. Only the performance venue and fitness centre have mutual boundaries with the site and the maximum distances from the proposed buildings to these boundaries are met.

Almost all facing windows in the new apartments will be separated by 18 metres and those on either side of the throughway from the public square to BTR Block 2 which are only separated by 9.2 metres will be canted to protect privacy.

Noise

As noted above, the nearest residential properties to the proposed development are in New Mart Square which is a sufficient distance away from the commercial operations on the site, so there are no concerns regarding the impact of noise on surrounding residents.

In terms of noise levels from commercial premises affecting future occupiers of the development, Environmental Protection is particularly concerned that if justified complaints are received about commercial and or leisure noise from the adjacent performance venue (the O2 Academy) then action could be taken against the relevant businesses. The O2 Academy operates many large entertainment events, including music gigs, comedy shows and other live events throughout the year that can cause significant levels of noise. There may also be significant levels of noise from plant serving these uses and from people congregating outside the venue.

Environmental Protection also has concerns about the deliveries and collections area for the music venue being adjacent to the proposed residential properties.

The Agent of Change Principle clearly places the responsibility for mitigating any detrimental impact from noise on neighbours with those carrying out the new development or operations. The 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.

The Agent of Change Principle is now enshrined in section 41A of the 1997 Act where:

"a development that is the subject of an application for planning permission is a noise sensitive development if residents or occupiers of the development are likely to be affected by significant noise from existing activity in the vicinity of the development and requires that the planning authority must, when considering under section 37 whether to grant planning permission for a noise sensitive development subject to conditions, take proper account of whether the development includes sufficient measures to mitigate, minimise or manage the effect of noise between the development and any existing cultural venues or facilities including in particular, but not limited to live music venues or dwellings or businesses in the vicinity of the development, and may not, as a condition of granting planning permission for a noise-sensitive development, impose on a noise source additional costs relating to acoustic design measures to mitigate, minimise or manage the effects of noise".

The applicant has submitted a revised Noise Impact Assessment (NIA) which assesses the impacts of the key noise generators affecting the site, that is, amplified music noise breakout from the O2 Academy and noise from its loading area and external smoking area. The other potential sources of noise generation have been assessed in the NIA, namely road traffic from the surrounding roads and building services and plant noise from the adjoining fitness centre (Nuffield Health). However, these are secondary factors in terms of degree of potential impact.

The O2 venue is operating under planning permission granted in 1998 (reference A 00474 97) to which conditions were attached to ensure that noise levels emitting from the venue from events and plant, machinery or equipment were acceptable in terms of the impacts on nearby living apartments. The scheme implemented includes a sound proofing "box" around the main noise generating part of the building.

The NIA concludes that secondary glazing will be required to control amplified music noise ingress into the affected residences facing the O2 Academy and some flats not directly facing the venue would also require upgraded glazing due to sound reflections from other buildings. The noise report identifies the areas where upgraded windows and facade build-ups will be required. Ventilation of these dwellings would need to be via mechanical units to avoid reliance on opening windows.

Environmental Protection states that these dwellings should achieve good standards in terms of noise levels allowing for windows to be open in habitable rooms (a closed window standard is only acceptable for transport noise) and that noise generated from the performance venue should be inaudible within the new development. However, this standard is unachievable on this site.

Environmental Protection accepts that the site may be suitable for residential development, subject to suitable mitigation measures alongside management of the development and its residents and that liaison between the development and music venue will be of critical importance in ensuring the protection of future residents and to protect the continued use of the venue. The key issues for Planning are whether the proposed noise sensitive development includes 'sufficient measures' to mitigate the impact on neighbouring residential properties and whether any conditions applied to the granting of planning permission would incur additional costs for the O2 Academy relating to acoustic design measures to mitigate, minimise or manage the effects of noise.

A range of conditions have been applied in order to mitigate any negative impacts on the amenity of future occupiers of the development from noise from the entertainment venue, including that generated externally by customers, servicing and transport activities, plant and road traffic. These conditions reference the standards specified in the NIA which identifies those dwellings which will be most affected. The proposed scheme includes a two-metre-high imperforate acoustic barrier around the external amenity area adjacent to the external loading bay and glazing standards for properties most susceptible to road traffic noise on Asda Road and New Mart Road.

Environmental Protection's standards for assessing noise levels require open-window measurements for the assessment of noise generation from the performance venue. However, Planning can accept the alternative closed-window measurements in its assessment of the proposed development, given that planning authorities operate under different legislation. Whilst future occupants of the new apartments will have the choice to open windows, the conditions applied regarding acoustic glazing and the soundproofing of masonry facades and roofs will ensure these occupants will have the ability to avoid being affected by noise from the adjacent performance venue. Only under Environmental Protection's stringent standards, is it not possible to provide a condition on the glazing and ventilation that would protect the amenity of future occupiers. Also, the conditions applied will not incur any additional costs for the O2 Academy in terms of noise mitigate measures, nor impose a breach of condition on the O2 Academy given that the responsibility for noise attenuation will lie principally with the operator of the new residential development. The conditions of the 1998 planning permission under which the O2 venue is operating are already stringent in terms of controlling noise levels, to the extent that no amplified sound should be audible in nearby residential or commercial properties. Whilst the proposed new flats will be closer to the venue than the nearest existing residential properties, the conditions attached to this current application will ensure that the O2 Academy's existing soundproofing measures are adequate when working in conjunction with the soundproofing measures built into the new apartments.

Whilst the development will expose an increased number of residents to the noise from the O2 Academy, the required retention of key elements of the listed structures, significantly limits the opportunity for positioning residential blocks of the necessary density to make the scheme economically viable whilst maintaining a satisfactory level of amenity. In this case, the wider benefits of providing housing, including a 25% affordable element, outweighs any risk to the operation of the performance venue, given that adequate mitigation measures can be put in place to attenuate noise to an acceptable level within the nearest living apartments, albeit using a closed window standard.

Also, noise from the performance venue is not constant and it should be noted that no neighbour complaints regarding noise levels have been received over all the years of operation. The applicant has highlighted that the acoustic assessment is based on the worst-case noise levels as observed over the two concerts attended, including with all the venue doors opened, although the impact of doors opened or closed on the acoustic environment is disputed.

As regards any noise generation from the associated commercial uses proposed, the applicant confirmed that only certain Class 11 uses are proposed, i.e. a yoga/wellness studio. The commercial uses will comprise a small community café, co-working area and multi-functional community space which could be used for wellness, meetings or other activities and the limited scale of the areas available will restrict the numbers of people attending. These facilities will be housed within the retained parts of the historic auction ring and cattle byres range and no residences will be formed in this block. The measures proposed to protect future residents from unacceptable noise levels from the O2 Academy and road traffic noise will adequately mitigate any noise generated by these proposed commercial uses. For this reason, the restrictions on the type of cooking operations recommended by Environmental Protection are not required. However, a further condition has been applied to ensure that odours generated by any cooking operations associated with the approved Class 3, 10 or 11 uses are controlled by an appropriately specified ventilation system.

Air Quality

The application is supported by an Air Quality Impact Assessment there are no air quality issues arising from the proposals. Environmental Protection welcomes the proposed zero parking provision on the site (apart from two accessible spaces with electric vehicle charging points) and priority given to energy reduction and efficiency.

Ground Contamination

Due to the previous industrial use of the site, a condition has been applied requiring a site contamination investigation to be carried out and any necessary mitigation measures to be put in place in the interests of future occupiers of the development, as recommended by Environmental Protection.

Summary

Whilst the level of residential amenity that can be provided on this site as required by policies Hou 3 and the Edinburgh Design Guidance will not be fully achieved on this site, there are mitigating circumstances why this is the case, primarily the required retention of representative parts of category B listed buildings. However, the level of non-compliance with the normal standards will not have a significant detrimental impact on overall amenity levels for future residents, particularly as the retained historic assets will provide an attractive and meaningful social core to the development and the public realm be virtually car-free.

The development will therefore have no unacceptable detrimental impact on residential amenity, in accordance with LDP Policy Des 5.

Affordable Housing

An onsite affordable housing provision of 100 units (25% of the total number of BTR units) is proposed.

The applicant has submitted an Affordable Housing Statement which confirms ongoing engagement with potential affordable housing providers and a commitment to meet the Council's aspiration for a 70% social rent element to be met in conjunction with other tenure options. At this stage and due to ongoing commercial discussions, the applicant is unable to confirm the detailed tenure mix.

There will be a mix of 22 three-bedroom flats, 29 two-bedroom flats and 49 one-bedroom flats within a tenure blind block, well integrated with the wider development and occupying one of the most prominent areas of the site.

The provision of 100 on-site affordable housing units complies with LPD Policy Hou 6 and will be secured by a Section 75 legal agreement, including the final tenure mix.

Parking, road safety and infrastructure

Policy Tra 1 encourages major travel generating development to be located close to sustainable modes of transport.

This site is located within 400 metres of local bus stops on Chesser Avenue and Slateford Road, providing regular services to the city centre and other significant areas of Edinburgh. Lothian Bus services nos. 4, 34, 35 and 44 are frequent and night bus no. N44 runs two to three times per night. The site is also located within 400 metres of Slateford station (within a five-minute walk) which provides hourly rail services to Edinburgh Waverley and Glasgow Central Station. There is existing active travel infrastructure in proximity to the site, including the Water of Leith walkway and National Cycle Route 75.

The site is within easy walking distance of a wide range of amenities including open spaces, schools, retail, leisure facilities and health services. The development would therefore contribute to an existing 20-minute neighbourhood. The BTR and student accommodation units are likely to be occupied by younger adults who would most benefit from walkable access to local services and public transport links.

Currently, public access to the site can only be made from New Market Road, along the north-east side. The site plan seeks to create new pedestrian access points to the north- west (New Mart Road), south-west (to the Water of Leith) and south-east (to the supermarket). The proposal will therefore significantly improve permeability throughout the site, creating new north-south and east-west active travel corridors.

Car parking-free development

The scheme has been assessed against policies Tra 2 on private car parking, Tra 3 on private cycle parking and the standards set out in the Edinburgh Design Guidance.

The development is proposed as a car parking-free scheme therefore access is only required for change of term (students), accessible parking, car club members, refuse collection, deliveries, maintenance and emergency vehicles.

In terms of suitability for car parking-free status, the proposed development is in a sustainable location and in proximity to a range of sustainable and active means of travel. The applicant has submitted a detailed Transport Statement, rather than Assessment, on the basis that traffic generation will be low. Whilst current Scottish Government guidance, set out in Transport Assessments Guidance (dated 2012), makes it clear that a Transport Assessment is expected for developments in excess of 100 units, in this case the level of car ownership is likely to be low given the BTR and PBSA types of accommodation proposed and typical demographic of the occupants who fall into groups that tend to have lower car ownership.

The Transport Statement and subsequent information submitted provides evidence from recent examples of approved developments across Edinburgh with zero and very low parking provision, e.g., the residential flats, including affordable units and PBSA in Iona Street (reference 20/00972/FUL) and the PBSA development at Pentland House on Chesser Crescent. Whilst this site is not within an existing or proposed controlled parking area in contrast to many of the sites quoted, there is the possibility of parking overspill into the neighbouring streets in which there is substantial unrestricted on-street parking available. However, the applicant has provided data relating to car parking provision and uptake at other BTR sites that they manage which demonstrates that car parking uptake at these sites is generally quite low.

This, in addition to the general trend of reduced car ownership and gradual increase in car parking-free housing, along with an increased focus on sustainable transport and travel is sufficient justification to approve the proposed car parking-free development, despite the potential risk of a level of overspill, albeit likely to be insignificant. Moreover, the emerging City Plan seeks to reduce car travel and numbers and places a significant emphasis on the delivery of 20 Minute Neighbourhoods. An informative has been added recommending that the applicant develops a Travel Plan as a further way to promote journeys by public transport and active means. The scheme also proposes three car club spaces to reduce the need for private car ownership.

The restriction of car ownership through tenancy agreements has not been taken into account in terms of justification for approving a car parking-free development in this location, as stipulations of letting agreements are outwith planning legislation.

In terms of the possibility of the future conversion of the BTR or PBSA units to mainstream housing, this would be some time in the future when less car use/ownership should be in place along with improved public transport, if the aims of the emerging City Plan are met.

Cycle parking

The development is proposed as a car parking-free although access is required for accessible DDA parking (two spaces with EV chargers), refuse collection, deliveries, maintenance and emergency vehicles and vehicles associated with students' change of term.

The proposal is line with the guidance set out in the Edinburgh Design Guidance, providing 100% secure cycle parking for the proposed BTR and PBSA accommodation and exceeding the required number of visitor spaces. All are at ground level, except the stores for the student flats which are at lower ground level.

However, this is acceptable as these stores will be accessible via a cycle-friendly lift and ramp. The short stay/visitor parking within the site landscape will be well-overlooked by the flats.

The cycle stands will be a mostly two-tier and parking spaces for a range of non-standard bicycles will be provided within a dedicated store. This storage area will have the potential for the inclusion of workshop/maintenance facilities. Whilst this level of two-tier provision does not comply with the Council's cycle parking Factsheet which requires 50% single tier, 54% of the total cycle parking provision will be at ground level. This is an acceptable compromise in order to accommodate 100% parking provision on this constrained site along with a viable level of living space.

A condition has been applied to ensure that proposed specifications for secure cycle parking are in accordance with the design standards as set out in the Edinburgh Design Guidance and the Council's cycle parking Factsheet and that access into the site caters for cyclists of varying needs.

Road Safety

Vehicular access will be available to the site from New Mart Road via a shared street, allow vehicle movement at slow speeds while prioritising pedestrians and cyclists. Servicing vehicles for the O2 Academy will enter the site from New Mart Road and exit onto New Market Road via a separate lane on the east side of the site, which will improve road safety. A condition has been applied to secure pedestrian-priority signage and a 5-mph speed limit on the shared street which will improve road safety.

A new crossing point will be formed on Asda Road which will connect to new steps and an accessible platform lift, addressing an existing 2.5 metre level difference between the site and road. This will improve pedestrian safety between the new development and supermarket. A condition has been applied to ensure that the new pedestrian crossing is designed in accordance with the Council's road standards and implemented before any part of the site is occupied.

If approaching the site from Slateford train station, there are controlled crossings on Slateford Road which will ensure that pedestrians are able to safely cross this busy main road to access the development. Dropped kerbs will be installed at the existing and new accesses to the site. Visibility is good on Asda Road, New Market Road and New Mart Road in the vicinity of potential crossing points.

Waste/Servicing

Delivery and maintenance vehicles will access the site from New Mart Road and turn at the end of the shared street. Detailed drawings have been submitted showing the locations and capacities of bin stores within the development, all of which will be located adjacent to the street in line with the Council's requirements and the type and capacity of bins, including recycling bins for different materials, has been agreed with Waste Planning.

Roads Infrastructure

The Roads Authority has requested a financial contribution of £18,000 for the provision of the three car club spaces on New Mart Road (£1,500 for the order plus £5,500 per vehicle).

An informative has been added to secure this contribution through a legal agreement.

Education Infrastructure

This site falls within Sub-Area T-2 of the Tynecastle Education Contribution Zone.

The proposed development is required to make financial contributions of £658,759 and £80,411 towards the delivery of primary and secondary education infrastructure respectively within this zone (an additional class at Balgreen Primary School and additional places at St Augustine's RC High School). This sum is calculated on the basis of the 'per flat' rate for 191 proposed flats within the development (excluding the one-bedroom and studio flats).

An informative has been added to secure these contributions through a legal agreement.

Summary

The proposed development will therefore have no detrimental impact on road safety or infrastructure. The scheme includes an appropriate level and type of cycle parking, as well as a few accessible car parking spaces, to cater for the various transport needs of future residents of this car-free development. The proposal complies with LDP Policies Tra 1, Tra 2, Tra 3 and Tra 4.

Flooding and Drainage

The applicant has provided the relevant flood risk assessment and surface water management information for the site as part of the self-certification (with third party verification) process. The proposal includes green roofs, rain gardens and permeable paving.

As regards surface water management, there is an existing connection from the site to the local public sewer network. However, the proposed surface water drainage measures will attenuate flows from the proposed development to achieve a discharge rate of 7.5 litres per second for the whole site in line with the Council's requirements. No underground attenuation tanks are proposed.

A condition has been applied requiring the applicant to confirm that Scottish Water accepts the proposed surface water discharge to the surface water network prior to construction.

The proposals satisfy the Council's Flood Prevention requirements.

Biodiversity

The accompanying public realm scheme proposes a blend of hard landscape with softer green corridors connecting through the development to the Water of Leith, which will encourage local biodiversity.

The proposed soft landscaping contains a variety of low-level planting to suit the local environment and support biodiversity and the brown self-seeding roofs will further enhance local biodiversity by creating a natural habitat that supports various plants, invertebrates and birds. A condition has been applied to ensure that swift bricks are included on the elevations of the new accommodation blocks.

The Preliminary Ecological Appraisal concludes that the site had limited potential to support bats and none were observed during the emergent survey. However, as a precaution, an informative has been added recommending a Tool Box Talk regarding bats prior to the commencement of works on site.

The development will encourage local biodiversity and complies with LDP Policy Env 16.

Conclusion in relation to the Development Plan

Overall, the proposals comply with the Local Development Plan and with particular respect to the provision of housing, including affordable, sustainability, active travel and creating a sense of place.

c) 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, particularly in terms of making efficient use of existing land for accessible housing, supporting climate change mitigation and promoting industrial heritage.

Emerging policy context

The Revised Draft National Planning Framework 4 (NPF 4) was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The revised draft NPF4 includes a policy relating to the Agent of Change Principle. Policy 23 of NPF4 states:

"Development proposals within the vicinity of existing arts venues will fully reflect the agent of change principle and will only be supported where they can demonstrate that measures can be put in place to ensure that existing noise and disturbance impacts on the proposed development would be acceptable and that existing venues and facilities can continue without additional restrictions being placed on them as a result of the proposed new development."

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. The key responsibility for the planning authority remains as stated in the definition of the Agent of Change Principle as enshrined in section 41A of the 1997 Act.

Equalities and human rights

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

Lift access will be provided throughout all the proposed residential blocks and there is level or ramped access to the associated commercial uses and community facilities. Two accessible car parking spaces are proposed off the shared street and a variety of cycle parking spaces will be provided for people with various needs.

The site will be accessible throughout with various level routes through and an accessible platform lift is proposed where there is a change in level between the site and Asda Road. Beyond the site there are two level access points to the Water of Leith walkway leading from New Mart Road: one near the Asda petrol station and the other beside New Mart Gardens.

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 the listed buildings on the site, therefore contrary to Policy Env 2;
- no sufficient case has been made that all alternative local centre uses for the historic buildings have been explored;
- the merits of the proposed development and any perceived public benefits
- do not outweigh the loss of the existing listed buildings;
- the development will harm the setting of the adjacent listed buildings, contrary to Policy Env 3; and
- the existing historic structures on the site would be irreversibly damaged, contrary to Policy Env 4.

The impact on the existing listed buildings on site and the adjacent listed buildings, including the setting of both and case for substantial demolition, is assessed in section a) of the assessment. The relevant determining issue is whether the proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance. In this case, the level of demolition proposed is necessary to prevent the total loss of the heritage assets.

Principle

- loss of the existing covered football pitches, bowling alley and car boot sale without any comparable football facility near the local community;
- there is a need for more homes for rent rather than student accommodation;
- there will be an over-supply of student accommodation in the area, contrary to Policy Hou 8 and there is no university close-by;
- student accommodation may be used for short-term lets outwith term time;
- the local centre will be detrimentally affected by the proposed uses, which is contrary to Policy Ret 5.

The proposed uses on the site are assessed in section b) of the assessment and are judged to comply with the relevant LDP policies. The part-time car boot sale on the site is not an authorised use in planning terms, so the loss of this use has not been assessed. Whilst this special football facility is not available at the nearest sports centres which are around a ten- to fifteen-minute walk away from the site, these centres do provide alternative sporting activities.

Design

- the development will fail to meet the principles of Scottish Planning Policy in terms of efficient use of existing capacities of land and buildings, improving health and well-being, enhancing or promoting access to cultural heritage, reducing waste and
- avoiding over-development;
- there will be a lack of sense of place, which is contrary to Policy Des 1;
- the design concept takes no reference from the characteristics of the site or surrounding area in terms of scale, height, massing and density, contrary to Policy Des 3;
- the development will not have a positive impact on its surroundings, including the wider townscape and landscape and existing views, contrary to Policy Des 4 and Des 11 and
- the development will lack green space and landscaping.

The design of the proposals, including sustainability, is assessed in section b) of the assessment and are judged to comply with the relevant LDP policies and development principles of Scottish Planning Policy.

Noise/Residential Amenity

- the proposed build to rent residential flats in close proximity to the O2 Academy and the mitigation measures proposed in the noise impact assessment submitted are entirely insufficient in terms of ensuring that the proposed noise sensitive development is equipped with sufficient measures to mitigate, minimise or manage the effect of noise from the entertainment venue;

- the failure to design to this standard would impose a breach of condition on the O2 Academy as a direct consequence of an inappropriately designed noise sensitive development being introduced in such proximity;
- the assessment takes no account of the provisions of Policy 23 of the revised draft NPF4 in respect of the Agent of Change Principle as it relates to existing arts venues;
- the development will fail to ensure that the impacts of noise on neighbouring properties are not unreasonable, contrary to Policy Des 5;
- too many people will be living in the area causing over-crowding and noise;
- this site is not appropriate for students due to noise and air pollution issues; and
- the new buildings will block views from flats in New Mart Square.

The impact of the proposed development on the amenity of existing and future residents of the area and consequences for the adjacent performance venue is assessed in section b) of the assessment. Robust, suspensive planning conditions have been applied to ensure that detailed noise mitigation measures are devised to the satisfaction of the planning authority and implemented on site before any of the new residential accommodation is occupied. Loss of private views are not protected in planning policy.

Access, Parking and Infrastructure

- there are insufficient through routes, linkages to active travel routes;
- a car-free zone is too optimistic and there will be parking over-spill in the neighbouring residential streets;
- the provision of cycling parking is unclear in terms of the layout of stores and types of stands;
- increased traffic will cause congestion, create a hazard for pedestrians at two busy crossroads and ruin a quiet residential area;
- the social rent element of the affordable housing will not meet the agreed principle of 70% of the total provision;
- the local infrastructure is inadequate and
- further development will cause strain on the drainage system.

The impact of the proposed development in terms of access, parking and infrastructure is assessed in section b) of the assessment and the proposals are judged to comply with the relevant LDP policies and guidance. Further details of the proposed cycle parking provision have been submitted since the relevant comments were received.

general comments

- need restrictions on car ownership to avoid parking over-spill;
- the number 300 bus is omitted from the Transport Statement;
- could the developer assist with the diversion of buses to re-use the former stops on New Market Road and Asda Road?
- there is insufficient information to assess whether the cycle parking provision will meet Council guidance;
- a Travel Plan welcome pack is required for the residents and students;
- swift bricks should be incorporated in the elevations and
- the plans are too numerous and small-scale to assess the proposals.

Detailed information on bus routes serving the site is in in section b) of the assessment and the issue of additional bus stops is a matter for the bus companies to address. An informative has been added requiring a Travel Plan and a condition has been added to ensure that swift bricks are incorporated in the elevations of the new accommodation blocks. The plans submitted are adequate in terms of planning requirements.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in terms of preserving the parts and features of the listed buildings that embody the special architectural and historic interest which the buildings possess.

