

Development Management Sub Committee

Wednesday 29 July 2020

**Application for Planning Permission 20/01896/FUL
at 13 Castle Street, Edinburgh.
Change of use from offices to serviced apartments (as
amended).**

Item number

Report number

Wards

B11 - City Centre

Summary

The proposal complies with the adopted Edinburgh Local Development Plan. The proposal is an appropriate use which is reflective of the mixed commercial/residential character of the surrounding area and which preserves both the character and appearance of the New Town Conservation Area and the Outstanding Universal Value of the Old and New Towns of the Edinburgh World Heritage Site. The proposal will not have an adverse impact on the unique architectural and historical character of the listed building and is an acceptable city centre development. It will not have a detrimental impact on the amenity of the surrounding area or raise any concerns in respect to road safety.

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997.

There are no material planning considerations which outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LEN01, LEN06, LHOU07, LDEL02, LEMP09, HES, HESINT, HESDOR, NSG, NSGD02, NSLBCA, NSBUS, OTH, CRPNEW,

Report

Application for Planning Permission 20/01896/FUL at 13 Castle Street, Edinburgh. Change of use from offices to serviced apartments (as amended).

Recommendations

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

Background

2.1 Site description

The application site forms part of a terrace of classical houses with flats above, set within Edinburgh's original New Town development. Dating from circa 1792-4, this three-storey and attic building was formerly arranged in a symmetrical pair with the adjoining property to the south and has since had alterations and additions that include a link passage to the ancillary building at first floor level and a new roof level. The first and second floor of the building have undergone significant change and are currently used as office space and a photography studio. A number of the units within this historic terrace have been altered significantly at ground and first floor level to support commercial units.

The application site was category B listed on 3 March 1966 LB reference 28461.

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

2.2 Site History

23 April 2020 - Planning permission granted for alterations to convert offices at first and second floors and existing dwelling at third and fourth floor level into five residential apartments (as amended) (application reference: 20/00027/FUL).

22 April 2020 - Listed building consent granted for change of use from offices at first and second floor and one residential unit over third and fourth floor into five residential apartments (as amended) (application reference: 20/00028/LBC).

An application for Listed Building Consent has been submitted in parallel with this application (application reference: 20/01897/LBC).

Main report

3.1 Description of the Proposal

The proposal is a change of use from office space to short stay visitor accommodation. Short stay visitor accommodation letting is not covered under the Town and Country Planning (Use Classes) (Scotland) Order 1997 and is a sui generis use. The proposal includes the reinstatement of an original door at ground floor level located on Rose Street Lane, the subdivision of a communal storeroom to form a new bin store, the formation of a new roof vent and two rooflights and the formation of three serviced apartments.

Previous Scheme

The scheme has been amended to retain nibs of internal walls removed.

3.2 Determining Issues

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

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority 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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the use is acceptable in principle;
- b) the proposal will preserve the character and setting of the listed building;
- c) the proposal will preserve the character and appearance of the New Town Conservation Area;

- d) the proposal will preserve the outstanding universal value of the Old and New Towns of the Edinburgh World Heritage Site;

- e) the proposal will have a detrimental impact on the amenity of neighbouring residents;
- f) the proposal raises any issues in respect of parking and road safety and
- g) any issues raised by objectors have been addressed.

a) Principle

The application site is situated in the city centre area as defined in the adopted Edinburgh Local Development Plan (LDP).

LDP policy Emp 9 (Employment Sites and Premises) states that proposals to redevelop employment sites or premises in the urban area for uses other than business, industry or storage will be permitted provided:

(i) the introduction of non-employment uses will not prejudice or inhibit the activities of any nearby employment use;

(ii) the proposal will contribute to the comprehensive regeneration and improvement of the wider area.

The non-statutory Guidance for Business states that for a change of use to short term commercial visitor accommodation, special regard will be made to the following:

- 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.

LDP Policy Del 2 (City Centre) states that development which lies within the city centre will be permitted where it 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. It also states that the requirements in principle will be for a use or mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area.

The surrounding area has a mixed character. The proposal will not prejudice or inhibit the activities of any nearby employment use. The property is in a state of disrepair and does not appear to meet the modern needs and requirements of small businesses due to the point of access being located down a small alley; as well as the restrictive internal layout of the property and the resultant limited size of the offices available. The site is a vacant property with limited potential for future occupancy. It does not contribute to the vitality of the street or the wider area. Whilst the proposal will not contribute to the regeneration of the area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The site is highly accessible and will also not result in the loss of any residential properties within the city.