Overall, the development is in accordance with the development plan. The proposals will deliver a sustainable and well-designed urban residential scheme that draws on the industrial heritage of the site to create a strong sense of place and will support the adjacent mixed uses surrounding the site. Any deviations from Council policy or guidance are relatively minor and balanced by the wider benefits of the development in terms of the provision of housing with an appropriate affordable element on a redundant brownfield site, along with reduced reliance on car usage. Moreover, this is an exceptional situation where opportunities for development on this site are severely restricted by the need to preserve representative parts of important listed buildings. Alternative uses are limited for the category B listed former cattle sheds in particular, due to the industrial form, extent and condition of these structures.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

Other material considerations support the presumption to grant planning permission.

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 methodology statement for the dismantling, storage and re-erection of the elements of the Livestock Sheds hereby approved for retention shall be submitted and approved in writing by the Planning Authority before any demolition works commence on these structures. The materials used for re-installation shall comprise original elements only, with the exception of any sections/areas where there is insufficient original materials to form the entire architectural element/feature. In such cases, details of the proposed repair/replacement materials shall be provided in the methodology statement. No part of the development hereby approved shall be occupied until the elements of the Livestock Sheds approved for retention have been re-erected in a manner satisfactory to the Planning Authority and before written approval has been obtained from the Planning Authority.
3.
 - i) Prior to the commencement of construction works on site:
 - a) A site survey (including intrusive investigation where necessary) must be carried out to establish, 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. No demolition/development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, public engagement, interpretation analysis and reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. This shall include detailed historic building surveys undertaken prior to and during demolition/strip out works of both the former listed Livestock Sheds and Milch Cow Byres and Sales Area Ring. These surveys will include surveyed elevations, phased plans, combined with photographic and written surveys and archival research to provide an accurate and permanent record of these historic buildings.
5. Details of the proposed new openings for the commercial uses within the retained parts of the Sales Ring/Milch Byres building shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.

6. A detailed specification, including trade names (where appropriate) and sources, of all the proposed external materials (including recycled materials from the demolished structures) for repairs and alterations to the retained historic assets on the site and proposed new buildings and landscaping 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.
7. Prior to the commencement of construction on the residential and student accommodation blocks hereby approved, details of the proposed acoustic glazing and trickle vents specified within the Noise Impact Assessment (NIA) by Sandy Deans consultants, dated 3 July 2022, in Table 5 on page 16, Figure 15 on page 28 and the proposed standard double glazing and trickle vents for all the remaining flats shall be submitted and approved in writing by the Planning Authority. The approved glazing and trickle vents will then be fitted on all respective habitable room windows before any of these rooms are occupied.
8. Prior to the commencement of construction on the residential and student accommodation blocks hereby approved, details of the proposed masonry facades specified in paragraph 4.7.2 on page 17 of the above NIA and the proposed roof construction and mechanical ventilation specified in paragraphs 4.7.3 and 4.7.4 on page 18 of the NIA shall be submitted and approved in writing by the Planning Authority. The approved construction and mechanical ventilation details will be incorporated in the respective areas of the buildings before any of the residences within these areas are occupied.
9. Prior to the occupation of the BTR blocks hereby approved, details of the proposed noise barrier shown in plan in Figure 16 on page 31 of the NIA shall be submitted and approved in writing by the Planning Authority. The approved barrier will be erected in the location specified before any of the BTR residences as are occupied.
10. Details of the proposed ventilation system for any cooking operations associated with the approved Class 3, 10 or 11 uses shall be submitted and approved in writing by the Planning Authority and installed and no odours shall be exhausted into any neighbouring premises. Confirmation from a suitably qualified ventilation specialist will be required to confirm that the system will be able to attain a minimum of 30 air changes per hour. The approved system shall be installed and operational prior to start of the respective commercial operation on site.
11. The Class 11 use hereby approved shall be restricted to a yoga/wellness studio use
12. The detailed specifications for the secure cycle parking hereby proposed shall be in accordance with the design standards as set out in the Edinburgh Design Guidance and the Council's cycle parking Factsheet. The platform lift into the site shall be specified to allow access for cargo bikes and adapted cycles and all new steps shall include a gutter to improve access for cyclists.
13. The proposed new pedestrian crossing shall be designed in accordance with the Council's road standards and implemented before any part of the site is occupied.

14. The applicant shall confirm that Scottish Water accepts the proposed surface water discharge to the surface water network prior to construction.
 15. No development shall take place until a construction environmental management plan, relating to biodiversity (CEMP: biodiversity) has been submitted to and approved in writing by the Planning Authority. The CEMP shall include the following:
 - a) risk assessment of potentially damaging construction activities;
 - b) identification of "biodiversity protection zones";
 - c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - d) location and timing of sensitive works to avoid harm to biodiversity features;
 - e) times during construction when specialist ecologist need to be present on site to oversee works;
 - f) responsible persons and lines of communication;
 - g) role and responsibilities on site of ecological clerk of works (ECoW) or similar competent person and
 - h) use of protective fences, exclusion barriers and warning signs.
 16. Swift bricks shall be installed in the elevations of the new build residential blocks hereby approved. The proposed specification and locations shall be submitted to and approved in writing by the Planning Authority prior to construction works commencing on site.
 17. Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:
 - management of any flat/shallow pitched/green roofs on buildings or solar panel structures within the development site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife Hazards.'
- The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority.
18. The approved landscaping scheme shall be fully implemented within six months of the completion of the development.

Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to safeguard the character of the statutorily listed building.
3. In order to ensure that the site is suitable for redevelopment, given the nature of previous uses/processes on the site.
4. In order to safeguard the interests of archaeological heritage.

5. In order to safeguard the character of the statutorily listed building.
6. In order to enable the planning authority to consider this/these matter/s in detail.
7. In order to protect the amenity of the occupiers of the development.
8. In order to protect the amenity of the occupiers of the development.
9. In order to protect the amenity of the occupiers of the development.
10. In order to protect the amenity of the occupiers of the development.
11. In order to protect the amenity of the occupiers of the development as there are a number of potential uses within Class 11 that would not be suitable within this predominantly residential development.
12. In order to ensure that the level of off-street cycle parking and access is adequate.
13. In order to safeguard the interests of road safety.
14. In order to ensure that the level of drainage infrastructure is adequate.
15. In order to safeguard the interests of nature conservation.
16. In order to safeguard the interests of nature conservation.
17. In order to minimise the attractiveness of the development to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.
18. In order to ensure that the approved landscaping works are properly established on site.

Informatives

It should be noted that:

1. Planning permission shall not be issued until a suitable legal agreement has been concluded to secure the following:

Affordable Housing

- 25% of the residential units to be of an agreed affordable tenure, delivered in accordance with the Council's affordable housing policy and guidance, including a social rent element of at least 70%;

Transport

- the sum of £18,000 for the provision of the three car club spaces on New Mart Road (£1,500 for the order plus £5,500 per vehicle) in the area in line with the Council's LTS Cars1 policy;
- the provision of a pedestrian crossing on Asda Road opposite the accessible access to the site, to the satisfaction of and at no cost to the Council.

Education Infrastructure

- the sums of £658,759 and £80,411 towards the delivery of primary and secondary education infrastructure respectively within Sub-Area T-2 of the Tynecastle Education Contribution Zone (an additional class at Balgreen Primary School and additional places at St Augustine's RC High School), calculated on the basis of the 'per flat' rate for 191 proposed flats within the development (excluding the one-bedroom and studio flats).

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.
 - a) The applicant shall submit and follow a Construction Environment Management Plan to the satisfaction of the Planning Authority.
 - b) Any car parking spaces shall have provision for electric vehicle charging points and installed in accordance with The Institution of Engineering and Technology's Code of Practice for Electric Vehicle Charging Equipment Installation 2nd Edition (2015),
 - c) All mobile plant introduced onto the site shall comply with the emission limits for off road vehicles as specified by EC Directive 97/68/EC. All mobile plant shall be maintained to prevent or minimise the release of dark smoke from vehicle exhausts. Details of vehicle maintenance shall be recorded.
 - d) The developer shall ensure that risk of dust annoyance from the operations is assessed throughout the working day, taking account of wind speed, direction, and surface moisture levels. The developer shall ensure that the level of dust suppression implemented on site is adequate for the prevailing conditions. The assessment shall be recorded as part of documented site management procedures.

e) Internal un-surfaced temporary roadways shall be sprayed with water at regular intervals as conditions require. The frequency of road spraying shall be recorded as part of documented site management procedures.

f) Surfaced roads and the public road during all ground works shall be kept clean and swept at regular intervals using a road sweeper as conditions require. The frequency of road sweeping shall be recorded as part of documented site management procedures.

g) All vehicles operating within the site on un-surfaced roads shall not exceed 15mph to minimise the re-suspension of dust.

h) Where dust from the operations are likely to cause significant adverse impacts at sensitive receptors, then the operation(s) shall be suspended until the dust emissions have been abated. The time and duration of suspension of working and the reason shall be recorded.

i) This dust management plan shall be reviewed monthly during the construction project and the outcome of the review shall be recorded as part of the documented site management procedures.

j) No bonfires shall be permitted.

5. In accordance with the Council's LTS Travplan3 policy, the applicant should develop a Travel Plan including provision for 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) and timetables for local public transport.
6. The Bird Hazard Management Plan must ensure that flat/ shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access ladders or similar. The owner/ occupier must not allow gulls, to nest roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/ occupier when detected or when requested by BAA Airfield Operations staff. The owner/ occupier must remove any nests or eggs found on the roof.

The breeding season for gulls typically runs from March to June. The owner/ occupier must obtain the appropriate licences from the Scottish Executive Environment and Rural affairs Department (SEERAD) before the removal of nests and eggs.

7. A Tool Box Talk regarding bats should be carried out prior to the commencement of works on site.
8. The final agreement letter for this development will be subject to a site visit by CEC Waste Services prior to collections being agreed to confirm all aspects of our guidance had been adhered to. The developer should contact the relevant office a minimum of 12 weeks prior to occupation (individual and communal) to allow time to purchase the bins and set up the site visit for the final checks/agreement on collections.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 1 March 2022

Drawing Numbers/Scheme

01A-4A,05B-26B,27A-36A,37B-43B,45A-56A+57

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Clare Macdonald, Senior Planning Officer
E-mail: clare.macdonald@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Archaeologist

COMMENT: It is recommended that the designs are re-submitted showing greater retention and reuse of historic fabric either by adding at least a further framed section. If permission is granted it is essential that detailed historic building surveys are undertaken prior to and during demolition/strip out works of both the former listed Livestock Sheds and historic Milch Cow Byres and Sales Ring.

It is further recommended that as part of any agreed programme of archaeological works that a programme of public/community engagement is undertaken during development and that the history of the site is incorporated with the final design.

DATE: 2 May 2022

NAME: Hutchison/Chesser Community Council

COMMENT: No comments received.

DATE:

NAME: Economic Development

COMMENT: It is estimated that the proposed development would support approximately 162 FTE jobs and £6.347 million of GVA per annum (2019 prices). When the impact of the existing buildings is accounted for, the projected net impact is an increase of 19 FTE jobs and £1.183 million of GVA per annum (2019 prices).

DATE: 17 March 2022

NAME: Affordable Housing

COMMENT: The Housing service cannot currently support this application as the applicant has not provided justification for intermediate rent as the affordable tenure. The applicant has not committed to the highest priority affordable housing tenure, social rented homes, nor provided sufficient justification why social rent may not be delivered. We would invite the applicant to explore social rent delivery with a registered social landlord and further engage with the Housing Service.

DATE: 3 October 2022

NAME: Communities and Families

COMMENT: The site falls within Sub-Area T-2 of the Tynecastle Education Contribution Zone.

The proposed development is required to make financial contributions of £658,759 and £80,411 towards the delivery of primary and secondary education infrastructure respectively within this zone (an additional class at Balgreen Primary School and additional places at St Augustine's RC High School). This sum is calculated on the basis of the 'per flat' rate for 191 proposed flats within the development (excluding the one-bedroom and studio flats).

DATE: 26 July 2022

NAME: Flood Prevention

COMMENT: This application can proceed to determination with no further comments from CEC Flood Prevention, although we would recommend the following is added as a condition:

Prior to construction, the applicant should confirm that Scottish Water accept the proposed surface water discharge to the surface water network.

DATE: 13 June 2022

NAME: Scottish Water

COMMENT: Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced.

DATE: 29 March 2022

NAME: SEPA

COMMENT: No comments received. There is no risk of river or coastal flooding at the site, so the development falls below the threshold for site specific comments.

DATE:

NAME: Edinburgh Airport

COMMENT: The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding criteria, unless any planning permission granted is subject to a condition requiring the submission of a Bird Hazard Management Plan.

DATE: 4 April 2022

NAME: Parks and Greenspace

COMMENT: No comments received.

DATE:

NAME: SportScotland

COMMENT: The requirement for consultation to sportscotland is set out in The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (Schedule 5). The facilities which would be affected do not fall within the uses in respect of which there is a requirement for consultation to us.

That said, we are aware that these are spaces used by the sporting community and would suggest that the Council in their wider role as planning authority give consideration to this aspect.

DATE: 1 April 2022

NAME: Edinburgh Access Panel

COMMENT: No comments received.

DATE:

NAME: Police Scotland

COMMENT: No comments received.

DATE:

NAME: Lothian and Borders Fire Brigade

COMMENT: No comments received.

DATE:

NAME: Waste Services

COMMENT: This development would be accepted for waste and recycling collections at the planning stage with the waste strategy plan provided in the PDF, 2435 New Mart Road - Waste Management REV B.

DATE: 5 October 2022

NAME: Transport Planning

COMMENT: Whilst there are no objections in principle to the proposed application, issues regarding parking overspill, cycle parking and wheelchair access are not considered to have been adequately addressed

If minded to grant permission, the following conditions or informatives should be included as appropriate:

- a contribution of £18,000 for three car club spaces;
- a minimum requirements of 50% single tier cycle parking; and
- a Travel Plan,

DATE: 3 October 2022

NAME: Environmental Protection

COMMENT: Environmental Protection cannot support this application for several reasons in relation to the effects of noise on future residents. We require this type of noise to be inaudible in new developments and to be assessed with an open window. The applicants noise impact assessments have modelled that noise levels at the nearest proposed units on the site will require acoustic attenuation measures to reduce the exposure of future residential occupants to the potentially harmful effects of music noise in the immediate proximity of the site boundaries, but no specific details on the required glazing units or on the proposed ventilation strategy have been provided. The music venue building is well acoustically insulated but there is still noise breakout from the roof, doors and walls. It is possible that elevated noise levels were incurred during the most recent noise survey as the music venue opened doors which would enable more music noise to escape. As such the impact of the music venue has been assessed based on best available survey data and information known to the applicant and Environmental Protection. There are planning conditions on the music venue which should ensure that these doors are kept closed. Regardless, the music noise escaping the venue even with doors closed would still be problematic.

Liaison between the development and the music venue site will be of critical importance in ensuring the protection of future residents and to protect the continued use of the music venue.

There are no conditions that can be applied to ensure amenity of future tenants is protected.

If planning permission is granted, conditions should be applied on site contamination, noise from the proposed commercial/ entertainment uses (including plant noise), noise during construction and the restriction of cooking operations for the proposed Class 3, 10 and 11 uses.

DATE: 7 September 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 7 December 2022

Application for Listed Building Consent

Site 117 Metres southwest of 6, New Market Road, Edinburgh.

Proposal: Part demolition and alterations of listed buildings in association with proposed mixed-use development.

Item – Other Item at Committee

Application Number – 22/00671/LBC

Ward – B09 - Fountainbridge/Craiglockhart

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because the proposed works affect category B listed buildings and involve a significant degree of demolition.

Recommendation

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

Summary

The proposal is acceptable with regard to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in terms of preserving the parts and features of the listed buildings that embody the special architectural and historic interest which the buildings possess and there will be no detrimental impact on the setting of any listed buildings.

Overall, the proposals comply with Historic Environment Scotland policy and guidance, with particular regard to securing a sustainable and long-term use of the remaining parts of these category B listed buildings. Whilst the level of demolition will result in a degree of impact, this is justified as being the minimum level of intervention necessary to preserve key elements of the special interest of these listed buildings due to the current condition of the buildings, constraints of the site and need to devise an economically viable scheme which will bring wider public benefits. The treatment of the retained elements of the listed cattle sheds and significant curtilage buildings will preserve their historic and architectural character.

SECTION A – Application Background

Site Description

The application site measures 1.78 hectares and is located to the south-west of New Market Road, on the south side of New Mart Road.

The site is occupied by a range of buildings that formed part of the historic 'New Markets' built between 1905 and 1918 which include the Corn Exchange to the north of the site. A significant area of the site is occupied by the category B listed former Livestock Sheds dating from 1912 by James A Williamson, Superintendent of Works, comprising a five-aisled, steel-framed cattle shelter with a corrugated asbestos and glass roof (reference LB30283, listed on 16.06.1992). These are in use as five aside football pitches. The associated rendered range of buildings along the south-east edge of the site comprising the former Milch Cow Byres and Sales Ring are listed as part of the curtilage and are in use as a tenpin bowling alley and snooker/pool hall.

The main buildings of the historic market complex are located to the north-east of the site on New Market Road and north of the site on New Mart Road as follows:

- 11 New Market Road, Corn Exchange, category B listed (reference LB30282, listed on 16.06.1992).
- 8-9 New Market Road, Newmarket Pockets, Former Market Refreshment Rooms, category C listed (reference LB30281, listed on 16.06.1992);
- 6 New Market Road, St Cuthbert's Association Cattle Depot, category B listed (reference LB30280, listed on 10.06.1992); and
- New Mart Road, John Swan and Sons Livestock Market including Caretaker's House, gates and gate piers, category B listed (reference LB30317, listed on 01.07.1994).

The site is mainly level with a marked drop in level between the adjacent Asda supermarket car park and range of buildings containing the tenpin bowling alley and snooker/pool hall. The primary access into the site for pedestrians and vehicles is off New Market Road and there is a historic entrance to the west of this access which is now used for servicing and deliveries to the Corn Exchange complex. Another vehicular entrance accesses the south-west corner of the site off New Mart Road through locked gates.

The surrounding area is mixed-use in character, including predominantly three-storey, modern residential flats to the immediate north beyond the former John Swan and Sons Livestock Market, now in use as offices and small-scale business units. The Corn Exchange buildings, restored in 1999, are in use as a concert and entertainments venue with a bar/bistro occupying the former Market Refreshment Rooms and a meat wholesaler is in the historic St Cuthbert's Association Cattle Depot. An Asda supermarket and associated car park lies to the south-east of the site and a gym with extensive car parking occupies the land to the south-west of the site. The Risk Factory community centre is beyond the gym site beside the Water of Leith.

Description of the Proposal

The proposal includes the partial demolition of the former cattle sheds, cow byres and modern sheds on the site associated with the erection of a mixed-use development comprising built-to-rent (BTR) apartments and student accommodation and alteration of the remaining sections of these buildings to form associated features and facilities.

Approximately 12% of the former Livestock Sheds will be retained in the form of four central bays of the frames (two bays wide and two bays deep) along with elements of the roof structure, including the cupola frames and timber lined gables. Six additional columns will be retained as freestanding elements within the landscape, including girder trusses to link the two columns immediately behind the retained shed bays. These bays will be moved forward (to the east) by one bay depth to form a central part of the masterplan design. The frames will be dismantled to ascertain which segments are in the best condition and which original/existing cladding materials can be retained. Two new pavilion buildings forming the main entrances to the will be erected below the retained structures.

The proposals seek the retention of three eastmost bays of the Milch Cow Byres and Sales Ring, equating to approximately 38% of the existing range. The section which contained the auction ring is included, along with the former milking byres and one bay of the livestock byres, which has a clock on the front facade. New community uses will be accommodated within these structures involving the removal of existing partition walls and erection of new partitions.

In addition to the larger structures detailed above, several feature elements of the listed buildings will be retained within the proposed landscaping, including several columns of the Livestock Sheds in their existing locations and stonework detailing from the former cow byres.

Scheme 1

The original scheme proposed the retention of only the steel frames of the Livestock Sheds, without key elements of the roof structure and coverings or timber gable infills.

An associated application for planning permission has been submitted for the demolition and alteration of the existing buildings on the site and erection of a mixed-use development comprising 393 built-to-rent (BTR) apartments and student accommodation totalling 406 bed spaces, with ancillary facilities, landscaping and access works (application number 22/00670/FUL).

Supporting Information

- Heritage Statement;
- Condition Survey;
- Planning Statement and
- Design and Access Statement and visualisations.

Relevant Site History

21/04830/PAN
Site 117 metres southwest of 6
New Market Road
Edinburgh

Redevelopment to form build-to-rent housing and purpose-built student accommodation with associated ancillary development, demolitions, public realm, landscaping and access.

Pre-application Consultation approved.
28 September 2021

Other Relevant Site History

None.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Archaeologist

Historic Environment Scotland

Historic Environment Scotland

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

Publicity and Public Engagement

Date of Neighbour Notification: Not Applicable

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 4 March 2022;

Site Notices Date(s): 1 March 2022;

Number of Contributors: 1

Section B - Assessment

Determining Issues

This application for listed building consent is required to be assessed against Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- Having due regard to HES Policy and guidance, do the proposals harm a listed building or its setting?

- If the proposals do comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for not approving them?
- If the proposals do not comply with HES Policy and guidance, are there any compelling reasons (including but not limited to the public sector equality duty) for approving them?

Assessment

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

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

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

- Managing Change: Use and Adaptation of Listed Buildings
- Managing Change: Demolition of Listed Buildings
- Managing Change: Setting

Demolition

HES emphasises the importance of retaining listed building and only resorting to demolition if every other option has been explored. Keeping listed buildings in an existing use or finding a new use that has the least possible impact, is the best way to protect them. Alterations to a building, even if extensive, is better than losing the building entirely.

In this case, the approach taken is to retain representative, characteristic parts of the former cattle sheds along with a section of the curtilage buildings, including the part that contained the auction ring and use these elements to inspire positive change within the area. The historic architecture has been used to influence the design of the new development and this, along with a "heritage journey" through the site will retain the essence of the site's historic industrial past and physical evidence of how it once appeared.

The assessment of this proposal falls between the first two HES Managing Change publications listed above. Under the "Use and Adaptation of Listed Buildings" the section on 'selective demolition' is most applicable, although the extent of removal in this case is substantial. However, HES defines selective demolition as involving the removal, or demolition, of parts of a listed building to enable the significant parts of a listed building to be retained. In this sense, the proposed level of demolition falls into this category, given that elements of the structures to be demolished include less important component parts of the original buildings and later additions of little interest.

The final option in the "Use and Adaptation" document is 'enabling development' which in this case would mean using new build development to enable retention of more of the listed asset. However, this site is constrained in area and there is no prospect of obtaining adjacent land, so the enabling development option is not available.

Even then, a fine balance has had to be reached in terms of new build development to allow meaningful retention of key elements of the listed buildings without compromising planning policy and guidance to an unacceptable extent.

HES's publication, "Demolition of Listed Buildings" applies even if part of a building is to be retained, but the proposed works would result in the loss of most of the listed building. The proposed scheme involves minority retention, even if the most representative parts, so has been assessed against the four situations described by HES. If one of the following situations applies, then the loss of a listed building is likely to be acceptable if this is clearly demonstrated and justified.

Is the building no longer of special interest?

The category B listed Livestock Sheds are of special historic interest forming part of a surviving range of buildings that formed part of the historic 'New Markets' complex, dating from the early 20th century. These markets were intended to replace and consolidate the various outmoded market facilities in central Edinburgh and were associated with two major new railway sidings providing the principal transport infrastructure serving the site. The layout for the site was set out in a master plan devised by the Public Works Office under the direction of James Williamson.

Whilst the former cattle sheds are relatively functional, backland structures, in contrast to the more former and decorative, sandstone frontage buildings, which include the Corn Exchange, they have intrinsic historic and architectural interest as a fine example of this building type and construction. This is derived from the structural scale and repetitive rhythms of the functional engineering required at this time to form five large clear span enclosures for sheltering livestock. In addition, the design is high quality with intricately detailed steel framing and glazed roof sections providing natural daylight.

The former Milch Cow Byres, although listed only as curtilage buildings, are part of this agricultural market range and form the south-east edge of the site, although facing into the site. This relatively modest, mainly rendered structure has historic interest as the site of the former auction ring and architectural interest in terms of the rhythm of its gable-on bays and stone wallhead feature panels and glazed cupolas in two of the bays.

Unsympathetic alterations over the years, notably those undertaken to form the current football, bowling and snooker complexes, have had a detrimental impact on the character of both listed structures. In particular, the widening of the westernmost structural bay of the former cattle sheds involved the replacement of original columns with functional steel supports which has upset the internal structural rhythm and authenticity of this bay. Also, partial-height concrete masonry walls, netting and metal cladding were erected to enclose open areas around the perimeter of the sheds detracting from the relatively open nature of the structures. The authenticity of the roof coverings of the sheds has been affected by functional localised repairs and the original interior of the former milch byres was lost in the conversion to the current use, including the installation of suspended ceilings throughout.

However, despite these alterations, the Livestock Sheds and Milch Cow Byres remain listed structures of significant interest.

Is the building incapable of meaningful repair?

This issue is separate to that of the economic viability of any repairs, which is considered below. Most traditionally constructed buildings, even those in an advanced state of decay, can be repaired. A summary of the condition surveys carried out on these listed structures is detailed below.

Livestock Sheds

The former cattle sheds comprise five main bays of steel framed structures, covered with a series of pitched and flat roofs, with a rendered changing room block on the north side. The frames consist of cushion capital columns carrying segmental-arched lattice beams which support segmental-arched roof trusses. The external elevations are formed in a mix of masonry walls with part roughcast finish, timber boarding and corrugated metal cladding and netting.

The condition survey concludes that the metal pitched roofs covering most of the football complex are in a very poor condition and need to be replaced in full, along with the existing roof light formations. Whilst the adjoining and detached pitched roofs are in a serviceable condition, these would require remedial work. The structural steel columns and beams appear to be fair condition, with surface corrosion to the steelwork in some areas and especially at the junction of the steel beams and segmental-arched lattices. However, the structural integrity of these areas has not been established. The various types of external walling are in poor condition and require repairs/replacement.

Milch Cow Byres

The associated milch byres have masonry external walls clad in concrete roughcast with exposed sandstone features and the north elevation is painted. Overall, the structures appear to be in fair condition, with repairs required to the external elevations, although the external structure was not visible during the condition survey due to the extent of the external and internal coverings and numerous cracks in the render finish and areas of bossing were noted. The roof structure and slated pitches are in fair condition, with slates failing in localised areas. The windows which are single glazed, painted Crittal are in reasonable condition with spot corrosion.

In summary, neither of these buildings are incapable of meaningful repair, although the repairs required are extensive and costly, these would not diminish the buildings' special interest.

Is the demolition of the building essential to delivering significant benefits to economic growth or the wider community?

The proposed development will deliver benefits to the wider community in terms of housing and associated economic growth in the area. However, these benefits are not of public significance to the extent that they could be seen to outweigh the strong presumption in favour of retaining listed buildings.

Economic viability?

The final question is whether the repair and reuse of these listed buildings is not economically viable, that is the cost of retaining the structures would be higher than their end value. In such cases, the difference in repair cost to end value is known as the 'conservation deficit'. The principle of demolition should only be accepted where it has been demonstrated that all reasonable efforts have been made to retain the listed building.

In terms of use, the applicant's current operations at New Market Road are no longer sustainable due to the need to modernise the present facilities across the complex to meet and compete with modern requirements along with high ongoing costs of repair and maintenance of the structures across the complex. In particular, the cost of the repair and/or replacement of the roofs and glazed structures of the former cattle sheds and byres is unsustainable and cannot be avoided as some sections are now hazardous. This existing situation was compounded by a period of continuous shut down during the pandemic.

The economic viability of retaining all or parts of the listed fabric has been assessed by the applicant through a series of detailed speculative development appraisals based on condition surveys of the existing buildings and cost estimates, along with a marketing exercise. A substantial "conservation deficit" has been identified across the site which would render the redevelopment of the site with full retention of the existing listed fabric, through minimum intervention, adaptation or extension, not economically viable. Also, the redevelopment of less sensitive parts of the site alone would be insufficient to cross fund the full retention of the existing listed structures. On this basis, the applicant has explored which alternative options would enable the viable retention of the most important representative elements of the listing buildings, within a relevant context. These options included alternative uses along with varying degrees of selective demolition and new build.

In assessing the associated application for listed building consent, Historic Environment Scotland (HES) accepts that there is a substantial conservation deficit, especially if listed buildings on the site are retained, but has noted concerns with the marketing process undertaken in terms of price, which should be the current market value of the site with its existing buildings, reflecting location and condition, and including a guide price on the marketing information. HES has also stated concern that the marketing was over prescriptive by way of considering interest for the retention and refurbishment of the existing premises only, excluding alternative uses. . That acknowledged, these listed buildings, in particular the former cattle sheds, are difficult to re-use and adapt due to their form and scale, so the normal marketing guidance is less applicable for this site.

Economic Development has studied the applicant's calculations and found these to be generally acceptable with a reasonable, if below normal, profit margin. The proposal preferred by HES would not have been economically viable.

Retained Heritage Assets

The elements of the listed structures to be retained encapsulate the functional and historic use of these buildings, illustrating where the livestock were housed, milked and auctioned. These remnants also capture many key historic architectural features, including roof vents, stone banding, access doors, rainwater outlets, a hayloft door and trolley point. The original construction materials of sandstone, harling, slate, timber, metal and glass will also be evident in the retained structures.

Livestock Sheds

The significance of the main listed structures will be acknowledged in the proposed use as covered areas of the proposed "Heritage Square" leading to the entrance lobbies of the new BTR apartments.

The original ornate columns, primary trusses and finer, main-span secondary trusses of the cast iron frames will be fully refurbished and exposed to allow viewing of the original detailing. These are impressive, essential components of the sheds' construction.

Due to structural wind loadings and maintenance concerns, it is not proposed to retain the glazed elements of the roofs. However, the corrugated iron sheeting will be retained to the front two bays of the sheds. Some of this sheeting is understood to be original, but some parts have been replaced and altered for the existing use. The space below the retained frames will form part of the main public realm space of the new development and two pavilion buildings will be sited below the second bays of the historic frames, connecting with the proposed BTR buildings. The omission of roof coverings over these second two bays (to the west) is acceptable to provide sufficient daylight to the new build structures.

The retention of the cast iron cupola structure over all four retained bays will keep an important record of the most visually decorative element of the roof and how daylight and ventilation, through the side louvered vents, was provided. The sheds were constructed with open sides and high-level timber-boarded infills on their end 'gables'. This cladding will be retained, along with the overhanging eaves, bargeboards and decorative plaque on the existing central bay. These are key elements of the historic roof structures which will give the retained bays visual and physical presence when viewed from the "Heritage Square" when entering the site from New Market Road and Asda Road. The decorative plaque will be placed on the first bay seen (to the south) to showcase the detailing of the historic architecture.

This showcasing of essential components of the Livestock Sheds will be continued through the retention of several original columns in their existing locations as part of the landscape design. These columns, in particular the linked columns immediately behind the retained shed bays will indicate the original extent of the livestock sheds.

Conditions have been applied to ensure that all the historic structures on the site are officially recorded and that a robust methodology statement is submitted for approval before any historic structures or features are demolished, relocated or removed from the site.

Milch Cow Byres and Sales Ring

The three bays of this range to be retained will be restored externally using original and matching materials and there are no surviving historic internal features of significance. The proposed uses, including a café/restaurant and wellness/yoga studio acknowledges the historic purpose of the auction area where people would gather to buy and sell livestock and a gives a humorous nod to where the cows were milked and fed in terms of the new food and drink use. Retained stonework and other significant architectural details from the livestock byres will be included in the new landscaping scheme to bring the site's industrial past to life.

There are no significant internal features within the former auction ring/cattle byres range, so the proposed internal alterations will have no detrimental impact on historic or architectural character.

A condition has been applied to ensure that the detailing of any alterations to the main façade to form new openings for the commercial uses will be of appropriate scale and detailing.

The industrial heritage of the site will be encapsulated in physical and narrative form. Apart from the retained elements of the actual structures, elements of the forms, detailing and materials of the proposed new build development will reflect those of the former cattle sheds and byres and this consideration of the history of the site will continue in the proposed landscaping through surface patterns and materials in the landscaping and street furniture. A new storytelling wall within the public square will provide a written and pictorial narrative.

Demolition Summary

In this case, based on a combination of the current condition of the main B listed structures and prohibitive repair costs, combined with the viability of the existing use without essential repairs being carried out, the only realistic way to save any key parts of the buildings is through radical intervention. Whilst the level of demolition is substantial, this is the minimum action necessary to preserve key elements of the special interest of these listed buildings which is also economically viable.

Whilst the extent of retention in terms of percentages of the listed structures on site is low at 12% of the Livestock Sheds and 37% the former Milch Cow Byres, the refined proposals include a level of retention in terms of representative parts and detailing which is sufficient to support the extent of demolition. A level of impact is unavoidable with this amount of demolition, although this is mitigated by the retention of key elements that contribute most to the buildings' respective special characters.

Setting

Historic Environment Scotland's document 'Managing Change in the Historic Environment - Setting' states.

"Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced."

The proposed redevelopment of this site will have an impact on the setting of the adjacent listed buildings which formed the public face of the historic 'New Markets' complex and define the street frontages of New Market Road. These buildings include the category B listed Corn Exchange and St Cuthbert's Association Cattle Depot and category C listed Market Refreshment Rooms to the east of the site. The street presence of these buildings as viewed from Hutchison Terrace is emphasised by the extensive area of fenced grass in front.

The category B listed retained façade of John Swan and Sons Livestock Market on the north side of New Mart Road and flanking façade of the Corn Exchange opposite presented the main secondary frontage to the complex. The southeast facade of St Cuthbert's Association Cattle Depot is prominent in views from the east.

Currently, the gables of the Livestock Sheds are just visible in the longer views from Chesser Avenue and in glimpsed views between the buildings fronting New Market and New Mart Road. Due to a change in site levels, only the roofs of the Milch Byres and Sales Ring and Livestock Sheds are visible from the east.

Whilst the proposed new build development will alter these views, most significantly when viewed from the junctions of Hutchison Terrace and New Mart Road and Asda Road and New Market Road, the scale, massing and design of the new structures will maintain an appropriate setting for the historic frontage buildings. Given the projection above the height of the listed buildings on New Market Road, the fragmentation and variation of the roofscape is a well-considered aspect of the new build design and the choice of materials in type and tone will create an appropriate and complementary backdrop to the listed frontage buildings. Importantly, the physical presence of the "New Markets" in the wider local area will be preserved.

In terms of the setting of the retained elements of the former livestock sheds and cow byres and auction ring, the proposed "Heritage Square" will maintain the openness, public nature and hardstanding character of the historic yard, whilst introducing an appropriate level of soft landscaping to provide visual and physical amenity for the new uses whilst improving water attenuation. The re-purposing of the former auction ring building as a community space will help reaffirm the building's importance as a key historical node on the site and emphasise the significance of the retained frames of the former cattle sheds. The proposed storytelling wall retained heritage features and new landscaping elements influenced by the site's historic function and architecture will enrich the setting of the retained listed structures on the site, as well as the historic frontage buildings.

Conclusion in relation to the listed building

Overall, the proposed development will result in a degree of impact to the listed buildings in terms of the substantial loss of original fabric. However, this is justified as being the minimum level of intervention necessary to preserve key elements of the special interest of these listed buildings due to the current condition of the buildings, constraints of the site and need to devise an economically viable scheme which will bring wider public benefits. The treatment of the retained elements of the listed cattle sheds and significant curtilage buildings will preserve their historic and architectural character.

The proposed new buildings are of appropriate scale, massing, detailing and materials and along with new complementary landscaping, will have no detrimental impact on the setting of the retained listed structures on the site and other listed buildings in the immediate vicinity.

Conditions have been applied to ensure that the specifications for all proposed external materials for repairs and alterations to the retained historic assets on the site and proposed new buildings and landscaping are appropriate.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance as the proposals preserve the features of these listed buildings that embody the special architectural and historic interest which the buildings possess.

b) There are any other matters to consider?

The following matters have been identified for consideration:

Archaeological Remains

The site is within an area of archaeological significance as it contains historic structures that formed part of Edinburgh's 'new markets' complex constructed by the Public Works Office in the early 20th century. A significant area of the site is occupied by the category B listed Livestock Sheds dating from 1912.

Whilst the scale of retention and re-use of the historic structures on site is limited, in this case there are valid grounds for permitting the extent of demolition proposed. However, it is important that the details of these buildings in their existing form are recorded prior to demolition and any significant archaeological remains revealed

Accordingly, a condition has been applied to ensure that a comprehensive programme of archaeological work is undertaken. This programme will include detailed historic building surveys prior to and during demolition/strip out works affecting the listed buildings on the site, a programme of public/community engagement during development and incorporation of the history of the site in the final design.

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

No material objections have been received.

non-material considerations

The comments submitted relate to the associated application for planning permission.

Conclusion in relation to other matters considered

The proposals are acceptable with regard to the other material considerations that have been identified above.

Overall conclusion

The proposal is acceptable with regard to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in terms of preserving the parts and features of the listed buildings that embody the special architectural and historic interest which the buildings possess and there will be no detrimental impact on the setting of any listed buildings.

Overall, the proposals comply with Historic Environment Scotland policy and guidance, with particular regard to securing a sustainable and long-term use of the remaining parts of these category B listed buildings. Whilst the level of demolition will result in a degree of impact, this is justified as being the minimum level of intervention necessary to preserve key elements of the special interest of these listed buildings due to the current condition of the buildings, constraints of the site and need to devise an economically viable scheme which will bring wider public benefits. The treatment of the retained elements of the listed cattle sheds and significant curtilage buildings will preserve their historic and architectural character.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. No demolition shall start until the applicant has confirmed in writing the start date for the new development by the submission of a Notice of Initiation for planning application reference 22/00670/FUL.
2. A detailed methodology statement for the dismantling, storage and re-erection of the elements of the Livestock Sheds hereby approved for retention shall be submitted and approved in writing by the Planning Authority before any demolition works commence on these structures. The materials used for re-installation shall comprise original elements only, with the exception of any sections/areas where there is insufficient original materials to form the entire architectural element/feature. In such cases, details of the proposed repair/replacement materials shall be provided in the methodology statement. No part of the development hereby approved shall be occupied until the elements of the Livestock Sheds approved for retention have been re-erected in a manner satisfactory to the Planning Authority and before written approval has been obtained from the Planning Authority.

3. No demolition/development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, public engagement, interpretation analysis and reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
This shall include detailed historic building surveys undertaken prior to and during demolition/strip out works of both the former listed Livestock Sheds and Milch Cow Byres and Sales Area Ring. These surveys will include surveyed elevations, phased plans, combined with photographic and written surveys and archival research to provide an accurate and permanent record of these historic buildings.
4. A detailed specification, including trade names (where appropriate) and sources, of all the proposed external materials (including recycled materials from the demolished structures) for repairs and alterations to the retained historic assets on the site 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.
5. Details of the proposed new openings for the commercial uses within the retained parts of the Sales Ring/Milch Byres building shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.

Reasons: -

1. In order to retain and/or protect important elements of the existing character and amenity of the site.
2. In order to safeguard the character of the statutorily listed building.
3. In order to safeguard the interests of archaeological heritage.
4. In order to safeguard the character of the statutorily listed building.
5. In order to safeguard the character of the statutorily listed building.

Informatives

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 1 March 2022

Drawing Numbers/Scheme

01A-04A, 05B-26B,27A-36A,37B-43B+45A

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Clare Macdonald, Senior Planning Officer
E-mail:clare.macdonald@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Archaeologist

COMMENT: It is recommended that the designs are re-submitted showing greater retention and reuse of historic fabric either by adding at least a further framed section. If permission is granted it is essential that detailed historic building surveys are undertaken prior to and during demolition/strip out works of both the former listed Livestock Sheds and historic Milch Cow Byres and Sales Ring.

It is further recommended that as part of any agreed programme of archaeological works that a programme of public/community engagement is undertaken during development and that the history of the site is incorporated with the final design.

DATE: 2 October 2022

NAME: Historic Environment Scotland

COMMENT: Scheme 1

We have no concerns with the redevelopment and reuse of the site, and could support the partial demolition of listed buildings, but object to the current application because the total demolition of a category B listed building has not been justified, and we consider a less harmful scheme may be possible. We note the retention of the southern boundary buildings overlooking the 'square' but would prefer more than three buildings to be kept - even keeping a fourth bay would retain the offices, auction ring and one shed of each specific design.

The application proposes the loss of the entirety of the livestock sheds, with the re-erection of only the bare frame of a two double-bay section. As above, the interest of the sheds goes beyond the engineering structure and includes the roof and timber gables.

We consider that the loss of the entirety of the structure would be demolition rather than alteration. This approach would lose the authenticity of the structure and the re-siting of frames could not retain the special interest of the building, leading inevitably to its delisting.

We consider the loss of several of the buildings listed by curtilage is regrettable, but their treatment would not result in an objection. Our main concern is the proposed demolition of the listed sheds. We could support a scheme for partial demolition, provided it retains a meaningful portion of the existing complex in-situ, including the roofing/boarding. This would help retain its special interest as a listed building.

DATE: 11 April 2022

NAME: Historic Environment Scotland

COMMENT: Scheme 2

We have now received these draft conditions and consequently are able to withdraw our objection to the listed building consent application.

Having said the above, we do not consider that the historic environment has been well served in the planning and development of the scheme. We are particularly disappointed

with the extent of demolition, although it is now far less than originally envisaged by the applicants. The planning of the new build within the constrained site, has necessitated a great deal of demolition with seemingly little thought given to the reuse of the sheds for other uses.

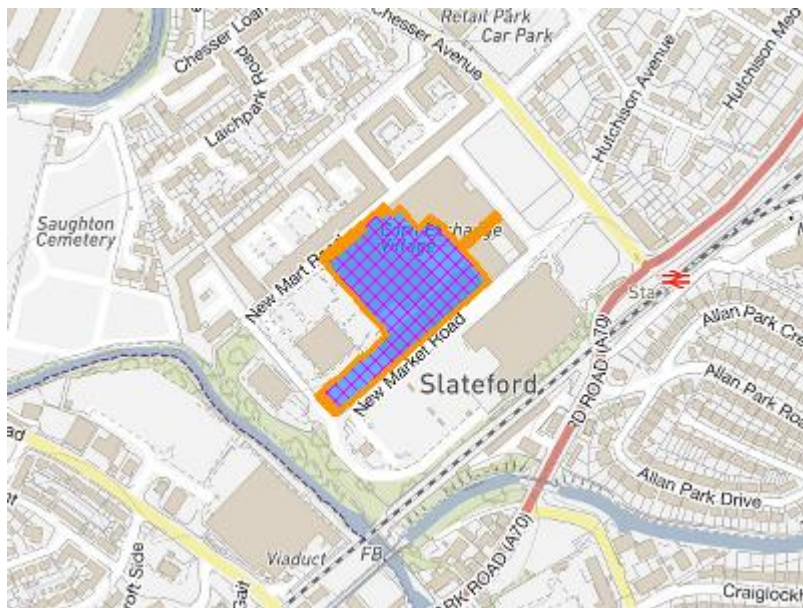
Ideally, therefore, we would still recommend that the further retention of the historic livestock sheds is considered, and also the reuse of an additional bay of the masonry buildings which are listed by curtilage.

Should consent be given, if helpful, our HES conservation engineers would be willing to assist with the fulfilment of your Council's conditions.

DATE: 6 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 7 December 2022

**Application for Planning Permission
New Parliament House, 5 - 7 Regent Road, Edinburgh.**

Proposal: Form new premises for St Mary's Music School including revised layout arrangements, new opening within the West Pavilion and proposed glazed floor light to the external portico (as amended).

**Item – Other Item at Committee
Application Number – 22/02449/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The proposed works affect an iconic category A listed building and are substantial. Therefore, the application must be determined by the Development Management Sub Committee due to being of significant public interest.

Recommendation

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

Summary

The proposed development will preserve an iconic listed building in Edinburgh's historic core in an enduring and sustainable use. The scheme is conservation-led and the proposed alterations and extensions are informed by thorough research of the building and its historical development.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and comply with the development plan.

Overall, the development is in accordance with the development plan. The proposals will deliver a sustainable and well-designed education and leisure facility that will contribute positively to the city's cultural infrastructure and economy.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

Other material considerations support the presumption to grant planning permission.

SECTION A – Application Background

Site Description

The application site comprises the former Royal High School with its grounds and ancillary buildings. The site, measuring 1.13 hectares is located in a prominent, elevated position on the north side of Regent Road at the base of Calton Hill.

The former school, including the retaining/boundary walls, gateposts and railings are category A listed (reference LB27987, listed on 19 April 1966). The main building, known as the Hamilton Building, was designed in the Greek revival style by Thomas Hamilton in 1825-1829 and is composed of a strong symmetrical grouping of the principal Doric temple-pavilion, with flanking colonnades and subsidiary temples (the East and West Pavilions). Architecturally, the building is widely regarded as an exemplar of its type.

The listed group includes the Lodge on the north-west side of the site (built in 1885) and a classical style, classroom block (the Gymnasium Building) sitting to the north-east of the main building. The northern boundary of the former school grounds is enclosed by a deep retaining wall (also part of this listing). The wall runs alongside the public walkway on Calton Hill and there is a tower at its eastern end, currently hidden from view by vegetation and the Gymnasium Building. Other buildings within the site are listed as they were built before 1948 and are within the curtilage of a listed building. These buildings include a block known as the Classroom Building situated to the north-west of the Hamilton Building on the northern edge of the site, and the Luncheon Hall located to the south of the Gymnasium Building.

The Hamilton Building, Pavilions, Gymnasium Building and Lodge are on the Buildings at Risk Register.

An area of informal landscaping, including small trees and shrubs, is located at the western end of the site next to the entrance to the former school and the walkway to Calton Hill. This area contains a car park which is largely screened from public view by the planting. There is a former playground space to the rear of the building and between the buildings at the eastern end. There are terraces and lawns at the front of the site which slope down towards the boundary wall on Regent Road.

There is a collection of category A listed buildings on Calton Hill, including National Monument (reference LB27820), Nelson's Monument (reference LB27823), Dugald Stewart Monument (reference LB27835), Playfair's Monument (reference LB27826) and The City Observatory (reference LB27603), all listed on 19 April 1966. Other category A listed buildings in proximity to the site are: The Robert Burns Monument (by Thomas Hamilton, reference LB27826, listed on 19 April 1966) to the east of the Royal High School on the opposite side of Regent Road; 1 Regent Terrace situated immediately to the east of the site (reference LB29618, listed on 16 December 1965 and part of the 'Calton A' group of listed buildings) and St Andrew House (reference LB27756, listed on 14 December 1970) located to the south-east of the former school, on the opposite side of Regent Road. There is a category B listed 'K6' telephone box (reference LB49151, listed on 19 March 2003) to the west of the site on the northern pavement of Regent Road.

The public park on Calton Hill lies to the north of the site. The park is designated as a Special Landscape Area in the Edinburgh Local Development Plan and is a Site of Special Scientific Interest (SSSI), being part of the Arthur's Seat Volcano. The part is also included in Historic Environment Scotland's Inventory of Gardens and Designed Landscapes.