The short stay units will be accessed directly from Rose Street Lane. There will be no direct interaction between users of the short stay units and long term residents of residential properties in the area.

This is a fairly busy city centre location within walking distance of public transport, so the development should not diminish the quality of the residential environment in terms of noise generation, disturbance or parking demand.

Set within the context of the mixed character of the surrounding area and the city centre location, the proposal complies with LDP policy Del 2 and Emp 9 and is acceptable in principle subject to compliance with the other policies of the adopted LDP.

b) Character and Setting of Listed Building

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."

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

Historic Environment Scotland's (HES) Managing Change in the Historic Environment guidance note on the use and adaptability of listed buildings is applicable. It states that *for a building to remain in use over the long term, change will be necessary. This reflects changes over time in how we use our buildings and what we expect from them. We need to make sure they have a long term future if we want to benefit from them in the long term.*

A building's long-term future is at risk when it becomes hard to alter and adapt it when needed. Proposals that keep buildings in use, or bring them back into use, should be supported as long as they do the least possible harm. Once a building is empty or underused its long term future is immediately at risk.

The property is vacant and in a state of disrepair. It does not appear to meet the modern needs and requirements of small businesses due to the point of access being located down a small alley; as well as the restrictive internal layout of the property and the resultant limited size of the offices available. The limited size of the application site also mean it is not suitable for residential development, as it is not possible to provide sufficient internal floorspace in line with current non-statutory guidance.

Externally, the proposal includes the reopening of an original doorway on the east elevation looking out to Rose Street Lane. This is a secondary elevation and the alteration will not impact the character of the building.

The proposed formation of two rooflights on the west elevation, a new smoke vent on the east elevation and the infill of existing vents will not be visible from public viewpoints.

Although the proposals will result in the loss of some historic fabric, given the poor overall condition of the building and the otherwise limited potential for the building's reuse, the alterations are considered acceptable in this instance.

c) Character and 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."

LDP policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted where it preserves or enhances the special character and appearance of the conservation area and which is consistent with the relevant character appraisal.

The New Town Conservation Area Character Appraisal highlights the important role of the varied commercial/residential character of the New Town in contributing to the character of the conservation area stating:

Moving north from Princes Street retail use decreases. Rose Street and George Street have considerable shop frontages, particularly in their central and western ends but retail use has not achieved the saturation level of Princes Street. Further north, Thistle Street and Queen Street only house a very modest amount of retail use. The cross streets in the area also reflect these changes. Throughout the area property has often been rebuilt or extended or converted for office or institutional use. Residential use only remains significant in the western and northern fringes of the First New Town.

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 site is highly accessible and will also not result in the loss of any residential properties within the city. The proposal will not have a detrimental impact on the character of the conservation area.

In terms of the appearance of the conservation area, the proposal includes the re-opening of an original doorway on the east elevation looking out to Rose Street Lane. This is a secondary elevation and the alteration will not impact the character of the streetscape. The proposed formation of two rooflights on the west elevation, a new smoke vent on the east elevation and the infill of existing vents will not be visible from public viewpoints.

The proposal will preserve the character and appearance of the conservation area and complies with LDP policy Env 6.

d) Impact on the World Heritage Site

The Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site (EWHS) 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 will not be permitted.

In terms of the use, the EWHS Management Plan encourages sustainable tourism and recognises that a balance is needed between resident and visitor needs. The re-use of this redundant building ensures the New Town Conservation Area is maintained as a thriving part of the city without harm to the OUV.

External alterations are limited and largely not visible from public viewpoints. The proposal will not impact on the appearance of the streetscape.

The proposed external alterations will have no detrimental impact on the character or appearance of the New Town, nor its relationship with the Medieval Old Town.

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.

e) Neighbouring Amenity

The only policy that is applicable to the assessment of short stay commercial lets is 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 Business states that for a change of use to short term commercial visitor accommodation, special regard will be made to the following:

- 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 guidance states that change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

In connection to short stay lets it states - *The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest.*

There has been a number of appeal decisions which have helped to assess whether a change of use has taken place and whether that change of use is acceptable. There are currently 44 planning enforcement cases open in relation to short stay let uses.