The site is within 800m of Holyrood Park, which is a Royal Park and a scheduled monument, (reference SM13032, designated on 7 February 2013) and also within 800 metres of the Palace of Holyroodhouse, which is a Royal Palace and category A listed building (reference LB28022, listed on 14 December 1970). The associated Holyrood Abbey, precinct and remains are designated as a scheduled monument (reference SM13031, designated on 7 February 2013).

The site is located in the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

This application is an amendment to the previously approved planning application (reference 15/05662/FUL) to conserve, adapt and extend the original buildings of the former Royal High School to form a new school and public performance space as premises for St Mary's Music School. The new school will contain teaching and practise spaces, residential accommodation, a cafe and other facilities for the school.

The Gymnasium Building, Luncheon Hall and Classroom Block will be demolished.

The key proposed external alterations proposed are as follows:

Hamilton Building

- form a glazed slot in the portico terrace directly behind the columns to allow daylight into the new performance space foyer at lower ground level and install a glass balustrade along the north edge of the slot;
- create a wide glazed entrance opening below the portico on the south elevation, remove part of the existing steps to either side and erect a central flight of steps to access the existing terraced area on the level below (for use by those attending the performance venue);
- remove the existing railings enclosing the terrace at lower ground floor level and re-erect a substantial section at basement level on the southern boundary;
- install 397mm high bronze planters with 40mm high bronze flat bar handrails forming protective balustrades to enclose the proposed terraces and walkways to the south of the portico and
- replace the existing four rooflights adjacent to the Main Hall roof with two new linear rooflights.

New Extension

A low-lying, contemporary style, predominantly glazed and flat/mono-pitch roofed extension to house residential accommodation for boarders, teaching space and practise rooms will be erected to the north and east of the Hamilton Building. The proposed structure is split over two storeys, covering the majority of the eastern side of the site and stepping down to follow the site topography.

The northern element of the extension will sit parallel to the rear elevation of the original building and is single storey apart from two symmetrically-placed, two-storey, octagonal-plan 'turrets' with octagonal glazed cupolas. The new extension will be linked to the Hamilton Building at lower ground level via stairs and a lift housed within a stone-faced circular tower. These stairs and lift will also connect the teaching/practise level with the residential accommodation on the level below. The proposed materials comprise mainly double-glazed, timber/aluminium composite-framed windows, ashlar sandstone walling, ventilated power-coated aluminium panelling, dark-grey finished galvanised steel fascia and grass/wildflower roofs with areas of zinc standing-seam and arrays of photovoltaic panels.

New Entrance Pavilion

The above extension will include a two-storey entrance structure at the west end, accommodating a reception area on the ground floor and administration area at first floor level. The new pavilion comprises a traditionally shaped form with contemporary style detailing. The proposed materials are similar to the rest of the extension, but with smooth-finished, pre-cast stone framing. A double-height section at the south end will allow service, delivery and emergency vehicles through to access the new school.

West Pavilion

The West Pavilion will be converted into a cafe, involving the removal of the existing external steps and flight of steps on the terrace to the immediate south, reduction in the level of this terrace and formation of a new opening in the north elevation to make the entrance accessible. The opening will be predominantly glazed with a solid panel on one side.

East Pavilion

The East Pavilion is proposed for use as ancillary staff residential accommodation at upper ground floor level and service space below. A slapping will be made in the rear wall at basement level to provide access to the service areas within the new extension.

Entrance Lodge

The existing Entrance Lodge is to be converted to form ancillary accommodation for teaching staff. The only external alteration proposed is the removal of the existing stone entrance steps and replacement with an accessible ramp.

Landscaping

The proposed landscape design proposals include the following:

- create a publicly accessible, terraced garden with walkways in place of the existing car park, to the west the Hamilton Building;
- form courtyard gardens to service the proposed school accommodation; and
- provide an all-weather sports pitch on the east section of the new extension at upper ground level.

The planting scheme, comprises 20 trees of semi-mature size, including red oak, cherry, beech and Scots pine located in the western side of the site and within the courtyard gardens, shrubs of varying type, such as juniper, vinca and heather, hedging (hawthorn, yew and mixed native), ornamental grasses, bulbs and lawns and wildflower green roofs. The proposed sports pitch will be surfaced in artificial turf. Twenty-eight of the 67 existing trees within, on and around the application site boundary will be felled, the majority of these being holly and cherry.

The proposed hard surfacing materials comprise natural stone paving on the walkways closest to Regent Road, large natural flagstones on the areas associated with the Hamilton Building, natural stone sets on the main paths and plaza in the western garden area, timber decking in the western garden, resin-bonded gravel on the access road pavement, around the entrance lodge and on secondary pathways, reconstituted and natural stone paving around the eastern section of the new extension, asphalt on the school access road and granite cubes on the parking areas.

Boundaries

The majority of the original walls and railings on the boundary of the site are to be retained. Apart from the relocated section of railings to the north of the portico as described above, two runs of existing railings on retaining walls within the east section of the site are to be removed and stored for use elsewhere on the site. Alterations are proposed to the existing entrance gates and railings at the main site entrance on Regent Road to the west of the site to incorporate form a 4.2 metre wide vehicle access and two matching-width pedestrian gates on either side, one to access the new western garden area. This will involve the reduction of the existing pedestrian gates by 435mm each, extension of the existing vehicular gates and repositioning of the original stone gate piers.

Access, Parking and Servicing

Pedestrian and vehicular access to the site will be from the existing entrance to the school on Regent Road at the west side of the site. Access to the performance venue is proposed via the two existing openings with gates in the retaining wall below the portico on Regent Road. A security gateway is proposed to the north of the Hamilton Building to provide additional secure access for pupils using the residential accommodation.

A total of 15 parking spaces are proposed mainly to the east of the Entrance Lodge, comprising 12 visitor spaces, one staff space and two accessible spaces. Over 40 cycle parking spaces will be provided within the site: 16 spaces to the south of the Entrance Lodge and 24 spaces at the rear of the Hamilton Building. An internal cycle store and changing facility will be located at basement level within the East Pavilion.

Service access is proposed from Regent Road via an existing entrance at the East Pavilion which will access new waste and general stores at basement level.

The heating system for the new build will be low carbon using air source heat pumps located in a standalone location on a service terrace to the north of the retaining wall in the north-east section of the site.

Scheme 2

The revised scheme proposes:

- the reduction of the height of the new Entrance Pavilion by one metre and re-alignment of the structure at right angles to the site retaining wall;
- the set back of the link structure between the Hamilton Building and new extension to behind the screen wall; and
- the further set back and reduction in scale of the proposed planters and handrails to the south of the Hamilton Building and
- the retention of the historic pedestrian gates below the portico on Regent Road.

Key Changes to the 2015 Application

- the creation of a glazed slot in the portico terrace;
- the realignment of the western garden access road and car parking;
- the formation of a café within the West Pavilion, including a new entrance opening in the pavilion wall and new external terrace;
- the extension of the practise rooms along the north boundary wall to adjoin a new entrance pavilion;
- the formation of a plantroom/service area within the east section of the new extension at basement and lower ground floor level, accessed via the existing Regent Road entrance and East Pavilion courtyard and
- erection of air source heat pumps on a semi-recessed service terrace behind the retaining wall on the north-east section of the site.

Listed Building Consent Application

The proposed external alterations and demolition of the Gymnasium Building, Classroom Building and Luncheon Hall are also assessed in the associated application for listed building consent (application reference 22/02450/LBC), along with the proposed internal alterations.

Supporting Information

The following supporting documents have been submitted with this application and are available to view on the Planning and Building Standards Online Services:

- Planning Statement;
- Design and Access Statement;
- Landscape Design and Access Statement;
- Conservation Plan;
- Planning Environmental Engineering Report;
- Surface Water Management Plan and
- Bat Survey.

The application has been screened for an Environmental Impact Assessment (EIA) and no EIA is required. An EIA was submitted as part of the approved 2015 planning application and the current proposals will have no further environmental impacts.

Relevant Site History

15/02381/PAN

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Conservation and adaption of former Royal High School building designed by Thomas Hamilton to form new premises for St Mary's Music School and adaption and demolition of later ancillary buildings essential to form new residential and practice facilities for the school.

Approved

5 June 2015

15/03989/FUL

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Change of use, alterations to and restoration of principal former Royal High School building and pavilions (original Thomas Hamilton-designed school buildings), demolition of ancillary buildings including the former Gymnasium Block and Lodge, new build development, new/improved vehicular, service and pedestrian accesses, landscaping, parking, public realm and other works to create a world class hotel of international standing with associated uses (including publicly accessible bars (public house) and restaurants (Class 3)).

Refused

18 December 2015

15/03990/LBC

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Refurbishment (external and internal), alteration and extension of principal former Royal High School building and pavilions, demolition of former Lodge, Gymnasium Block, demolition of 2 curtilage buildings (former Classroom Block and Luncheon Hall), demolition of existing gates, wall (in part) and formation of new service access.

Refused

21 December 2015

15/05662/FUL

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Project proposes conservation of Thomas Hamilton designed former Royal High School building to form new premises for St Mary's Music School. Combined with demolition of later ancillary buildings, space to the East is created for new residential, teaching/practice facility. Proposed new landscaped public garden to West. New basement created under Main Hall to provide new foyer giving access to public performance spaces above.

Granted
27 February 2017

15/05665/LBC
New Parliament House
5 - 7 Regent Road
Edinburgh
EH7 5BL

Project proposes conservation of Thomas Hamilton designed former Royal High School building to form new premises for St Mary's Music School. Combined with demolition of later ancillary buildings, space to East is created for new residential, teaching + practice facility. To West, a new landscaped public garden is proposed. A new basement created located under the Main Hall to provide new foyer giving access to the public performance spaces above (as amended).

Granted
27 February 2017

17/00587/LBC
New Parliament House
5 - 7 Regent Road
Edinburgh
EH7 5BL

Refurbishment (external/internal), alteration + extension of principal former Royal High School buildings (to include works to north elevation to create new door openings/new corridor links), demolition of former Lodge, Gymnasium Block, demolition of 2 curtilage buildings (former Classroom Block + Luncheon Hall), demolition of existing gates/wall (in part) to facilitate development of a world class hotel.

Refused
7 September 2017

17/00588/FUL
New Parliament House
5 - 7 Regent Road
Edinburgh
EH7 5BL

Change of Use, Alterations to + Restoration of Principal Former Royal High School Building/Pavilions (Original Thomas Hamilton-designed school buildings). Demolition of ancillary buildings including former Gymnasium Block/Lodge, New Build Development, New/Improved vehicular, service/pedestrian accesses. Landscaping/Parking/Public Realm + other works to create a world class Hotel of International Standing with associated Uses (Including publicly accessible bars (Public House) + Restaurants Class 3.

Refused
11 September 2017

Other Relevant Site History

DPEA references PPA-230-2178 and LBC-230-2076
Appeals dismissed against refusal of planning permission reference 15/03989/FUL and listed building consent reference 15/03990/LBC.
20 October 2020

DPEA references PPA-230-2213 and LBC-230-2118

Appeals dismissed against refusal of planning permission reference 17/00588/FUL and listed building consent reference 17/00587/LBC.

20 October 2020

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Historic Environment Scotland

Historic Environment Scotland

Edinburgh World Heritage

The New Town and Broughton Community Council

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

Publicity and Public Engagement

Date of Neighbour Notification: 30 May 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 10 June 2022.

Site Notices Date(s): 6 June 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: Use and Adaptation of Listed Buildings
- Managing Change: Demolition
- Managing Change: Setting

The former Royal High School is a nationally, as well as internationally, important building, being the finest example of Greek Revival architecture in Scotland with no other building matching it in terms of ambition, site, function or form. The building stands not only as an architectural masterpiece but also as one of the most culturally important buildings of its time and one of the most significant buildings in Scotland. Significant interventions are proposed as part of the redevelopment proposals.

A conservation-based approach mainly comprising repair, maintenance and improvement is proposed for the Hamilton Building. Historic Environment Scotland (HES) does not object to this application or the corresponding listed building application and considers that the proposals represent a measured re-use of a nationally and internationally important site and building. HES welcomes the proposed restoration and repairs to the listed buildings on the site and the design of the new school accommodation blocks which, by their scale and positioning, will firmly retain the primacy of the Hamilton Building on the site. However, HES raises concerns relating to specific elements of the proposals affecting the main listed building and its setting. These are addressed in the assessment below.

Demolitions

HES emphasises the importance of retaining listed buildings and only resorting to demolition if every other option has been explored. Keeping listed buildings in an existing use, or finding a new use that has the least possible impact, are the best way to protect them.

In this case, a significant material consideration in relation to demolition is the overall approach to conservation within the site. This therefore needs to be considered alongside HES guidance in respect of the proposed demolition of the category A listed Gymnasium Building, Luncheon Hall and Classroom Block. The value of returning the main Hamilton Building to a long-term, sustainable use cannot be underestimated and the demolition of these buildings is necessary to successfully deliver the requirements of the music school. The conservation-based approach to the site does not permit significant new build in the western section to protect the setting of the Hamilton Building, so the new teaching and accommodation facilities need to be located to the north and east of the main building, hence the need for the demolition of these selected listed structures.

The assessment of this proposal falls under the HES Managing Change guidance, "Use and Adaptation of Listed Buildings" as the proposals involve the selective demolition of parts of the listed building to enable the most significant parts to be retained. As the listing description includes the three structures proposed for demolition, the application does not need to be assessed under HES's guidance, "Demolition of Listed Buildings" as the principal listed building and most significant original structures are being retained.

The Luncheon and Classroom blocks are listed by virtue of their pre-1948 age and location within the curtilage of the Hamilton Building and are not of intrinsic special interest. In contrast, the Gymnasium Building is a late 19th century, classical style, structure of intrinsic historic and architectural interest. However, this building occupies a significant area of the north-west section of the site, and this is precisely where a substantial part of the new facilities for the music school needs to be located to avoid having an unacceptable impact on the setting of the Hamilton Building.

In summary, the significant historic and cultural benefits to be gained by bringing the principal, category A listed building into use as a music school with a concert hall provide strong justification for the demolition of the category A listed Gymnasium Building and other two listed structures. A condition has been applied to ensure that all listed structures to be removed are officially recorded and details regarding the salvage/re-use of the materials are submitted before these buildings are demolished and any historic material is removed from the site.

External Alterations

Hamilton Building

The most significant alteration to the building's external fabric is on the principal (south) elevation, where the formation of a new opening is proposed below the portico, to allow for an entrance into the foyer of the new performance space. This is considered an essential element of the long-term viability of the project for the music school.

Although this entails a significant intervention in the main façade, the new entrance and terrace would be masked from key public viewpoints by the existing retaining wall and would not be visible from Regent Road. In the revised application, the height of the new opening has been reduced to lessen conspicuousness further and the fully glazed infill is an appropriate way to enclose the opening whilst allowing maximum daylight to penetrate the new performance space.

Another significant intervention associated with the proposed performance space foyer at lower ground level, comprises the formation of a glazed slot in the portico floor directly behind the columns and installation of a glass balustrade along the north edge of the slot. HES initially opposed this alteration as it will involve the removal of a section of the existing Craigleith stone paving and recommended the installation of smaller individual lightwells instead. This paving is not the original Arbroath sandstone paving which was replaced by Craigleith sandstone in 1841, but it is nevertheless of significant value in terms of age and quality. HES now accepts this intervention given the importance of this design to the functionality and appearance of the performance space entrance. Whilst the proposed foyer is an underground space, the new lightwell will introduce a beam of sunlight into the foyer which will penetrate into the space and create an intriguing view of the portico soffit. Individual lightwells would not achieve the same effect. A detailed plan of the existing flagstones and proposed configuration has been submitted and the removed paving will be salvaged for re-use elsewhere on the site.

The portico will be accessible to the public from the main assembly hall, so a glass balustrade is proposed for safety purposes, located on the inside of the columns along the north edge of the lightwell. HES has expressed concern that the use of glass in this location will 'draw the eye' due to its reflectiveness and recommends the use of simple bronze or bronze-finished railings instead. However, in the set-back position proposed, this balustrade will not be visible from the street and is therefore acceptable. Neither the proposed lightwell, nor balustrade will have an adverse effect on the visually solid, robust and self-contained character of the portico. A condition has been applied to ensure that the detailing of the balustrade is appropriately refined.

The removal of part of the existing steps to either side of the portico and erection of a new central flight of steps accessing the existing terrace on the level below was approved in the previous application as a relatively modest and discreet intervention to enable use of this terrace as a congregation space for the new performance venue.

Another concern of HES is the proposed removal of the existing railings enclosing the existing terrace at lower ground floor level on the south façade below the portico. This alteration was accepted in the previous application to enable access to the new performance space entrance via the upper terrace. Also approved was the re-erection of a substantial section of these railings at basement level on the south boundary and this is still proposed in the current scheme. Further detailed drawings have been submitted which demonstrate that the existing railings will be carefully dismantled and altered sensitively and minimally at the base to fit within the allocated area on the south elevation. Any leftover sections will be stored for future use on the site.

A new intervention proposed in this application is the installation of planters with handrails to enclose the terraces and walkways that will be formed to the south of the portico. HES is concerned that these are likely to be visible on the principal frontage, reducing the solid monumentality of Hamilton's masonry building and has suggested simple set-back railings instead. However, the main reason for the planters is to allow lower height handrails that will satisfy building regulations. The planters will provide a deep barrier in front of the rails that will deter people from going near an otherwise unprotected edge. Railings alone would have to be significantly higher and have closely spaced uprights. These would be more conspicuous than the proposed arrangement and would appear jarring against the clean horizontal lines of the terrace edges.

The proposed planters and handrails are of minimum height necessary to meet building regulations and have been positioned as far from the terrace edges as possible to minimise conspicuousness. The proposed bronze finish is appropriate in this context and any visible areas will sit unobtrusively within the general horizontality of Hamilton's composition.

The other proposed external alterations to the original Hamilton Building are relatively minor and will have no detrimental impact on historic or architectural character.

West Pavilion

The proposed use of this pavilion as a café will help to maintain the structure and the proposed new contemporary style entrance in the blank north elevation is acceptable to provide daylighting and a connection with the proposed café terrace. A substantial area of this elevation is subterranean at present and the proposed arrangement will reveal the full north elevation whilst maintaining a significant area of sandstone.

East Pavilion

Similarly, the east pavilion will benefit in terms of maintenance from the proposed use as ancillary staff residential accommodation with service space below. The new slapping in the rear wall at basement level will not be conspicuous and will provide the required level access to the service areas within the new extension.

Entrance Lodge

The conversion of the existing entrance lodge to form ancillary accommodation for teaching staff is another positive intervention and the proposed removal of the existing stone entrance steps is acceptable to accommodate an accessible ramp.

Entrance Gates and Boundary Railings

The proposed widening of the listed entrance gates and railings at the main site entrance on Regent Road is necessary to incorporate an access of adequate width for service vehicles to enter the site without risking damage to the historic gateposts. These posts have been damaged by vehicle movements in the past and the proposed arrangement, detailed in the submitted drawings, will have no detrimental effect on the overall appearance and composition of the gate piers and gates.

The removal of two runs of existing railings from retaining walls within the east section of the site is acceptable to enable construction of the new teaching and accommodation extension. These railings will be stored for use elsewhere on the site and a condition has been applied requiring details of the proposed storage location and future use.

New Extension (including new Entrance Pavilion)

The proposed extension will result in a significant increase in the footprint of the original building on its northern and eastern sides. However, the new structure is low-lying and designed in a "quiet" contemporary style to ensure it appears subservient in scale and appearance in relation to the Hamilton Building. The proposed connection to the historic structure at low level is discreet and sensitively handled and allows clear visual and physical separation between the old and new buildings at ground level. The specified materials palette is an appropriate high-quality mix of traditional and modern which will create an elegant and distinctive but complementary structure.

The impact of this extension is assessed further in the following section.

Setting

Historic Environment Scotland's document 'Managing Change in the Historic Environment - Setting' states;

"Setting is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced".

Hamilton Building

The design of the former Royal High School was conceived integrally with the National Monument to the north on Calton Hill. The building was placed on the side of the hill, mimicking the relationship of the Propylea or Lesser Temple (Gateway) to the Parthenon (National Monument) on the Acropolis (Calton Hill), hence the name for Edinburgh, *"the Athens of the North"*. As well as commanding a prominent position on Calton Hill, the Hamilton Building terminates Regent Terrace and provides the foreground for the arrangement of buildings on Calton Hill. The ancillary buildings on the site along with the Burns Monument and landscaped historic gardens on the south side of Regent Road provide a frame for the classical style, centrepiece building.

The proposed new teaching and accommodation block on the eastern section of the site sits lower than the existing Gymnasium Building and its stepped massing and form will follow the natural topography of the hill. The simple, layered style of the design will allow the Hamilton Building to retain primacy when viewed from the most prominent aspects. The inclusion of planting and green roofs will anchor the building into its wider landscape context, making it visually recessive in contrast with the imposing, symmetrical architecture of the Hamilton Building. The relationship between buildings and landscape as originally planned will be enhanced as a result of the low-profile form of the proposed extension.

Whilst the new practise rooms and classrooms proposed to the rear of the Hamilton Building will interrupt views of the building on the approach from the west of the site and from the path to Calton Hill, this will have no serious impact on the historic setting as the north elevation, which formed the main entrance to the former Royal High School, will remain legible. An uncharacteristic series of interlocking spaces will be created close to the main building façade, but the series of spaces created will provide new visual interest in this area of the site. The proposed structure will not follow the sweep of the Calton Hill retaining wall, contrary to HES's recommendation, but sufficient space will remain between the Hamilton Building and new extension to allow 'breathing space' for the listed building. HES has also questioned whether the proposed glazed cupolas to the new practice blocks are appropriate, but these features will not be conspicuous in key views given that two of these cupolas will be to the rear of the main building and the third will merge visually with the glazing of the new extension to the west.

As regards the proposed Entrance Pavilion, the purpose of this structure is to separate the buildings and external areas of the music school (which will be used by staff, students and performers) from the western garden, cafe and southern terraces (for use by the general public). The proposed pavilion is designed to be a distinctive gateway through which all school members and visitors must pass.

The design of the new pavilion structure is influenced by the historic West and East Pavilions having approximately the same footprint, proportions and roof pitch and acts as an aedicule within which sits a reception space reading as a separate building. HES previously recommended the omission of the new pavilion on the grounds that it would obscure the significant approach to, and visibility of, the west and rear façades of the Hamilton Building. In the revised scheme, the proposed structure is aligned at right angles to the north retaining wall and the height has been lowered by one metre. These amendments mean that views of the main listed building from the locations specified above will be less interrupted, including clearer sight of the roof of the Hamilton Building. A series of views are included in the updated Design and Access Statement which demonstrate the impact of the new pavilion on key approaches from the west and how the degree of concealment of the Hamilton Building changes depending on the viewpoint. Overall, the impact on the setting of the main building will not be significant and the proposed Entrance Pavilion will provide an appropriate and visually interesting addition to the site. The use of precast concrete for the frame and proposed contemporary detailing alongside otherwise traditional materials and a traditional form and will subtly distinguish the new architecture from the historic pavilions.

The proposed site landscaping is assessed in detail in section c) but in summary, the removal of several existing trees on and around the site, along with the landscape design, materials and planting specified will enhance the setting of the Hamilton Building and restore the visual prominence of the built structure. At present, this imposing listed building is partially concealed by unmanaged tree and vegetation growth and the formality and clarity of its landscape setting as originally planned has been diminished as a result.

Surrounding Listed Buildings

The low-profile form of the proposed new extension and its careful siting within the site's topography will ensure that the structure has no adverse impact on the setting of the listed buildings or monuments within the vicinity of the application site, including those on Calton Hill.

Conclusion in relation to the listed building

The proposed conservation-based scheme for restoring and revitalising this iconic listed building in an appropriate and long-term, sustainable use represents significant conservation gain, despite the loss of ancillary listed structures. The scheme includes benefits to the wider landscape context of the site and overall setting of the building.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

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:

New Town Conservation Area

The New Town Conservation Area Character Appraisal identifies the key characteristics of the New Town as:

- *"Georgian and early Victorian rectilinear development of grand formal streets lined by fine terraced building expressing neo-classical order, regularity, symmetry, rigid geometry, and a hierarchical arrangement of buildings and spaces;*
- *terminated vistas within the grid layouts and the long-distance views across and out of the conservation area;*
- *a richly varied topography of ancient landform shaped by volcanism and later by glacial scouring;*
- *internationally important private and public open spaces lying within, and on the edge of a neoclassical grid pattern and reflecting the picturesque tradition of landscape improvement and*
- *gardens that create open and framed long distant picturesque views of exceptional quality."*

The character and appearance of the former Royal High School and its landscape setting, which are key elements of the New Town Conservation Area, will be preserved and enhanced through the sensitive re-development and extension of the iconic, category A listed Hamilton Building to accommodate a sustainable and viable use. The proposed use as a music school is similar to the former use as a high school.

The Royal High School was purposefully designed and sited on a prominent location within the landscape setting of Calton Hill. The other monuments on the Hill are designed to be seen alongside one another within this urban landscape. The proposed retention of the Hamilton Building and West and East Pavilions, with minimal interventions to the exteriors, along with most of the original site boundary enclosures will ensure that the contribution these features make to the character and appearance of the conservation area is preserved.

Whilst the listed Gymnasium Building and other structures to be demolished contribute to the character of the conservation area to varying extents, these buildings are not part of the original architectural group, so the proposed demolitions are justifiable, given the benefits of the retention of the principal listed buildings on the site and need to accommodate purpose-built facilities for the new music school. The most significant of these buildings, the Gymnasium Building, sits in the eastern section of the site where the bulk of the new build element of the proposed development has to be located to avoid having a detrimental impact on the setting of the Hamilton Building.

The massing and design of the proposed extension, in particular the low-profile form, respect for the topography of the site and "quiet" architecture with green roofs, will ensure that the Hamilton Building retains its dramatic presence as the centrepiece of this highly prominent and sensitive site within the New Town Conservation Area.

The proposed development will also have a beneficial impact on the landscape character of the site and wider setting of Calton Hill which are key elements of this distinct part of the conservation area. The removal of overgrown vegetation and formation of a landscaped garden on the west side of the site will enhance the site landscaping and provide a visual connection with the green spaces of Calton Hill and Regent Terrace Gardens. From outwith the site, the appreciation of the 'crag and tail formation' of Calton Hill and views of this historic skyline will not be affected and the proposed landscaping works will re-establish a clear distinction between the formal landscape setting of the Hamilton Building and natural landscape of Calton Hill, as was originally planned.

Setting of Old Town Conservation Area

The proposals have also been considered in terms of the impact on key views of the Old Town skyline and architecture from the top and sides of Calton Hill, given the site's location at the base of the Hill.

Key characteristics of the Old Town Conservation Area include:

- *" the landscape and topography formed by vigorous geological activity; and*
- *the quality of long-distance views both open and framed in out and through the spaces, and views from different levels and idiosyncratic angles."*

Whilst the new extension to the Hamilton Building will be visible from Calton Hill, this structure is low-lying and will not impact on views of the Old Town Conservation Area, including views of the Castle. There are two paths at lower level on the south flank of Calton Hill, but views of the Old Town from these paths are already obscured by foliage at the upper level and the Hamilton Building at lower level.

On this basis, the proposed extension, including the glass cupolas on the turret structures to the north and east of the main building will have no impact on views of the Old Town.

The new publicly accessible garden in the western section of the site will enhance access to views of the Old Town Conservation Area from within the site.

Conclusion in relation to the conservation area

The proposed development will preserve and enhance the character and appearance of the New Town Conservation Area and will have no detrimental impact on the setting of the Old Town Conservation Area.

The proposals are acceptable in terms 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 Delivery Policy Del 2
- LDP Shopping and Leisure Policies Ret 7 and Ret 11
- LDP Environment Policies Env 2, Env 3, Env 4, Env 9, Env 12, Env 14, Env 16 and Env 21
- LDP Des 1, Des 3, Des 4, Des 5, Des 6, Des 7 and Des 8
- LDP Transport Policies Tra 1, Tra 2, Tra 3 and Tra 4

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 2, Env 3, Env 4 and Env 6.

The 'Edinburgh Design Guidance' is a material consideration that is relevant in the consideration of the Design and Transport policies and other Environment policies listed above.

Principle of Development

The site is located within the City Centre as designated by the Edinburgh Local Development Plan (LDP).

LDP Policy Del 2 guides development in the city centre, stating that development will be permitted 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"*.

The proposed development meets the criterion of Policy Del 2 which requires a mix of uses within city centre developments appropriate to the location of the site. In this case, the building will remain in a single use - a music school, which is akin to the original use of the listed building and the best type of use in terms of preservation of the key elements of special historic and architectural interest.

The proposed use, which includes a performance space as well as educational facilities, will complement and support the existing tourist, commercial and leisure uses characteristic of the city centre and will add to the vitality of the area, including during evening hours. Also, the inclusion of a public garden and café will add life to the wider site during the day and draw people beyond the east end of Princes Street.

The site is in a highly accessible location with good public and active transport connections to serve pupils travelling from all over the city and the wider regional catchment area, serving this specialised educational facility.

The siting of the proposed performance venue at this city centre location accords with Policy Ret 7, which supports high quality, well-designed arts and leisure facilities within the city centre that safeguards existing character and will not be detrimental to nearby residents' amenity. The impact in terms of noise generation is assessed below.

Policy Ret 11 presumes against the change of use to Class 3 if likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti-social behaviour to the detriment of living conditions for nearby residents. The proposed café is ancillary to the main use as a music school and performance space and of a scale and location that will not cause any significant disruption for residents in the surrounding area.

The development is therefore acceptable in principle and complies with LDP policies Del 2, Ret 7 and Ret 11.

Character and Setting of Listed Buildings

This has been assessed in section a) and the proposals comply with LDP Policies Env 2, Env 3 and Env 4.

Character and Appearance of Conservation Area

This has been assessed in section b) and the proposals comply with LDP Policy Env 6.

Outstanding Universal Value of World Heritage Site

The Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe.

The Statement of Outstanding Universal Value emphasises the importance of maintaining the authenticity of the Site which *"continues to retain its historic role as the administrative and cultural capital of Scotland, while remaining a vibrant economic centre."* The conservation-led redevelopment of this iconic listed building as a music scheme and performance space will reinforce the educational and cultural character of the World Heritage Site.

The proposed development will protect and enhance the historic relationship between the Hamilton Building and its landscape setting and the Old Town through the sensitive redevelopment of the main building, including a discreet extension to the north and east, and creation of a landscaped garden in place of the existing car park.

The proposals also support the ambitions of the World Heritage Site Management Plan, in terms of conservation and re-use of existing buildings, as well as in relation to supporting the culture and sustainability of the Site.

There will be no adverse impact on the qualities which justified the inscription of the Old and New Towns of Edinburgh World Heritage Site, so the development will cause no harm to the Outstanding Universal Value of the Site, in compliance with LDP Policy Env 1.

Designed Landscape

The site is located within the New Town Gardens Designed Landscape which comprises an internationally recognised series of 18th and 19th century town gardens, squares and walks, including the public park at Calton Hill.

The park comprises a carefully laid out, semi-rural landscape in the middle of the city, envisaged as part of a picturesque rural scene that connected with, and brought in, the rural landscape to the town. Each monument within the landscape was placed for dramatic effect in relation to views and paths and there is sufficient landscape space around each element to allow them to be appreciated individually and sequentially.

The proposed development, with its sensitively handled, low profile new build element and terraced gardens, will not damage the special qualities of the Designed Landscape Gardens, including views to, from and within the site, in compliance with LDP Policy Env 7.

Special Landscape Area

The application site is located on the lower slopes of Calton Hill which is an important and prominent landform and iconic landmark. The urban, picturesque landscape of the park contains an arrangement of unique monuments which use their relationships to evoke a strong sense of place, connecting to places beyond Scotland, particularly Greece. This composition has given Edinburgh the name, 'the Athens of the North'. Calton Hill is visible from many locations in the city and is therefore highly sensitive to change.

The Landscape and Visual Impact Assessment, which formed part of the Environmental Statement submitted with the 2015 application, demonstrates that the visual impacts of the development would be most noticeable during the construction phase and such impacts would be temporary. The current scheme does not propose any different or additional elements that would alter this impact. The proposed low-profile form of the new extension, location partially behind the Hamilton Building and green roofing will ensure that there are no adverse impacts on the existing landscape character of Calton Hill, in compliance with LDP policy Env 11.

Conditions have been applied to ensure that the existing trees to be retained on and around the site are protected during construction, and that the proposed landscaping works are implemented within an appropriate timescale.

Site of Special Scientific Interest

The landscape of Calton Hill is part of the geological formation of the Arthur's Seat Volcano, along with Salisbury Crags and Castle Rock. The Hill comprises a 'crag and tail' landform that is a result of geological processes including glaciations and its designation as an SSSI is largely due to its geological characteristics.

Due to limited scale, careful positioning and sensitive design, the proposed new build element and landscaping of the proposed development will have no adverse impact on the visual integrity of the SSSI's topographical formation, in accordance with LDP Policy Env 14.

Sustainability, Design and Sense of Place

Sustainability

The redevelopment of this iconic listed building in an appropriate and sustainable use will enliven the site and wider area and the proposed uses are compatible with the surrounding area.

The design strategy incorporates the principles of sustainable design and construction, including accessibility, connectivity and passive efficiency as significant elements. The retention of most of the existing built structures on the site and re-use/re-cycling of materials from the demolished buildings is another key part of the sustainable approach. The materials condition applied also requires details of sustainability and source. The proposals include a combined heat and power system using air source heat pump technology and photovoltaic panels. The inclusion of wildflower roofs and green landscaping will assist in mitigating the impacts of increased surface water run-off and encourage biodiversity. Further measures which will contribute to carbon reduction are low-energy lighting and communal recycling facilities

In terms of sustainable travel, the site is in an accessible city centre location on a key bus route and within short walking distances of major north-south and east-west bus routes, Waverley Rail Station and the Edinburgh Tram. Secure, off-street cycle parking will be provided for pupils, staff and customers and car parking provision will be minimal and include two accessible spaces. A condition has been applied to ensure that electric vehicle charging points are installed within the parking area. These provisions will encourage sustainable and active travel journeys.

Design

The design concept draws upon the positive characteristics of the site and surrounding landscape and presents a coherent and integrated scheme from a variety of views and perspectives.

The proposed extension takes advantage of the site's topography, stepping down from north to south in a low linear form, following the contours of the hill over the full extent of the eastern part of the site. The resultant deep plan form is punctuated with courtyards, with the stepped building sections designed to allow daylight to enter the school accommodation.

The horizontal alignment of the new structure will respect the horizontal alignment of the Hamilton Building's substantial plinth and terrace structures, whilst the contemporary design of the extension will distinguish the old and new architecture. The materials palette, which includes natural sandstone, metal cladding and glazing, is predominantly traditional and limited, appropriate to the building materials of the listed Hamilton Building and ancillary structures.

The proposed hard and soft landscaping materials and planting schedule will enhance the existing site landscape which has suffered from lack of management and maintenance and includes functional areas of tarmac. The trees, shrubs, hedging and ground cover specified are appropriate to the localised site conditions and will provide shelter, rainwater attenuation and visual interest within the site. The existing car parking area will be reduced in size and re-surfaced as part of the overall landscape design.

Views

The Landscape and Visual Impact Assessment (LVIA), which formed part of the Environmental Assessment submitted with the 2015 application demonstrates that the proposed development will have no detrimental impact on a range of views to and from the site, including city-wide views.

The impact of night-time views will be minimised by the proposed sensitive lighting strategy. This includes back lighting behind the portico columns of the Hamilton Building to create a silhouette effect on the southern façade, discretely located LED lighting and low-level lighting within the gardens. These measures will maintain the connection with the dark background of Calton Hill, which forms the site's night-time setting.

Sense of Place

The proposed development will create a new, distinguishable place which is rooted in the historic built and natural characteristics of the site, including use. This will be achieved through the interrelationship between the retained listed buildings, a well-designed new extension and appropriate landscaping, as well as the creation of a publicly accessible café and garden and new performance space.

Summary

In conclusion, the design of the development is based on a strong sustainable concept which draws upon the positive characteristics of the site and surrounding area and will create a new sense of place, in compliance with LDP Policy Des 1, Des 3, Des 4, Des 6, Des 7 and Des 8.

Archaeological Remains

The site is within an area of archaeological significance containing the nationally important former Royal High School. Prior to the school's construction, the site occurred on the edge of the medieval burgh of the Canongate. The proposed scheme involves no changes to the approved 2015 application that necessitate further consultation with the City Archaeologist.

The demolition of three listed buildings requires a detailed programme of historic building to be undertaken prior to demolition, with particular focus on the Gymnasium Building, which is the most significant.

Accordingly, a condition has been applied to ensure that a comprehensive programme of archaeological work is undertaken which will include detailed historic building surveys prior to and during demolition/alteration works affecting the listed buildings on the site and a programme of public/community engagement during development.

Residential Amenity

The proposed development is bounded to the east by residences on Regent Terrace and there are residences and student halls to the south of the development on Calton Road. These properties are over 100 metres from the proposed performance space.

Use

The proposed use as a music school with a performance space is compatible with the mixed commercial/residential uses within this area, so is acceptable in principle. The ancillary café is small-scale and on the south side of the site away from any nearby residences.

Operational Noise

A noise impact assessment (NIA) was submitted as part of the 2015 application and Environmental Protection was satisfied that the measures proposed in the assessment were adequate to mitigate any noise breakout from the school practise rooms and performance space. The current scheme will have no different effect on residential amenity as the scale and location of the main noise generating areas has not changed.

The proposed noise mitigation measures include the use of acoustic glazing on rooms to be used either for musical instrument practise or performance space. The acoustic glazing plan submitted with the current application specifies which windows will be fitted with acoustic glazing, including secondary glazing where soundproofing measures are required in relation to the listed building.

A condition has been applied to secure the installation of the noise reduction measures as set out in the NIA before the affected areas become operational.

Air Quality

The site is located adjacent to the City Centre Air Quality Management Area, which has been declared for exceeding nitrogen dioxide levels, caused mainly by traffic emissions.

The proposed number of car parking spaces has been reduced from 23 in the 2015 scheme to 15. This is a minimal provision for the proposed uses and scale of development and a condition has been applied requiring the installation of rapid electric vehicle charging points for staff and visitors, in accordance with the previous recommendation of Environmental Protection. The provision of an adequate level of secure cycle parking will encourage the use of non-polluting travel means.

The site is within an accessible location in terms of active means of travel and is nearby major public transport routes, so this will encourage less access by private car.

The proposed development will therefore have no significant detrimental impact on air quality.

Daylight and Sunlight

No neighbouring residences will be detrimentally affected by the proposed development in terms of loss of daylight or overshadowing. Sunlight levels to the nearest residential properties will generally be improved as the proposals involve the replaced of the existing two storey Gymnasium Building with a lower-lying structure.

Privacy

The proposed building will include high level windows to prevent the overlooking of neighbouring residential properties. However, the proposed sport pitch will have the potential to result in some loss of privacy to nearby residents, so a double hedge with hedge heights at 1.8 metres and 1.2 respectively will provide an effective screen to prevent overlooking of the garden of 1 Regent Terrace. A 4-metre high wire grid fence will enclose the pitch.

Light Pollution

The only potential light pollution in terms of neighbouring residences would omit from the proposed sports pitch lighting comprising pole-mounted LED floodlights. The lighting strategy confirms that the placement of the columns and specification of the luminaires and associated controls will adopt the principles of good design to mitigate the potential for light spill. A condition has been applied required further details of the proposed floodlights and height/location of the supporting columns to ensure that the level of lighting is appropriate given the proximity to residential gardens.

Any nuisance caused by lighting intensity is further controlled under the Environmental Protection Act.

Summary

The development will therefore have no unacceptable detrimental impact on residential amenity, in accordance with LDP Policy Des 5.

Parking, road safety and infrastructure

Policy Tra 1 encourages major travel generating development to be located close to sustainable modes of transport.

The application site is in highly accessible location within the city centre which is well served by public transport. The minimal car parking proposed will encourage sustainable travel and the development will have no significant impacts on the local road network.

Parking

The scheme has been assessed against policies Tra 2 on private car parking, Tra 3 on private cycle parking and the standards set out in the Edinburgh Design Guidance.

The proposed car parking provision of 15 spaces, including two accessible spaces, accords with the parking standards for Zone 1 which require no minimum number of spaces.

The proposal is line with the guidance set out in the Edinburgh Design Guidance in terms of cycle parking spaces (over 40) and all spaces are on level ground. A condition has been applied requiring full details of the proposed cycle racks to ensure that the proposed specifications are acceptable in terms of the standards set out in the Edinburgh Design Guidance and Council's cycle parking Factsheet, including provision for cyclists of varying needs.

Road Safety

Pedestrian and vehicular access to the site will be from the existing entrance on Regent Road at the west side of the site and a new continuous footpath will be formed to connect with the proposed Entrance Pavilion. Access to the performance venue is proposed via the two existing openings in the retaining wall on Regent Road. Service access will be from Regent Road via an existing entrance at the East Pavilion. The development therefore raises no road safety concerns.

Infrastructure

No financial contribution is required towards the Edinburgh tram infrastructure as the previous use of the site would have incurred a significantly larger sum than the proposed use.

This application does not include the aspirational scheme for the public realm shown to the south of the red site line. Any proposed future scheme would require further planning permission and implementation of any development on the public highway would be secured through an appropriate legal agreement.

Summary

The proposed development will therefore have no detrimental impact on road safety or infrastructure and accords with LDP Policies Tra 1, Tra 2 and Tra 3.

Trees and Biodiversity

The existing trees on and around the site contribute to the designed semi-rural character of the location and help provide a visual link between the upper and lower sections of the hill in city views.

Whilst 13 out of the 28 trees to be removed are worthy of retention, 21 replacement trees of suitable species, semi-mature size and numbers will be planted in appropriate locations to offset the temporary damage to the site's landscaped setting resulting from the extent of tree removal proposed.

A condition has been applied requiring the submission and implementation of tree protection measures in relation to the existing trees on the southern boundary of the site to ensure that any damage resulting from construction works and associated impacts on the site's landscaped setting are minimised.

Ecological matters are comprehensively dealt with in the Environmental Statement for the 2015 application. The results of a recent bat survey carried out indicated that bat activity was low. However, a safeguarding condition has been applied to ensure that a further bat survey is carried out if the construction works do not commence before late 2023.

The proposed soft landscaping contains a variety of new trees, low-level planting and wildflower roofs to suit the local environment and support biodiversity.

The development will therefore have no adverse effect on trees and will encourage local biodiversity, in compliance with LDP Policies Env 12 and 16.

Geology

The site is adjacent to one section of the Arthur's Seat Volcano Site of Special Scientific Interest (SSSI) which is notified in part for its Carboniferous - Permian Igneous geology. It is therefore important to ensure that the required rock extraction associated with this development does not have a detrimental impact on the special geological interests of this Site. Furthermore, the proposed rock extraction methods also need to avoid impacting on the structural integrity of the remaining listed buildings on the application site and the adjacent, underlying railway tunnels.

The 2015 application included an Environmental Impact Technical Assessment of the proposed methods of rock extraction, which included a potential mix of rock breaking propellants, chemical blasting and hydraulic rock splitting. The applicant advised that site investigations would be carried out to identify the most appropriate methods used, taking into account the localised characteristics of the rock and the degree of control required. The applicant would liaise with other parties, including Scottish Natural Heritage (SNH), Historic Environment Scotland, the Council and Network Rail, to agree an acceptable methodology for rock excavation.

SNH advised that this methodology should be adhered to, to ensure that the natural heritage interests of national importance adjacent to the application site will not be adversely impacted by the proposed development. Both SNH and Network Rail has requested ongoing consultation on the outcomes of any assessments and potential impacts of rock extraction.

A condition has therefore been applied to ensure that the proposed site investigations are carried out prior to the commencement of development and the results are used to inform the selected methodology. An informative is also recommended, advising the applicant to consult with relevant parties during this process.

Flooding and Drainage

The Scottish Environmental Protection Agency (SEPA) had no objections to the 2015 application and the proposed surface water management measures, including green roofs, rain gardens and permeable paving, have not changed from the previous application.

The proposals will improve the existing surface water conditions by adopting large areas of green roofs and other surface water attenuation measures. The submitted Surface Water Management Plan demonstrates that there is sufficient space within the site to allow for the drainage of surface water and storage of any surplus water run-off during periods of excessive rainfall. The proposed Sustainable Urban Drainage System includes the provision of an underground storage tank, situated between the Hamilton Building frontage and Regent Road. This measure is acceptable, given the limited area and heritage constraints of the site.

A condition has been applied requiring the applicant to confirm that Scottish Water accepts the proposed surface water discharge to the surface water network prior to construction. However, the previous scheme involved discharging surface water to the combined public sewer at the same rate as currently proposed, so no issues are anticipated.

The proposals satisfy the Council's Flood Prevention requirements.

Conclusion in relation to the Development Plan

Overall, the proposals comply with the Local Development Plan and with particular respect to the impact on city centre vitality, heritage assets and sustainability.

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 as the use of the site for educational purposes and cultural activities is consistent with the principles relating to the delivery of infrastructure and promoting access to culture, as well as protecting, enhancing and promoting access to the historic environment. The development will also encourage economic growth in the city centre and contribute to climate change mitigation.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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. Lift access will be provided throughout the development and there is level or ramped access to the new public spaces and facilities. Two accessible car parking spaces will be included in the new car parking area.

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

objection comments

- the proposed entrance pavilion will obstruct the view of the north-west corner of the west elevation of the Hamilton Building and the oblique view of the north elevation from the west, so the building should be reduced to a single storey structure; and
- the size of the new opening in the north elevation of the West Pavilion is excessive, as it involves the removal of an excessive amount of original wall to create a 'pocket' for the sliding doors with full width glazing above.

These comments are addressed in section a) of the assessment.

support comments

- the proposed redevelopment of this site to form a new Music School is an appropriate use of the buildings;
- the revisions to the car parking and landscaping previously proposed are generally positive with the reduction in car park numbers and more publicly accessible space made available; and
- a suitable balance has been struck between the impact of the proposed slot in the portico of the Hamilton Building with increased light and access for the new basement space, and the set back of the new balustrade will reduce its visual intrusion.

general comments

- the proposed use of the existing Lodge, which is shown as having residential accommodation, should be clarified to ascertain whether the occupant will have a security/janitorial role or whether the property will be let, either as holiday or staff accommodation; and
- the proposal should include fixed seating around circular tables on the terraces in front of the Hamilton building.

The Lodge building is being converted to ancillary residential accommodation for the music school, so further planning permission would be required if this situation were to change. As regards fixed seating/tables on the south terrace, this could create clutter for people gathering outside the new performance space, so non-fixed seating or tables would be more appropriate.

non-material considerations

The impact on neighbouring residential properties from noise and disruption during construction and the physical effects of structural alterations on listed buildings are non-material in planning terms.