There has also been planning appeal decisions against refusals to grant planning permission and certificates of lawfulness for short stay lets. These decisions have typically allowed short term let uses in main door properties or flats with their own private accesses e.g. 11 Stevenson Drive (CLUD-230-2007), 103 Restalrig Road(CLUD-230-2006) and 17 Old Fishmarket Close (PPA-230-2238). Appeal decisions such as 20 Pirniefield Grove (CLUD-230-2003) have also indicated that the use of residential properties for short stay letting does not always constitute a change of use. These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Recent appeal decisions like that at Flat 3F2, 22 Haymarket Terrace (ENA-230-2156) stress that the frequent movement by tourists, and other itinerant residents, of baggage along landings and stairwells as well as the necessity for daily servicing of the apartment all lead to a pattern of intense usage of the access stairs and communal areas beyond that which may otherwise be expected from an apartment of this size. All of which creates the potential for unacceptable noise and disturbance to existing residents.

The application site is located just off Rose Street, which is characterised by a range of commercial uses including bars and restaurants. Likewise, Castle Street, which runs adjacent to the site, is also characterised by commercial uses at ground floor level. The serviced apartments will be accessed via a private entrance, meaning there will be no direct interaction between visitors and long term residents and limited potential for the disturbance of such residents.

The proposed plan shows that an existing store on the ground floor will be sub-divided to form a bin store.

One letter of representation objected on the basis that the proposed vent would cause noise disturbance. There is no reason such a vent would produce more noise than vents associated with existing commercial or residential properties in the area. It is not anticipated any nuisance noise would result from such a unit. If a nuisance or noise disturbance was reported from the site there are statutory provisions in order to mitigate these concerns under the Environmental Protection Act 1990. This is not an issue addressed through the planning system.

f) Parking and Road Safety

LDP policy Tra 2 (Private Car Parking) states that planning permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels set out in Council Guidance.

LDP policy Tra 3 (Private Cycle Parking) states that planning permission will be granted for development where proposed cycle parking and provision complies with standards set out in Council Guidance.

The Council's Edinburgh Design Guidance does not include any parking standards for either car parking or cycle parking for this sui generis use.

It is noted, however, that the applicant proposes no off-street parking provision for the site and whilst no cycle parking is proposed, the property is located within a city centre location with nearby access to public transport provision.

The proposal complies with LDP Policy Tra 2 and Tra 3.

g) Public Comments

Material Representations

- Noise disturbance; this is addressed in section 3.3e).
- short term lets eroding residential community resulting in negative impact on the character of the conservation area; this is addressed in 3.3c).

Conclusion

The proposal complies with the adopted Edinburgh Local Development Plan. The proposal is an appropriate use which is reflective of the mixed commercial/residential character of the surrounding area and which preserves both the character and appearance of the New Town Conservation Area and the Outstanding Universal Value of the Old and New Towns of the Edinburgh World Heritage Site. The proposal will not have an adverse impact on the unique architectural and historical character of the listed building and is an acceptable city centre development. It will not have a detrimental impact on the amenity of the surrounding area, or raise any concerns in respect to road safety.

The development complies with the Planning (Listed Building and Conservation Areas) Scotland Act 1997.

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

3.4 Conditions/reasons/informatives

Informatives

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

The application received two objection comments. These representations are summarised and addressed in the Assessment section of the report.

Background reading/external references

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

Statutory Development**Plan Provision**

Edinburgh Local Development Plan.

Date registered

6 May 2020

Drawing numbers/Scheme

01, 02A, 03A, 4-6, 07A, 08A, 09-11,

Scheme 2

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Links - Policies

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

LDP Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its setting.

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

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

LDP Policy Del 2 (City Centre) sets criteria for assessing development in the city centre.

LDP Policy Emp 9 (Employment Sites and Premises) sets out criteria for development proposals affecting business and industrial sites and premises.

Relevant Government Guidance on Historic Environment.

Managing Change in the Historic Environment: Interiors sets out Government guidance on the principles that apply to alterations to the interiors of listed buildings.

Managing Change in the Historic Environment: Doorways: Government guide sets out the principles that apply to altering the doorways of historic buildings.

Relevant Non-Statutory Guidelines

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

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

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

Other Relevant policy guidance

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