These matters will be addressed under other legislation, including the Control of Pollution Act 1974, and Building Regulations. An informative has been added regarding measures to control the impacts of site-specific demolition and construction noise and vibration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposed development will preserve an iconic listed building in Edinburgh's historic core in an enduring and sustainable use. The scheme is conservation-led and the proposed alterations and extensions are informed by thorough research of the building and its historical development.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and comply with the development plan.

Overall, the development is in accordance with the development plan. The proposals will deliver a sustainable and well-designed education and leisure facility that will contribute positively to the city's cultural infrastructure and economy.

The proposal complies with the policy principles of sustainable development set out in Scottish Planning Policy (SPP).

Other material considerations support the presumption to grant planning permission.

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. No demolition of any listed structures on the site shall commence until the applicant has confirmed in writing the start date for the new development by the submission of a Notice of Initiation.
3. A detailed specification, including trade names (where appropriate) and sources, of all the proposed external materials (including any recycled materials from the demolished structures) for the repairs and alterations to the retained historic assets on the site and proposed new buildings and landscaping shall be submitted to and approved in writing by the Planning Authority before any repair/new construction work is commenced on site. Note: samples of the materials may be required.
4. Notwithstanding the details of the glazed balustrade on the portico terrace shown on drawing number AL-21-001 Revision A (CEC reference 76), the final design of this balustrade shall be refined to the satisfaction of the Planning Authority. Detailed drawings of the agreed design shall be submitted and approval by the Planning Authority before the balustrade is installed.
5. No changes shall be made at any point to the glazing covering the new slot in the portico terrace without first informing the Planning Authority.
6. Details of the storage location and method for the remaining parts of the original railings removed from below the Hamilton Building portico and the original railings removed from the retaining walls within the east section of the site shall be submitted to and approved in writing by the Planning Authority before these railings are removed.
7. No demolition/development shall take place on the site until the applicant has secured the implementation of a comprehensive programme of archaeological work. This programme shall include detailed historic building surveys undertaken prior to and during demolition/strip out works of the three listed buildings to be removed and any alteration work to the Hamilton Building. These surveys will include surveyed elevations, phased plans, combined with photographic and written surveys and archival research to provide an accurate and permanent record of these historic buildings. The work shall also include a programme of public/community engagement during development (interpretation analysis and reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

8. The landscaping scheme hereby approved shall be fully implemented within the first planting season of the completion of the development; and thereafter shall be maintained by the applicant and/or successor to the satisfaction of the Planning Authority; maintenance shall include the replacement of plant stock which fails to survive for whatever reason, as often as required within the first 5 years of the occupation of the proposed school, to ensure the establishment of the approved landscaping scheme.
9. The trees on and around the site shall be protected during the construction period by the erection of fencing, in accordance with BS 5837:2012 " Trees in relation to design, demolition and construction".
10. A rock extraction management plan shall be submitted to and approved by the Planning Authority, prior to the commencement of development, giving full details of the pre-development survey and assessment results and the proposed finalised methodology programme. This methodology programme shall be implemented on site, as part of the proposed Construction and Demolition Management Plan submitted with the previously approved planning application (reference 15/05662/FUL) and no alternative method of rock extraction shall be used without the prior written approval of the Planning Authority.
11. The noise protection measures to the proposed school and performance space, as specified in the Environmental Statement - Technical Appendix 6 'Noise and Vibration' report (Ref TA6) dated December 2015 submitted with the previously approved planning application (reference 15/05662/FUL) and on drawing number AL-02-10 revision B, dated 23 May 2016 shall be carried out before any part of the school or performance space is operational.
12. The detailed specifications for the secure cycle parking hereby proposed should be in accordance with the design standards as set out in the Edinburgh Design Guidance and the Council's cycle parking Factsheet, and shall be submitted to and approved in writing by the Planning Authority before the new build development works commence on site.
13. A further bat survey shall be carried out and submitted to the Planning Authority for consideration prior to any construction works being carried out after 24 December 2023.
14. A minimum of two rapid electric vehicle charging points shall be installed within the car parking area hereby approved. These points shall comprise a dedicated 'Type 2' socket/single phase AC supply offering outputs of up to 7kW per hour. Where a three phase AC supply is available, an otherwise identical higher powered unit can be installed offering up to 22kW per hour.
15. The applicant shall confirm that Scottish Water accepts the proposed surface water discharge to the surface water network prior to construction.

Reasons:-

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to retain and/or protect important elements of the existing character and amenity of the site.
3. In order to enable the planning authority to consider this/these matter/s in detail.
4. In order to safeguard the character of the statutorily listed building.
5. In order to safeguard the character of the statutorily listed building.
6. In order to retain and protect important historic fabric.
7. In order to safeguard the interests of archaeological heritage.
8. In order to ensure that the approved landscaping works are properly established on site.
9. In order to safeguard protected trees.
10. In order to safeguard the special interests of the adjacent Site of Special Scientific Interest and protect local railway infrastructure.
11. In order to safeguard the amenity of neighbouring residents and other occupiers.
12. In order to ensure that the design of the cycle parking is adequate.
13. In the interest of safeguarding a European protected species.
14. In the interests of sustainability.
15. In order to ensure that the level of drainage infrastructure is adequate.

Informatives

It should be noted that:

1. 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.
2. 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.

3. To minimise the level of noise to which sensitive receptors will be exposed, the construction work should be conducted in accordance with a Code of Construction Practice (CoCP). It should be noted the local authority has powers under the Control of Pollution Act (1974) to control noise from construction sites. The Construction and Demolition Environmental Management Plan (including a Noise and Vibration Management Plan, Dust Management Plan and Transport Management Plan) submitted with the previously approved planning application (reference 15/05662/FUL) should be developed in consultation with local residents and active dialogue with local residents should continue during the construction phase.
4. In the preparation of the proposed Rock Extraction Management Plan, required under the terms of condition no. 7 of this planning permission, the applicant should consult with Scottish Natural Heritage, as well as other relevant stakeholders, including the British Geological Survey and Network Rail, in order to reach agreement regarding the proposed details.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 24 May 2022

Drawing Numbers/Scheme

01-12,13A-34A,35-37,38A-50A,56A, 68A, 70A+71-81

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Clare Macdonald, Senior Planning Officer
E-mail: clare.macdonald@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: Scheme 2

HES still has concerns with the scale and siting of the new reception gatehouse and its impact on the setting of the listed building. HES considers the scale of the proposed structure, in particular the shallow-pitched roof, will have an adverse impact on the setting of the Hamilton Building in terms of views of its west façade and rear elevation from the important western approach. HES recommends a simpler reception building, which could follow the temple design, but without a roof over the gateway. HES had also hoped that the proposed practise rooms/classrooms to the north of the main building, which now follow the sweep of the site retaining wall, could have been moved back further from the listed building's north façade.

Regarding the other proposed alterations, HES reiterates the previous comments stating a preference for individual lightwells rather than a slot in the Hamilton Building's portico floor and bronze-finished railings or steel wire rather than a glazed balustrade around the new opening. HES also considers that there is scope to retain either end of the existing railings on the south façade (facing Regent Road) and to re-use the existing gates on this elevation. HES remains unconvinced by the need for visible planters to the frontage of the building and would prefer simple set-back railings but notes the reduction in scale and extent of the planters.

HES welcomes the setting back of the link to the new eastern building behind the screen wall which will retain Hamilton's significant east elevation without alteration, with the original boundary railings reset.

DATE: 11 November 2022

NAME: Historic Environment Scotland

COMMENT: Scheme 1

HES welcomes the proposals create a National Centre for Music providing a future for one of Scotland's most significant buildings which is at risk.

Setting of Category A Listed Buildings

The proposals will maintain the listed building's relationship within its carefully planned setting and due to its design, massing and form, would not have an adverse impact on a series of important views of the building and Calton Hill. The low-lying nature of the eastern school extensions will have no adverse impact on the category A listed Burns Monument or adjacent terrace on Regent Terrace and the settings of Royal Park and Holyrood Palace, Abbey and Gardens, a Scheduled Monument, will be preserved.

The design of the proposals, specifically the absence of significant development on the western playground, will result in no adverse impact on the adjacent category A listed St Andrew's House, as a 'landscape gap' between the two category A listed buildings would be maintained.

World Heritage Site

The former Royal High School and Calton Hill are significant elements within the Old and New Towns of Edinburgh World Heritage Site. HES considers that the proposals, due to their design and massing, especially the absence of tall buildings on either flank of the listed building, would maintain the carefully planned setting and relationship between the hill and former school, evident in a series of views from within and outside the WHS.

Designed Landscape

The form and design of the proposals which limit development on the western playground and keeps development to the east low-lying, will maintain the important setting of the building against Calton Hill, a significant component of The New Town Gardens Inventory Designed Landscape.

Detailed Comments

Hamilton Building and Associated Listed Buildings

The principal of demolition of the ancillary buildings on the site has been accepted within the previous application. Consideration should be given to salvaging materials from the demolished buildings in line with HES's Managing Change advice on demolition.

HES welcomes the confirmation on the location, scale and dimensions of the proposed new structural opening under the portico of the Hamilton Building and concurs that this opening will not be visible from eye level on Regent Road. The preference would be for individual lightwells, rather than the proposed slot in the portico floor, but HES could accept the slot approach, provided the existing Craighleith slabs are salvaged for reuse elsewhere on the site. Simple railings, ideally bronze or bronze-finished, should be specified instead of the proposed glass balustrade.

HES accepts that the retention of the entire section of railings below the portico would be complicated and acknowledges that the removal of these railings already has consent. The re-siting of a section on Regent Road is therefore welcomed, but there is scope to retain either end of the existing railings in situ to act as a barrier in place of the proposed planter railings. The gates to Regent Road on the south façade should be reused rather than renewed.

The proposed new barrier planters and handrails are likely to be visible on the frontage of the building and would reduce the solid monumentality and power of Hamilton's masonry building as a result, so HES would recommend simple set-back railings instead.

New Extension

HES is concerned that the new reception/gatehouse block at the west end of the proposed flat-roofed teaching accommodation to the north of the Hamilton Building, would obscure the significant western approach to, and visibility of, the main building (both its west façade and rear). This element should be revised to remove the roof structure over the gateway, retaining a simpler reception building and an unroofed gateway. Also, the new gatehouse and classroom range should follow the sweep of the

Calton Hill approach road and retaining wall to allow the main building 'breathing space' and to be experienced 'in the round'.

The glazed cupolas to the new practice blocks were not given planning permission in the previous proposal, and HES assumes this will still be the case. The link to the new eastern building from the Hamilton Building should be a minimal flat-roofed extension, rather than the proposed arched vault design.

DATE: 8 July 2022

NAME: Edinburgh World Heritage

COMMENT: The proposed works would have two important core positive heritage impacts - to provide a sustainable use for an important historic site which has long been on the national 'at risk' register, and to reinforce its character as carefully designed place for education. The proposed use will further secure public access to, and enjoyment of, this important cultural site.

Consideration should be given to decreasing the footprint of the proposed new entrance pavilion and/or height alongside any design refinements. Also visual clutter in the form of planters/ balustrades should be avoided wherever possible.

The proposals would have an overall positive impact on the Outstanding Universal Value of the World Heritage Site.

DATE: 11 July 2022

NAME: The New Town and Broughton Community Council

COMMENT: The proposed scheme is a modest revision to the previously consented application, reflecting a more detailed and considered view of the facilities necessary to deliver both a sustainable long term use of the building as well as a cultural asset to the city of Edinburgh and its residents. The New Town and Broughton Community Council remains fully supportive of the proposal.

A suitable compromise appears to have been achieved regarding the proposed glazed floor light to the external portico of the Hamilton building

As regards the realignment of west garden access road and car parking, the Community Council accepts the need for at least some parking provision being required for the school use.

Overall, the landscape proposals are a significant improvement versus what exists there currently and will provide more publicly accessible space. The proposed excavation and regrading works around the new cafe are acceptable in order to make the terrace accessible.

The new entrance pavilion appears (perhaps) unnecessarily dominant in views of the Hamilton building from Waterloo Place, although the need for a new school entrance is accepted in principle. However, this proposal may be acceptable when assessing the wider benefits of the proposal.

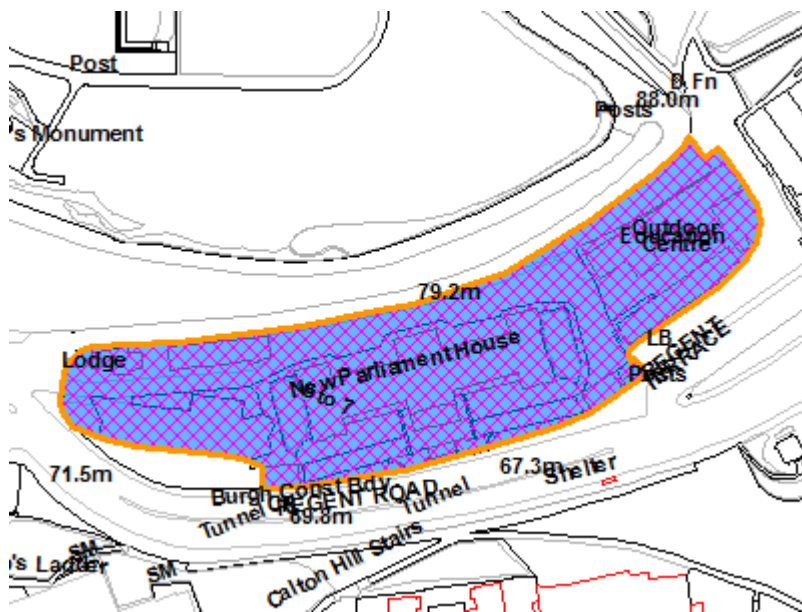
Local residents have been raised concerns raised over the potential for nuisance for those living in the area, especially on Regent Terrace from construction activities, particularly during the demolition and excavation phases.

The Community Council requests that documents in the Environmental Statement that accompanied the previously approved planning application - Construction and Demolition Environmental Management Plan including a Noise and Vibration Management Plan, a Dust Management Plan and a Transport Management Plan should be developed in consultation with local residents and that there would continue to be an active dialogue with local residents.

DATE: 4 July 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 7 December 2022

**Application for Listed Building Consent
New Parliament House, 5 - 7 Regent Road, Edinburgh.**

Proposal: Form new premises for St Mary's Music School including demolition of later ancillary buildings, new residential, teaching and practice facilities, new landscaped public garden, new basement created under Main Hall to provide foyer and associated ancillary works (as amended).

**Item – Other Item at Committee
Application Number – 22/02450/LBC
Ward – B11 - City Centre**

Reasons for Referral to Committee

The proposed works affect an iconic category A listed building and are substantial. Therefore, the application must be determined by the Development Management Sub Committee due to being of significant public interest.

Recommendation

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

Summary

The proposed development will preserve an iconic listed building in Edinburgh's historic core in an enduring and sustainable use. The scheme is conservation-led and the proposed alterations and extensions are informed by thorough research of the building and its historical development.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

SECTION A – Application Background

Site Description

The application site comprises the former Royal High School with its grounds and ancillary buildings. The site, measuring 1.13 hectares is located in a prominent, elevated position on the north side of Regent Road at the base of Calton Hill.

The former school, including the retaining/boundary walls, gateposts and railings are category A listed (reference LB27987, listed on 19 April 1966). The main building, known as the Hamilton Building, was designed in the Greek revival style by Thomas Hamilton in 1825-1829 and is composed of a strong symmetrical grouping of the principal Doric temple-pavilion, with flanking colonnades and subsidiary temples (the East and West Pavilions). Architecturally, the building is widely regarded as an exemplar of its type.

The listed group includes the Lodge on the north-west side of the site (built in 1885) and a classical style, classroom block (the Gymnasium Building) sitting to the north-east of the main building. The northern boundary of the former school grounds is enclosed by a deep retaining wall (also part of this listing). The wall runs alongside the public walkway on Calton Hill and there is a tower at its eastern end, currently hidden from view by vegetation and the Gymnasium Building. Other buildings within the site are listed as they were built before 1948 and are within the curtilage of a listed building. These buildings include a block known as the Classroom Building situated to the north-west of the Hamilton Building on the northern edge of the site, and the Luncheon Hall located to the south of the Gymnasium Building.

The Hamilton Building, Pavilions, Gymnasium Building and Lodge are on the Buildings at Risk Register.

An area of informal landscaping, including small trees and shrubs, is located at the western end of the site next to the entrance to the former school and the walkway to Calton Hill. This area contains a car park which is largely screened from public view by the planting. There is a former playground space to the rear of the building and between the buildings at the eastern end. There are terraces and lawns at the front of the site which slope down towards the boundary wall on Regent Road.

There is a collection of category A listed buildings on Calton Hill, including National Monument (reference LB27820), Nelson's Monument (reference LB27823), Dugald Stewart Monument (reference LB27835), Playfair's Monument (reference LB27826) and The City Observatory (reference LB27603), all listed on 19 April 1966. Other category A listed buildings in proximity to the site are: The Robert Burns Monument (by Thomas Hamilton, reference LB27826, listed on 19 April 1966) to the east of the Royal High School on the opposite side of Regent Road; 1 Regent Terrace situated immediately to the east of the site (reference LB29618, listed on 16 December 1965 and part of the 'Calton A' group of listed buildings) and St Andrew House (reference LB27756, listed on 14 December 1970) located to the south-east of the former school, on the opposite side of Regent Road. There is a category B listed 'K6' telephone box (reference LB49151, listed on 19 March 2003) to the west of the site on the northern pavement of Regent Road.

The public park on Calton Hill lies to the north of the site. The park is designated as a Special Landscape Area in the Edinburgh Local Development Plan and is a Site of Special Scientific Interest (SSSI), being part of the Arthur's Seat Volcano. The part is also included in Historic Environment Scotland's Inventory of Gardens and Designed Landscapes.

The site is within 800m of Holyrood Park, which is a Royal Park and a scheduled monument, (reference SM13032, designated on 7 February 2013) and also within 800 metres of the Palace of Holyroodhouse, which is a Royal Palace and category A listed building (reference LB28022, listed on 14 December 1970). The associated Holyrood Abbey, precinct and remains are designated as a scheduled monument (reference SM13031, designated on 7 February 2013).

The site is located in the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

This application is an amendment to the previously approved listed building consent application (reference 15/05665/LBC) to conserve, adapt and extend the original buildings of the former Royal High School to form a new school and public performance space as premises for St Mary's Music School.

The Gymnasium Building, Luncheon Hall and Classroom Block will be demolished.

The key proposed external alterations proposed are as follows:

Hamilton Building

- form a glazed slot in the portico terrace directly behind the columns to allow daylight into the new performance space foyer at lower ground level and install a glass balustrade along the north edge of the slot;
- create a wide glazed entrance opening below the portico on the south elevation, remove part of the existing steps to either side and erect a central flight of steps to access the existing terraced area on the level below (for use by those attending the performance venue);
- remove the existing railings enclosing the terrace at lower ground floor level and re-erect a substantial section at basement level on the southern boundary;
- install 397mm high bronze planters with 40mm high bronze flat bar handrails forming protective balustrades to enclose the proposed terraces and walkways to the south of the portico;
- replace the existing four rooflights adjacent to the Main Hall roof with two new linear rooflights;
- adapt the former Assembly Hall to form a public performance space, including the removal of the existing tiered seating and floor and installation of a new floor structure spanning the width of the room to support a retractable seating system;
- excavate the basement area to create a large, vault-roofed foyer space for the proposed concert hall;
- install new stair and lift access to provide circulation to and from the concert hall; and
- make minor slappings and sub-divisions at all levels.

New Extension

A low-lying, contemporary style, predominantly glazed and flat/mono-pitch roofed extension to house residential accommodation for boarders, teaching space and practise rooms will be erected to the north and east of the Hamilton Building. The proposed structure is split over two storeys, covering the majority of the eastern side of the site and stepping down to follow the site topography. The northern element of the extension will sit parallel to the rear elevation of the original building and is single storey apart from two symmetrically-placed, two-storey, octagonal-plan 'turrets' with octagonal glazed cupolas. The new extension will be linked to the Hamilton Building at lower ground level via stairs and a lift housed within a stone-faced circular tower. These stairs and lift will also connect the teaching/practise level with the residential accommodation on the level below. The proposed materials comprise mainly double-glazed, timber/aluminium composite-framed windows, ashlar sandstone walling, ventilated power-coated aluminium panelling, dark-grey finished galvanised steel fascia and grass/wildflower roofs with areas of zinc standing-seam and arrays of photovoltaic panels.

New Entrance Pavilion

The above extension will include a two-storey entrance structure at the west end, accommodating a reception area on the ground floor and administration area at first floor level. The new pavilion comprises a traditionally shaped form with contemporary style detailing. The proposed materials are similar to the rest of the extension, but with smooth-finished, pre-cast stone framing. A double-height section at the south end will allow service, delivery and emergency vehicles through to access the new school.

West Pavilion

The West Pavilion will be converted into a cafe, involving the removal of the existing external steps and flight of steps on the terrace to the immediate south, reduction in the level of this terrace and formation of a new opening in the north elevation to make the entrance accessible. The opening will be predominantly glazed with a solid panel on one side.

East Pavilion

The East Pavilion is proposed for use as ancillary staff residential accommodation at upper ground floor level and service space below. A slapping will be made in the rear wall at basement level to provide access to the service areas within the new extension.

Entrance Lodge

The existing Entrance Lodge is to be converted to form ancillary accommodation for teaching staff. The only external alteration proposed is the removal of the existing stone entrance steps and replacement with an accessible ramp.

Boundaries

The majority of the original walls and railings on the boundary of the site are to be retained. Apart from the relocated section of railings to the north of the portico as described above, two runs of existing railings on retaining walls within the east section of the site are to be removed and stored for use elsewhere on the site. Alterations are proposed to the existing entrance gates and railings at the main site entrance on Regent Road to the west of the site to incorporate form a 4.2 metre wide vehicle access and two matching-width pedestrian gates on either side, one to access the new western garden area. This will involve the reduction of the existing pedestrian gates by 435mm each, extension of the existing vehicular gates and repositioning of the original stone gatepiers.

Access to the performance venue is proposed via the two existing openings with gates in the retaining wall below the portico on Regent Road.

Scheme 2

The revised scheme proposes:

- the reduction of the height of the new Entrance Pavilion by one metre and re-alignment of the structure at right angles to the site retaining wall;
- the set back of the link structure between the Hamilton Building and new extension to behind the screen wall; and
- the further set back and reduction in scale of the proposed planters and handrails to the south of the Hamilton Building; and
- the retention of the historic pedestrian gates below the portico on Regent Road and
- the removal of only two original columns within the Assembly Hall, rather than the replacement of all with console brackets.

Key Changes to the 2015 Application

- the creation of a glazed slot in the portico terrace;
- the formation of a café within the West Pavilion, including a new entrance opening in the pavilion wall and new external terrace;
- the extension of the practise rooms along the north boundary wall to adjoin a new entrance pavilion; and
- the formation of a plantroom/service area within the east section of the new extension at basement and lower ground floor level, accessed via the existing Regent Road entrance and East Pavilion courtyard.

Planning Permission Application

The proposed change of use, external alterations, demolition of the Gymnasium Building, Classroom Building and Luncheon Hall are also assessed in the associated application for planning permission (application reference 22/00327/LBC), along with the proposed landscaping and parking.

Supporting Information

The following supporting documents have been submitted with this application and are available to view on the Planning and Building Standards Online Services:

- Planning Statement;
- Design and Access Statement; and
- Conservation Plan.

Relevant Site History

15/02381/PAN

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Conservation and adaption of former Royal High School building designed by Thomas Hamilton to form new premises for St Mary's Music School and adaption and demolition of later ancillary buildings essential to form new residential and practice facilities for the school.

Approved

5 June 2015

15/03989/FUL

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Change of use, alterations to and restoration of principal former Royal High School building and pavilions (original Thomas Hamilton-designed school buildings), demolition of ancillary buildings including the former Gymnasium Block and Lodge, new build development, new/improved vehicular, service and pedestrian accesses, landscaping, parking, public realm and other works to create a world class hotel of international standing with associated uses (including publicly accessible bars (public house) and restaurants (Class 3)).

Refused

18 December 2015

15/03990/LBC

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Refurbishment (external and internal), alteration and extension of principal former Royal High School building and pavilions, demolition of former Lodge, Gymnasium Block, demolition of 2 curtilage buildings (former Classroom Block and Luncheon Hall), demolition of existing gates, wall (in part) and formation of new service access.

Refused

21 December 2015

15/05662/FUL

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Project proposes conservation of Thomas Hamilton designed former Royal High School building to form new premises for St Mary's Music School. Combined with demolition of later ancillary buildings, space to the East is created for new residential, teaching/practice facility. Proposed new landscaped public garden to West. New basement created under Main Hall to provide new foyer giving access to public performance spaces above.

Granted

27 February 2017

15/05665/LBC

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Project proposes conservation of Thomas Hamilton designed former Royal High School building to form new premises for St Mary's Music School. Combined with demolition of later ancillary buildings, space to East is created for new residential, teaching + practice facility. To West, a new landscaped public garden is proposed. A new basement created located under the Main Hall to provide new foyer giving access to the public performance spaces above (as amended).

Granted

27 February 2017

17/00587/LBC

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Refurbishment (external/internal), alteration + extension of principal former Royal High School buildings (to include works to north elevation to create new door openings/new corridor links), demolition of former Lodge, Gymnasium Block, demolition of 2 curtilage buildings (former Classroom Block + Luncheon Hall), demolition of existing gates/wall (in part) to facilitate development of a world class hotel.

Refused

7 September 2017

17/00588/FUL

New Parliament House

5 - 7 Regent Road

Edinburgh

EH7 5BL

Change of Use, Alterations to + Restoration of Principal Former Royal High School Building/Pavilions (Original Thomas Hamilton-designed school buildings). Demolition of ancillary buildings including former Gymnasium Block/Lodge, New Build Development, New/Improved vehicular, service/pedestrian accesses.

Landscaping/Parking/Public Realm + other works to create a world class Hotel of International Standing with associated Uses (Including publicly accessible bars (Public House) + Restaurants Class 3.

Refused

11 September 2017

Other Relevant Site History

DPEA references PPA-230-2178 and LBC-230-2076

Appeals dismissed against refusal of planning permission reference 15/03989/FUL and listed building consent reference 15/03990/LBC.

20 October 2020

DPEA references PPA-230-2213 and LBC-230-2118

Appeals dismissed against refusal of planning permission reference 17/00588/FUL and listed building consent reference 17/00587/LBC.

20 October 2020

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Historic Environment Scotland

Historic Environment Scotland

New Town and Broughton Community Council

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

Publicity and Public Engagement

Date of Neighbour Notification: Not Applicable

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 10 June 2022.

Site Notices Date(s): 6 June 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 or its setting?**
- a) The proposals harm the listed building and its setting?**

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

- Managing Change: Use and Adaptation of Listed Buildings
- Managing Change: Demolition
- Managing Change: Setting

The former Royal High School is a nationally, as well as internationally, important building, being the finest example of Greek Revival architecture in Scotland with no other building matching it in terms of ambition, site, function or form. The building stands not only as an architectural masterpiece but also as one of the most culturally important buildings of its time and one of the most significant buildings in Scotland. Significant interventions are proposed as part of the redevelopment proposals.

A conservation-based approach mainly comprising repair, maintenance and improvement is proposed for the Hamilton Building. Historic Environment Scotland (HES) does not object to this application or the corresponding listed building application and considers that the proposals represent a measured re-use of a nationally and internationally important site and building. HES welcomes the proposed restoration and repairs to the listed buildings on the site and the design of the new school accommodation blocks which, by their scale and positioning, will firmly retain the primacy of the Hamilton Building on the site. However, HES raises concerns relating to specific elements of the proposals affecting the main listed building and its setting. These are addressed in the assessment below.

Demolitions

HES emphasises the importance of retaining listed buildings and only resorting to demolition if every other option has been explored. Keeping listed buildings in an existing use, or finding a new use that has the least possible impact, are the best way to protect them.

In this case, a significant material consideration in relation to demolition is the overall approach to conservation within the site. This therefore needs to be considered alongside HES guidance in respect of the proposed demolition of the category A listed Gymnasium Building, Luncheon Hall and Classroom Block. The value of returning the main Hamilton Building to a long-term, sustainable use cannot be underestimated and the demolition of these buildings is necessary to successfully deliver the requirements of the music school. The conservation-based approach to the site does not permit significant new build in the western section to protect the setting of the Hamilton Building, so the new teaching and accommodation facilities need to be located to the north and east of the main building, hence the need for the demolition of these selected listed structures.

The assessment of this proposal falls under the HES Managing Change guidance, "Use and Adaptation of Listed Buildings" as the proposals involve the selective demolition of parts of the listed building to enable the most significant parts to be retained. As the listing description includes the three structures proposed for demolition, the application does not need to be assessed under HES's guidance, "Demolition of Listed Buildings" as the principal listed building and most significant original structures are being retained.

The Luncheon and Classroom blocks are listed by virtue of their pre-1948 age and location within the curtilage of the Hamilton Building and are not of intrinsic special interest. In contrast, the Gymnasium Building is a late 19th century, classical style, structure of intrinsic historic and architectural interest.

However, this building occupies a significant area of the north-west section of the site, and this is precisely where a substantial part of the new facilities for the music school needs to be located to avoid having an unacceptable impact on the setting of the Hamilton Building.

In summary, the significant historic and cultural benefits to be gained by bringing the principal, category A listed building into use as a music school with a concert hall provide strong justification for the demolition of the category A listed Gymnasium Building and other two listed structures. A condition has been applied to ensure that all listed structures to be removed are officially recorded and details regarding the salvage/re-use of the materials are submitted before these buildings are demolished and any historic material is removed from the site.

Alterations

Hamilton Building

The most significant alteration to the building's external fabric is on the principal (south) elevation, where the formation of a new opening is proposed below the portico, to allow for an entrance into the foyer of the new performance space. This is considered an essential element of the long-term viability of the project for the music school. Although this entails a significant intervention in the main façade, the new entrance and terrace would be masked from key public viewpoints by the existing retaining wall and would not be visible from Regent Road. In the revised application, the height of the new opening has been reduced to lessen conspicuousness further and the fully glazed infill is an appropriate way to enclose the opening whilst allowing maximum daylight to penetrate the new performance space.

Another significant intervention associated with the proposed performance space foyer at lower ground level, comprises the formation of a glazed slot in the portico floor directly behind the columns and installation of a glass balustrade along the north edge of the slot. HES initially opposed this alteration as it will involve the removal of a section of the existing Craigleith stone paving and recommended the installation of smaller individual lightwells instead. This paving is not the original Arbroath sandstone paving which was replaced by Craigleith sandstone in 1841, but it is nevertheless of significant value in terms of age and quality. HES now accepts this intervention given the importance of this design to the functionality and appearance of the performance space entrance. Whilst the proposed foyer is an underground space, the new lightwell will introduce a beam of sunlight into the foyer which will penetrate into the space and create an intriguing view of the portico soffit. Individual lightwells would not achieve the same effect. A detailed plan of the existing flagstones and proposed configuration has been submitted and the removed paving will be salvaged for re-use elsewhere on the site.

The portico will be accessible to the public from the main assembly hall, so a glass balustrade is proposed for safety purposes, located on the inside of the columns along the north edge of the lightwell. HES has expressed concern that the use of glass in this location will 'draw the eye' due to its reflectiveness and recommends the use of simple bronze or bronze-finished railings instead. However, in the set-back position proposed, this balustrade will not be visible from the street and is therefore acceptable.

Neither the proposed lightwell, nor balustrade will have an adverse effect on the visually solid, robust and self-contained character of the portico. A condition has been applied to ensure that the detailing of the balustrade is appropriately refined.

The removal of part of the existing steps to either side of the portico and erection of a new central flight of steps accessing the existing terrace on the level below was approved in the previous application as a relatively modest and discreet intervention to enable use of this terrace as a congregation space for the new performance venue.

Another concern of HES is the proposed removal of the existing railings enclosing the existing terrace at lower ground floor level on the south façade below the portico. This alteration was accepted in the previous application to enable access to the new performance space entrance via the upper terrace. Also approved was the re-erection of a substantial section of these railings at basement level on the south boundary and this is still proposed in the current scheme. Further detailed drawings have been submitted which demonstrate that the existing railings will be carefully dismantled and altered sensitively and minimally at the base to fit within the allocated area on the south elevation. Any leftover sections will be stored for future use on the site.

A new intervention proposed in this application is the installation of planters with handrails to enclose the terraces and walkways that will be formed to the south of the portico. HES is concerned that these are likely to be visible on the principal frontage, reducing the solid monumentality of Hamilton's masonry building and has suggested simple set-back railings instead. However, the main reason for the planters is to allow lower height handrails that will satisfy building regulations. The planters will provide a deep barrier in front of the rails that will deter people from going near an otherwise unprotected edge. Railings alone would have to be significantly higher and have closely spaced uprights. These would be more conspicuous than the proposed arrangement and would appear jarring against the clean horizontal lines of the terrace edges.

The proposed planters and handrails are of minimum height necessary to meet building regulations and have been positioned as far from the terrace edges as possible to minimise conspicuousness. The proposed bronze finish is appropriate in this context and any visible areas will sit unobtrusively within the general horizontality of Hamilton's composition.

The other proposed external alterations to the original Hamilton Building are relatively minor and will have no detrimental impact on historic or architectural character.

Internally, the building is mostly functional in character with the main space of value being the former Assembly Hall. This important space will be retained, although modifications are required to form a public performance hall that meets functional and safety requirements. Whilst the removal of the existing tiered seating and floor within the main auditorium will alter the character of the space, this is an essential alteration to enable the installation of a new floor structure that will support a retractable seating system. Also, the interior of the Hall was altered in the 1970s when the former school became the proposed site for the Scottish Assembly. These alterations included the removal of the original padded benches and extensive rebuilding of the central floor area, and the extension of the gallery around the south end of the hall involving the removal of the original symmetrical staircases.

The loss of the tiered seating and floor is offset by significant conservation gain through the restoration of the original balcony and stair arrangement at the south end of the Hall to match the original detailing. The retention of six of the eight original columns is welcomed and the two to be removed are at north end of the Hall where two new stairs need to be installed to meet fire escape requirements. The proposed fixed raked auditorium seating against the north wall will have no detrimental impact on the volume or architectural detailing of the Assembly Hall. Conditions have been applied to ensure that the detailing of the new stairs at the north end of the Hall is appropriate and that the two removed columns are re-sited in an appropriate location within the new landscaping.

The excavation of the basement area is acceptable in principle as the basement was altered in the 1970s and any original spaces that remain are functional in nature. This will allow for the creation of a substantial foyer space for the concert hall above and will have no adverse impact on character.

Other principal spaces within the Hamilton Building will be retained and conserved with any alterations limited to amending previous alterations or carrying out minor new interventions.

West Pavilion

The proposed use of this pavilion as a café will help to maintain the structure and the proposed new contemporary style entrance in the blank north elevation is acceptable to provide daylighting and a connection with the proposed café terrace. A substantial area of this elevation is subterranean at present and the proposed arrangement will reveal the full north elevation whilst maintaining a significant area of sandstone.

East Pavilion

Similarly, the east pavilion will benefit in terms of maintenance from the proposed use as ancillary staff residential accommodation with service space below. The new slapping in the rear wall at basement level will not be conspicuous and will provide the required level access to the service areas within the new extension.

Entrance Lodge

The conversion of the existing entrance lodge to form ancillary accommodation for teaching staff is another positive intervention and the proposed removal of the existing stone entrance steps is acceptable to accommodate an accessible ramp.

Entrance Gates and Boundary Railings

The proposed widening of the listed entrance gates and railings at the main site entrance on Regent Road is necessary to incorporate an access of adequate width for service vehicles to enter the site without risking damage to the historic gateposts. These posts have been damaged by vehicle movements in the past and the proposed arrangement, detailed in the submitted drawings, will have no detrimental effect on the overall appearance and composition of the gate piers and gates.

The removal of two runs of existing railings from retaining walls within the east section of the site is acceptable to enable construction of the new teaching and accommodation extension. These railings will be stored for use elsewhere on the site and a condition has been applied requiring details of the proposed storage location and future use.

New Extension (including new Entrance Pavilion)

The proposed extension will result in a significant increase in the footprint of the original building on its northern and eastern sides. However, the new structure is low-lying and designed in a "quiet" contemporary style to ensure it appears subservient in scale and appearance in relation to the Hamilton Building. The proposed connection to the historic structure at low level is discreet and sensitively handled and allows clear visual and physical separation between the old and new buildings at ground level. The specified materials palette is an appropriate high-quality mix of traditional and modern which will create an elegant and distinctive but complementary structure.

The impact of this extension is assessed further in the following section.

Setting

Historic Environment Scotland's document 'Managing Change in the Historic Environment - Setting' states;

"Setting is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced".

Hamilton Building

The design of the former Royal High School was conceived integrally with the National Monument to the north on Calton Hill. The building was placed on the side of the hill, mimicking the relationship of the Propylea or Lesser Temple (Gateway) to the Parthenon (National Monument) on the Acropolis (Calton Hill), hence the name for Edinburgh, *"the Athens of the North"*. As well as commanding a prominent position on Calton Hill, the Hamilton Building terminates Regent Terrace and provides the foreground for the arrangement of buildings on Calton Hill. The ancillary buildings on the site along with the Burns Monument and landscaped historic gardens on the south side of Regent Road provide a frame for the classical style, centrepiece building.

The proposed new teaching and accommodation block on the eastern section of the site sits lower than the existing Gymnasium Building and its stepped massing and form will follow the natural topography of the hill. The simple, layered style of the design will allow the Hamilton Building to retain primacy when viewed from the most prominent aspects. The inclusion of planting and green roofs will anchor the building into its wider landscape context, making it visually recessive in contrast with the imposing, symmetrical architecture of the Hamilton Building. The relationship between buildings and landscape as originally planned will be enhanced as a result of the low-profile form of the proposed extension.

Whilst the new practise rooms and classrooms proposed to the rear of the Hamilton Building will interrupt views of the building on the approach from the west of the site and from the path to Calton Hill, this will have no serious impact on the historic setting as the north elevation, which formed the main entrance to the former Royal High School, will remain legible. An uncharacteristic series of interlocking spaces will be created close to the main building façade, but the series of spaces created will provide new visual interest in this area of the site. The proposed structure will not follow the sweep of the Calton Hill retaining wall, contrary to HES's recommendation, but sufficient space will remain between the Hamilton Building and new extension to allow 'breathing space' for the listed building. HES has also questioned whether the proposed glazed cupolas to the new practice blocks are appropriate, but these features will not be conspicuous in key views given that two of these cupolas will be to the rear of the main building and the third will merge visually with the glazing of the new extension to the west.

As regards the proposed Entrance Pavilion, the purpose of this structure is to separate the buildings and external areas of the music school (which will be used by staff, students and performers) from the western garden, cafe and southern terraces (for use by the general public). The proposed pavilion is designed to be a distinctive gateway through which all school members and visitors must pass.

The design of the new pavilion structure is influenced by the historic West and East Pavilions having approximately the same footprint, proportions and roof pitch and acts as an aedicule within which sits a reception space reading as a separate building. HES previously recommended the omission of the new pavilion on the grounds that it would obscure the significant approach to, and visibility of, the west and rear façades of the Hamilton Building. In the revised scheme, the proposed structure is aligned at right angles to the north retaining wall and the height has been lowered by one metre. These amendments mean that views of the main listed building from the locations specified above will be less interrupted, including clearer sight of the roof of the Hamilton Building. A series of views are included in the updated Design and Access Statement which demonstrate the impact of the new pavilion on key approaches from the west and how the degree of concealment of the Hamilton Building changes depending on the viewpoint. Overall, the impact on the setting of the main building will not be significant and the proposed Entrance Pavilion will provide an appropriate and visually interesting addition to the site. The use of precast concrete for the frame and proposed contemporary detailing alongside otherwise traditional materials and a traditional form and will subtly distinguish the new architecture from the historic pavilions.

The proposed site landscaping is assessed in detail in section c) but in summary, the removal of several existing trees on and around the site, along with the landscape design, materials and planting specified will enhance the setting of the Hamilton Building and restore the visual prominence of the built structure. At present, this imposing listed building is partially concealed by unmanaged tree and vegetation growth and the formality and clarity of its landscape setting as originally planned has been diminished as a result.

Surrounding Listed Buildings

The low-profile form of the proposed new extension and its careful siting within the site's topography will ensure that the structure has no adverse impact on the setting of the listed buildings or monuments within the vicinity of the application site, including those on Calton Hill.

Conclusion in relation to the listed building

The proposed conservation-based scheme for restoring and revitalising this iconic listed building in an appropriate and long-term, sustainable use represents significant conservation gain, despite the loss of ancillary listed structures. The scheme includes benefits to the wider landscape context of the site and overall setting of the building.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

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:

New Town Conservation Area

The New Town Conservation Area Character Appraisal identifies the key characteristics of the New Town as:

- *" Georgian and early Victorian rectilinear development of grand formal streets lined by fine terraced building expressing neo-classical order, regularity, symmetry, rigid geometry, and a hierarchical arrangement of buildings and spaces;*
- *terminated vistas within the grid layouts and the long-distance views across and out of the conservation area;*
- *a richly varied topography of ancient landform shaped by volcanism and later by glacial scouring;*
- *internationally important private and public open spaces lying within, and on the edge of a neoclassical grid pattern and reflecting the picturesque tradition of landscape improvement; and*
- *gardens that create open and framed long distant picturesque views of exceptional quality."*

The character and appearance of the former Royal High School and its landscape setting, which are key elements of the New Town Conservation Area, will be preserved and enhanced through the sensitive re-development and extension of the iconic, category A listed Hamilton Building to accommodate a sustainable and viable use. The proposed use as a music school is similar to the former use as a high school.

The Royal High School was purposefully designed and sited on a prominent location within the landscape setting of Calton Hill. The other monuments on the Hill are designed to be seen alongside one another within this urban landscape. The proposed retention of the Hamilton Building and West and East Pavilions, with minimal interventions to the exteriors, along with most of the original site boundary enclosures will ensure that the contribution these features make to the character and appearance of the conservation area is preserved.

Whilst the listed Gymnasium Building and other structures to be demolished contribute to the character of the conservation area to varying extents, these buildings are not part of the original architectural group, so the proposed demolitions are justifiable, given the benefits of the retention of the principal listed buildings on the site and need to accommodate purpose-built facilities for the new music school. The most significant of these buildings, the Gymnasium Building, sits in the eastern section of the site where the bulk of the new build element of the proposed development has to be located to avoid having a detrimental impact on the setting of the Hamilton Building.

The massing and design of the proposed extension, in particular the low-profile form, respect for the topography of the site and "quiet" architecture with green roofs, will ensure that the Hamilton Building retains its dramatic presence as the centrepiece of this highly prominent and sensitive site within the New Town Conservation Area.

Setting of Old Town Conservation Area

The proposals have also been considered in terms of the impact on key views of the Old Town skyline and architecture from the top and sides of Calton Hill, given the site's location at the base of the Hill.

Key characteristics of the Old Town Conservation Area include:

- *" the landscape and topography formed by vigorous geological activity; and*
- *the quality of long-distance views both open and framed in out and through the spaces, and views from different levels and idiosyncratic angles."*

Whilst the new extension to the Hamilton Building will be visible from Calton Hill, this structure is low-lying and will not impact on views of the Old Town Conservation Area, including views of the Castle. There are two paths at lower level on the south flank of Calton Hill, but views of the Old Town from these paths are already obscured by foliage at the upper level and the Hamilton Building at lower level. On this basis, the proposed extension, including the glass cupolas on the turret structures to the north and east of the main building will have no impact on views of the Old Town.

Conclusion in relation to the conservation area

The proposed development will preserve and enhance the character and appearance of the New Town Conservation Area and will have no detrimental impact on the setting of the Old Town Conservation Area.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) there are any other matters to consider?

The following matters have been identified for consideration:

Archaeological Remains

The site is within an area of archaeological significance containing the nationally important former Royal High School. Prior to the school's construction, the site occurred on the edge of the medieval burgh of the Canongate. The proposed scheme involves no changes to the approved 2015 application that necessitate further consultation with the City Archaeologist.

The demolition of three listed buildings requires a detailed programme of historic building to be undertaken prior to demolition, with particular focus on the Gymnasium Building, which is the most significant.

Accordingly, a condition has been applied to ensure that a comprehensive programme of archaeological work is undertaken which will include detailed historic building surveys prior to and during demolition/alteration works affecting the listed buildings on the site and a programme of public/community engagement during development.

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

objection comments

- the proposed entrance pavilion will obstruct the view of the north-west corner of the west elevation of the Hamilton Building and the oblique view of the north elevation from the west, so the building should be reduced to a single storey structure; and
- the size of the new opening in the north elevation of the West Pavilion is excessive, as it involves the removal of an excessive amount of original wall to create a 'pocket' for the sliding doors with full width glazing above.

These comments are addressed in section a) of the assessment.

support comments

- the proposed redevelopment of this site to form a new Music School is an appropriate use of the buildings; and
- a suitable balance has been struck between the impact of the proposed slot in the portico of the Hamilton Building with increased light and access for the new basement space, and the set back of the new balustrade will reduce its visual intrusion.

non-material considerations

The comments relating to the impacts of structural alterations on the listed buildings, residential amenity, use of the existing Lodge and seating/tables on the external terraces are non-material in terms of the assessment of this application for listed building consent.

Conclusion in relation to other matters considered

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposed development will preserve an iconic listed building in Edinburgh's historic core in an enduring and sustainable use. The scheme is conservation-led and the proposed alterations and extensions are informed by thorough research of the building and its historical development.

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. No demolition of any listed structures on the site shall commence until the applicant has confirmed in writing the start date for the new development by the submission of a Notice of Initiation for the associated planning application reference 22/02449/FUL.
2. A detailed specification, including trade names (where appropriate) and sources, of all the proposed external materials (including any recycled materials from the demolished structures) for the repairs and alterations to the retained historic assets on the site and proposed new buildings and landscaping shall be submitted to and approved in writing by the Planning Authority before any repair/new construction work is commenced on site. Note: samples of the materials may be required.

3. Notwithstanding the details of the glazed balustrade on the portico terrace shown on drawing number AL-21-001 Revision A (CEC reference 76), the final design of this balustrade shall be refined to the satisfaction of the Planning Authority. Detailed drawings of the agreed design shall be submitted and approval by the Planning Authority before the balustrade is installed.
4. No changes shall be made at any point to the glazing covering the new slot in the portico terrace without first informing the Planning Authority.
5. Details of the storage location and method for the remaining parts of the original railings removed from below the Hamilton Building portico and the original railings removed from the retaining walls within the east section of the site shall be submitted to and approved in writing by the Planning Authority before these railings are removed.
6. Details of the new stairs at the north end of the Assembly Hall and the proposed site within the landscaping for the two removed cast iron columns shall be submitted to and approved in writing by the Planning Authority before these stairs are erected and the columns are removed.
7. No demolition/development shall take place on the site until the applicant has secured the implementation of a comprehensive programme of archaeological work. This programme shall include detailed historic building surveys undertaken prior to and during demolition/strip out works of the three listed buildings to be removed and any alteration work to the Hamilton Building. These surveys will include surveyed elevations, phased plans, combined with photographic and written surveys and archival research to provide an accurate and permanent record of these historic buildings. The work shall also include a programme of public/community engagement during development (interpretation analysis and reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

Reasons:-

1. In order to retain and/or protect important elements of the existing character and amenity of the site.
2. In order to enable the planning authority to consider this/these matter/s in detail.
3. In order to safeguard the character of the statutorily listed building.
4. In order to safeguard the character of the statutorily listed building.
5. In order to retain and protect important historic fabric.
6. In order to safeguard the character of the statutorily listed building.
7. In order to safeguard the interests of archaeological heritage.

Informatives

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 24 May 2022

Drawing Numbers/Scheme

01-12,13A-34A,35,37,38A-50A,51,53,54A,55,56A,57-67,73-78,80+81

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Clare Macdonald, Senior Planning Officer
E-mail:clare.macdonald@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: Scheme 2

HES still has concerns with the scale and siting of the new reception gatehouse and its impact on the setting of the listed building. HES considers the scale of the proposed structure, in particular the shallow-pitched roof, will have an adverse impact on the setting of the Hamilton Building in terms of views of its west façade and rear elevation from the important western approach. HES recommends a simpler reception building, which could follow the temple design, but without a roof over the gateway. HES had also hoped that the proposed practise rooms/classrooms to the north of the main building, which now follow the sweep of the site retaining wall, could have been moved back further from the listed building's north façade.

Regarding the other proposed alterations, HES reiterates the previous comments stating a preference for individual lightwells rather than a slot in the Hamilton Building's portico floor and bronze-finished railings or steel wire rather than a glazed balustrade around the new opening. HES also considers that there is scope to retain either end of the existing railings on the south façade (facing Regent Road) and to re-use the existing gates on this elevation. HES remains unconvinced by the need for visible planters to the frontage of the building and would prefer simple set-back railings but notes the reduction in scale and extent of the planters.

HES welcomes the setting back of the link to the new eastern building behind the screen wall which will retain Hamilton's significant east elevation without alteration, with the original boundary railings reset.

Internally, HES welcomes the revisions that now retain the cast iron columns in the Assembly Hall, but notes the loss of northernmost columns which could be moved a relatively short distance and still be adapted/incorporated within the new stair enclosure.

DATE: 11 November 2022

NAME: Historic Environment Scotland

COMMENT: Scheme 1

HES welcomes the proposals create a National Centre for Music providing a future for one of Scotland's most significant buildings which is at risk.

Hamilton Building and Associated Listed Buildings

The principal of demolition of the ancillary buildings on the site has been accepted within the previous application. Consideration should be given to salvaging materials from the demolished buildings in line with HES's Managing Change advice on demolition.

HES welcomes the confirmation on the location, scale and dimensions of the proposed new structural opening under the portico of the Hamilton Building and concurs that this opening will not be visible from eye level on Regent Road. The preference would be for individual lightwells, rather than the proposed slot in the portico floor, but HES could accept the slot approach, provided the existing Craigleith slabs are salvaged for reuse elsewhere on the site. Simple railings, ideally bronze or bronze-finished, should be specified instead of the proposed glass balustrade.

HES accepts that the retention of the entire section of railings below the portico would be complicated and acknowledges that the removal of these railings already has consent. However, a reduction in the scale of the staircase rising to the proposed upper terrace would allow the majority of the railings to remain, with only a central opening. The gates to Regent Road on the south façade should be reused rather than renewed.

The proposed new barrier planters and handrails are likely to be visible on the frontage of the building and would reduce the solid monumentality and power of Hamilton's masonry building as a result, so HES would recommend simple set-back railings instead.

HES supports the approach for the restoration and revitalisation of the interior of the Hamilton building, including the opening-up of subdivided original volumes and reinstatement of significant original design features in the Assembly Hall. The cast iron columns in the Hall are accepted by all to be by Hamilton's hand, and represent his finished designs for the space, so HES remains unconvinced by their replacement with brackets.

The loss of the original vaulting and structure at the basement level is most unfortunate, but this has been agreed to be essential for the creation of the new events space. HES assumes that the proposed works will be suitably recorded.

New Extension

HES is concerned that the new reception/gatehouse block at the west end of the proposed flat-roofed teaching accommodation to the north of the Hamilton Building, would obscure the significant western approach to, and visibility of, the main building (both its west façade and rear). This element should be revised to remove the roof structure over the gateway, retaining a simpler reception building and an unroofed gateway. Also, the new gatehouse and classroom range should follow the sweep of the Calton Hill approach road and retaining wall to allow the main building 'breathing space' and to be experienced 'in the round'.

The glazed cupolas to the new practice blocks were not given planning permission in the previous proposal, and HES assumes this will still be the case. The link to the new eastern building from the Hamilton Building should be a minimal flat-roofed extension, rather than the proposed arched vault design.

DATE: 8 July 2022

NAME: New Town and Broughton Community Council

COMMENT: The Community Council is fully supportive of this proposal and considers that the current scheme represents a modest revision to the previously consented proposals, reflecting a more detailed and considered view of the facilities necessary to deliver a sustainable long-term use of the building, as well as a cultural asset to the city of Edinburgh and its residents.

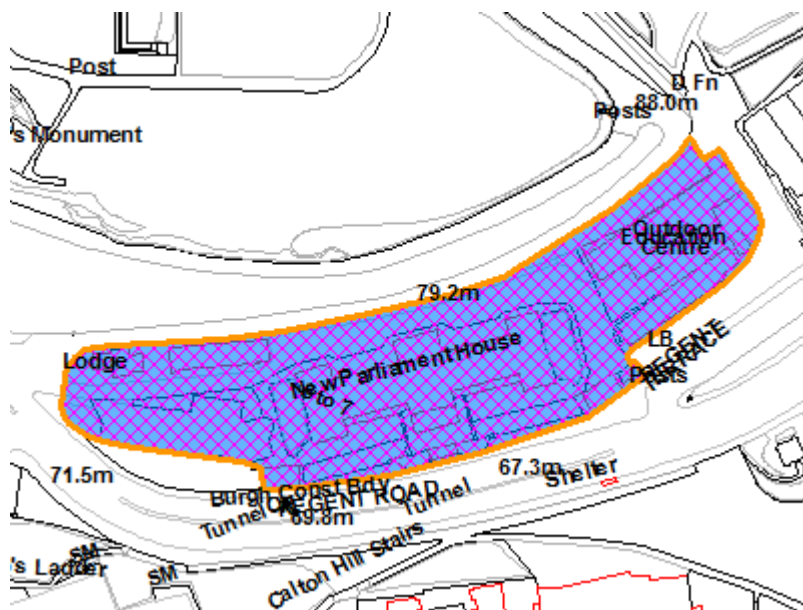
It appears that a suitable compromise has been achieved regarding the proposed glazed floor light to the external portico of the Hamilton Building.

The Community Council accepts the need for a clearly defined separate entrance for the music school but notes that the new pavilion appears (perhaps) unnecessarily dominant. This contemporary interpretation of a pavilion as the new school entrance could be detrimental to views of the Hamilton Building from Waterloo Place, although this may be acceptable when assessing the wider benefits of the proposal.

DATE: 4 July 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 7 December 2022

Application for Planning Permission

Proposed Festival Event Space at, St James Square, Edinburgh.

Proposal: Erection of temporary structures and enclosures, including bar, and other associated works to facilitate use of St James Square as an external events space. Permission sought for one year (2022/23).

Item – Presentation Item at Committee

Application Number – 22/04715/FUL

Ward – B11 - City Centre

Reasons for Referral to Committee

This application has been referred to the Development Management Sub-Committee because the application is of wider public interest

Recommendation

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

Summary

The proposals are acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan in terms of impact upon the setting of listed buildings, the Old and New Towns of Edinburgh Heritage Site and the New Town Conservation Area.

The principle of development is accepted, and the proposals are appropriate in terms of design in accordance with the development plan.

Subject to a condition limiting the use of amplified music the proposals comply with the amenity requirements of LDP Policies Des 5, Ret 7 and Ret 11.

There are no material considerations which indicate that the proposals should be refused. Therefore, the recommendation is to grant planning permission.

SECTION A – Application Background

Site Description

The site comprises the central portion of St James Square, an external space of the new St James Quarter development- a retail and leisure led development in the city centre that surrounds the majority of the square on the north, west and eastern sides.

The B- Listed 27-31 James Craig Walk (Ref: LB30026) forms the southern side of the square.

The four storey and attic A-Listed tenements at 23-26 St James Square (Ref: LB29728) are located to the west of the square.

The Category B Listed Sassine Office (Ref: LB30027) and Category B Circular Record Hall (Ref: LB30025) are located to the south of the square.

The site is located within the UNESCO Old and New Towns of Edinburgh Heritage Site and the New Town Conservation Area.

Proposal

The application seeks permission for the erection of temporary structures and enclosures, including a bar and other associated works, to facilitate the use of St James Square as an external festive events space. The space is proposed as part of a series of linked event spaces within St James Quarter.

Bar Hütte would be a festive mini alpine village comprising a bar cabin, external seating area (partially covered by a stretch tent) and "karaoke" cabins in the following configuration:

- 2 no. VIP Hüttes (capacity 20 people)
- 11 no. Hüttes (capacity 8 people)

The site's overall capacity would be for 200 people, including occupants of huts and bar/stretch tent area.

Permission is sought for one year (2022/23). This comprises set-up from 28 October 2022 and operating from 10 November until 2 January 2023 with take down until 7 January 2023.

Daily Hours of Operation would be as follows:

10 November 2022 - 30 November 2022

- Monday - Friday 12noon - 10pm
- Saturday 11am - 10pm
- Sunday 11am - 8pm

1 December 2022 - 2 January 2023 (exceptions below)

- Monday - Friday 12noon - 10pm
- Saturday 11am - 10pm
- Sunday 10am - 8pm

- Christmas eve - 12noon - 10pm
- Christmas day - Closed
- Boxing day - 11am - 10pm
- New year's eve - 12noon - 10pm
- New year's day - 12noon - 10pm

The event began operating on 14th November 2022.

In terms of materials, the bar, store and the Hüttes themselves would be constructed of tanalised spruced timber walls, with a black rubber roof and Perspex windows. The central tent, comprising sand coloured tensile membrane suspended from timber uprights would cover the internal circulation space and seating area. The site perimeter would be enclosed by picket fencing with an entrance portal at the south west corner and an emergency exit portal at the north west corner.

The Hüttes include private karaoke machines, but there is no external live music/stage included in the proposals. Music will occur within the karaoke and bar cabins.

Servicing and deliveries will be via the St James Quarter service yard and existing facilities.

Site History

The Bar Hutte event which operated between November 2021 to January 2022 was granted planning permission for one year only by the Development Management Sub Committee in December 2021. This permission was granted on the proviso that a Noise Impact Assessment would be submitted identifying the noise impact of the event and to address any of the noise complaints received during its operation for any future years. Accordingly, a condition was appended to this permission requiring a Noise Impact Assessment to be submitted. A Noise Impact Assessment was subsequently submitted in accordance with the condition, however, the report found that the noise generated as a result of the development would be in excess of current noise standards.

Supporting Documents

The application is supported by a Noise Impact Assessment prepared by Waterman, a Design and Access Statement and Site Visualisations.

Revised Plans

Revised plans were submitted to show details of the proposed timber accoustic wall on the drawings. No changes were made to the proposed scheme.

Relevant Site History

21/05177/FUL
Proposed Festival Event Space At
St James Square
Edinburgh

Use of St James Square as a festive events space, including erection of temporary structures, stage, enclosures and other associated works. Permission sought for four years (2021/22, 2022/23, 2023/24 and 2024/25).

Granted

15 December 2021

22/02035/FUL

Proposed Festival Event Space At

St James Square

Edinburgh

Erection of temporary structures and enclosures, including Spiegeltent and bar, and other associated works to facilitate use of St James Square as an external events space.

Refused

30 September 2022

Other Relevant Site History

NONE

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Roads Authority

Environmental Protection

Historic Environment Scotland (HES)

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

Publicity and Public Engagement

Date of Neighbour Notification: 5 October 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 14 October 2022.

Site Notices Date(s): 11 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 in the Historic Environment - Setting**

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states: "In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The Courts have clarified that Section 59(1) means that there is a strong presumption against granting planning permission for development which would harm a listed building or its setting. If engaged, the presumption can only be rebutted if the proposals would result in significant public interest advantages which can only be delivered at the scheme's proposed location.

Historic Environment Scotland's Managing Change guidance on Setting gives guidance on when proposals impact the setting of listed buildings.

The proposal sits within the urban context of the surrounding modern St James Quarter development, including the contemporary hotel development. Given the transient nature of the installations, along with their scale and positioning within the context of the developed square, the proposed event space will not be to the detriment of the nearby listed buildings and will continue to preserve their historical setting, in compliance with Managing Change guidance.

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would not result in harm to the setting of listed buildings.

Historic Environment Scotland (HES) was consulted on the proposal and has raised no objections.

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

Section 64 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states: "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Courts have clarified that Section 64 means that there is a strong presumption against granting planning permission for development which would conflict with the objective of preserving or enhancing the character or appearance of the conservation area. If engaged, the presumption can only be rebutted if the proposals would result in significant public interest advantages which can only be delivered at the scheme's proposed location.

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

The temporary nature of the structure is a material factor in the assessment of any impact on the character or appearance of the conservation area. The structure will be set within the context of the wider contemporary development and will have no impact on the skyline. The development will sit within the context of the backdrop of the entrance to the modern St James Quarter.

The proposals therefore are acceptable with regards 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 policies to be considered are:

Delivering the Strategy Policy Del 2
Shopping and Leisure Policies Ret 7 and Ret 11
Environment Policies Env 1, Env 3 and Env 6
Design Policy Des 5

The non-statutory Listed Building and Conservation Area Guidance and Guidance for Businesses are material considerations relevant when considering LDP policy.

Impact on the UNESCO World Heritage Site

The Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe.

The Statement of Outstanding Universal Value emphasises the importance of maintaining the authenticity of the Site which "continues to retain its historic role as the administrative and cultural capital of Scotland, while remaining a vibrant economic centre."

LDP Policy Env 1 (World Heritage Sites) 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. This policy requires development to respect and protect the outstanding universal values of the World Heritage Sites and their settings. Setting may include sites in the immediate vicinity, viewpoints identified in the key views study and prominent landscape features throughout the city.

Due to the temporary nature and the size, scale and design of the proposed structure it is considered that there would not be an adverse impact on the setting of the World Heritage Site.

The proposal will not have an impact on the outstanding universal value and the reasons for inscription in compliance with policy Env 1.

Impact on the setting of the Listed Buildings

LDP Policy Env 3 (Listed Buildings- Setting) states that Development within the curtilage or affecting the setting of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

This has been assessed through sections a) above, and the proposals comply with LDP Policies Env 3 in terms of its impact on the setting of the listed buildings.

Impact on the setting of the Conservation Area

LDP Policy Env 6 (Conservation Areas - Development) supports development within a conservation area or affecting its setting which preserves or enhances the special character and appearance of the conservation area and is consistent with the relevant character appraisal, preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character and demonstrates high standards of design and utilises materials appropriate to the historic environment.

This has been assessed through sections b) above, and the proposals comply with LDP Policies with Env 6 in terms of its impact on the conservation area.

Principle

The site is within the City Centre as identified in the Edinburgh Local Development Plan (LDP).

LDP Policy Del 2 (City Centre) supports a mix of uses appropriate to the location of the site and proposals that are comprehensively designed considering relevant development briefs and guidance.

Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations) states:

Planning permission will be granted for high-quality, well-designed arts, leisure and entertainment facilities and visitor attractions in the City Centre, at Leith and Granton Waterfront and in a town centre, provided:

- a) The proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character;
- b) The proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on- street activity at unsocial hours to the detriment of living conditions for nearby residents;
- c) The development will be easily accessible by public transport, foot and cycle.

The site is located within the city centre as defined in the Local Development Plan. The principle of leisure and entertainment provision is accepted within this area. The temporary nature and positioning of the installations ensure the proposal will integrate adequately into its surroundings. Criteria b) and c) are considered below.

LDP Policy Ret 11 Food and Drink Establishments permits changes of use in areas where the use will not lead to an unacceptable impact on residential amenity. Matters of amenity are addressed in the amenity section below.

The principle of the use of the site is therefore acceptable given the temporary nature of the proposal.

Scale, Design and Materials

The proposal is in the form of timber huts and stretched tent which is of a temporary festive appearance. The proposed materials and tented accommodation appears transient in nature and does not appear as a permanent structure. As such, the proposed materials are appropriate.

The space is enclosed by low level fencing, ensuring the space is self contained and providing separation from the rest of the public realm and throughway. As such, it will not dominate the square or result in clutter.

Amenity

LDP Policy Ret 11 (Food and Drink Establishments) permits changes of use in areas where the use will not lead to an unacceptable impact on residential amenity. LDP Policy Des 5 (Development Design - Amenity) requires development proposals to demonstrate that neighbouring amenity of a development will have acceptable levels of amenity. LDP Policy Ret 7 requires the proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on- street activity at unsocial hours to the detriment of living conditions for nearby residents.

There nearest residential properties are located along St James Walk and 23-26 St James Square.

Environmental Protection were consulted on the proposal and the comments made are a material consideration in the assessment of the proposals.

Following submission of the initial application, the applicant submitted a Noise Impact Assessment. This was subsequently updated to address inconsistencies in the detail submitted and to include missing information that was considered necessary for Environmental Protection to be able to fully assess the proposal.

Environmental Protection has concerns about the noise from outdoor activities negatively affecting the amenity of nearby residents overlooking St James Square. Whilst the Bar Hutte event last year ran without any complaints, a complaint has been received about music noise from this current event, which is in operation.

The Noise Impact Assessment demonstrates that noise from the site will not meet the expected current noise standard. The NIA attempts to argue that a less onerous standard would be more suitable in this case, however it then demonstrates that this lesser standard would also not be met in all sensitive receptors. Therefore, Environmental Protection cannot support the application and recommends refusal.

The space sits at the entrance of the St James Quarter within the public realm where there a significant level of on street activity existing and examples of outdoor seating associated with adjacent uses. However, whilst this is a central location, it is located with residential properties being in close proximity. There have been objections received prior to the development taking place, as well as subsequent complaints received since its installation and operation from one neighbour and observations on noise received from the community council.

Given that the Noise Impact Assessment demonstrates that the proposal will exceed the expected noise standards, and complaints relating to noise continue to be received, it can be reasonably determined that the proposal results in harm to neighbouring amenity. Whilst it is acknowledged a timber acoustic wall has been included in the current scheme, this does not appear to mitigate noise disturbance by effectively reducing the noise heard from the development. Further updated NIA was received to the application and this has not been reconsulted on with neighbours.

It is considered that the outcomes of this report do not alter the material matters raised in terms of noise disturbance from the neighbouring property.

The inclusion of amplified music within the form of the karaoke booths and the collective disturbance caused by multiple sources of amplified music from the 14 huts increases the level of disturbance. The noise assessment identifies that the Karaoke Booths have no specific noise mitigation measures built in and are a single timber construction. Mitigation identified in the NIA for within the karaoke booths is to limit the internal noise to 85dB(A) and where possible to ensure that the doors remain closed. Neither of these elements can be controlled through the planning process.

Overall, whilst this is a city centre location where the principle is accepted, the proposal as operating currently results in an unacceptable level of noise disturbance through the inclusion of amplified music with limited mitigation. It is therefore recommended that a condition be attached which requires that no amplified music be played within the bar area or the huts.

Subject to the inclusion of the condition the proposal will comply with the objectives of LDP Des 5, Ret 7 and Ret 11.

Waste

Servicing and deliveries will be via the St James Quarter service yard and existing facilities.

Access and Parking

The proposal makes no amendments to existing arrangements.

The proposal is located within a central location and no additional parking will be provided for the event. Parking, including disabled parking provision is located within the St James Centre Car Park, with drop off at Elder Street.

The site is in an accessible location with good transport links.

The use of the space and structures will not impede pedestrian flow in and around the St James Quarter or impact pedestrian safety.

Conclusion in relation to the Development Plan

Overall, the proposals will contribute to an appropriate mix of uses in this city centre location. The proposals will not harm the setting of any nearby listed buildings, and preserve the appearance of the conservation area. The proposals are acceptable in terms of scale, design and materiality. However, the proposals give rise to a level of noise disturbance that is to the detriment of residential amenity, and no mitigative measures are proposed that successfully mitigate this impact. As such the proposals fail to comply with the overall objectives of the Local Development Plan.

d) there are any other material considerations which must be assessed?

The following material 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 the relevant sustainability principles set out in SPP.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited 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

Two objections and one neutral representations have been received in relation to the proposal.

Material Considerations

- Noise. Addressed in Section a) above;
- Incomplete and inconsistent details in Noise Impact Assessment. Addressed above- revised documents submitted to address.
- Neighbour Notification not being carried out correctly. Neighbour notification was carried out on 5th October 2022. Following queries from neighbours about the lack of notification it has been confirmed that all properties within the required radius by legislation have been notified in line with Development Management Procedures.
- Access for Emergency Vehicles. The application has been reviewed by the Roads Authority who have no objections in terms of Roads or Pedestrian Safety.

Non-Material Consideration

- Increase in crime. This application is not for a change of use. The matter of crime cannot be controlled through the Planning process.

Overall Conclusion

The proposals are acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan in terms of impact upon the setting of listed buildings, the Old and New Towns of Edinburgh Heritage Site and the New Town Conservation Area.

The principle of development is accepted, and the proposals are appropriate in terms of design in accordance with the development plan.

Subject to a condition limiting the use of amplified music the proposals comply with the amenity requirements of LDP Policies Des 5, Ret 7 and Ret 11.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. Notwithstanding the approved plans, there shall be no amplified music be played within the bar area or the huts. For the avoidance of doubt this includes any karaoke speakers.
2. Notwithstanding the approved plans, permission is hereby granted for a restricted Festive period of 2022/ 2023 and all structures shall be removed from the site by 10 January 2023.

Reasons:-

1. In the interest of residential amenity.
2. In the interest of amenity.

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, 03A-06A

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Sonia Macdonald, Planning Officer
E-mail:sonia.macdonald@edinburgh.gov.uk

Summary of Consultation Responses

NAME: Roads Authority
COMMENT: No objections
DATE: 21 October 2022

NAME: Environmental Protection
COMMENT: Environmental Protection is unable to support this application.

The proposal is for an external events space at St James Square to operate during between the 10 November 2022 and 2 January 2023. The applicant has confirmed operations will cease at 22.00 hours. The site comprises a bar cabin, external seating area (partially covered by a stretch tent) and several "karaoke" cabins. Music will only occur within the karaoke and bar cabins.

Environmental Protection has significant concerns about the noise from outdoor activities negatively affecting the amenity of nearby residents overlooking St James Square. Whilst the Bar Hutte event last year appeared to run without issue, the temporary activities in this space during August generated justified complaints where officers witnessed intrusive level of noise within a nearby residential property. A complaint has been received about music noise from this current event, which has started operating.

A Noise Impact Assessment (NIA) has been submitted by the applicant. (Waterman Infrastructure and Environment Limited, ref: WIE17806-100-R-3.5.2- Bar Hutte NIA, November 2022). This assessment demonstrates that noise from the site will not meet the expected standard. The NIA attempts to argue that a less onerous standard would be more suitable in this case, however it then demonstrates that this lesser standard would also not be met in all sensitive receptors.

Therefore, Environmental Protection cannot support the application and recommends refusal.

DATE: 22 November 2022

NAME: Historic Environment Scotland (HES)
COMMENT: HES have considered the information received and do not have any comments to make on the proposals. HES's decision not to provide comments should not be taken as support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.
DATE: 18 October 2022

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

Location Plan



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