

Development Management Sub-Committee Report

Wednesday 29 June 2022

**Application for Planning Permission
35A Moray Place, Edinburgh, EH3 6BX**

Proposal: Change of use (retrospective) from residential to short-term let apartment (Sui Generis).

**Item – Committee Decision
Application Number – 22/00672/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 does not harm the listed building, its setting and preserve the character and appearance of the conservation area.

The change of use does not adversely impact on residential amenity or harm the qualities that justify the inscription of a World Heritage Site.

It is compatible with the character of the wider area and is located near to sustainable modes of transport.

It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and it is in accordance with the development plan.

There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

SECTION A – Application Background

Site Description

The proposal site is a basement floor residential property located on the south side of Moray Place near the junction with Great Stuart Street.

The site forms part of a Category A Listed Building (dated 03.10.1967, LB reference: LB29369), an early 19th century four-storey and basement classical terrace.

The terrace is constructed in ashlar sandstone, with black wrought iron railings bordering the pavement and entrances at ground and basement level.

The entrance to the property is via a private external staircase accessed from the pavement.

The site is located within a primarily residential area with some commercial uses nearby.

It is located within the New Town Conservation Area and the World Heritage Site.

Description Of The Proposal

The proposal is for a retrospective change of use from residential to short term holiday let (sui generis).

Supporting Information

Planning Statement

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 - No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 17 February 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 25 February 2022;

Site Notices Date(s): 22 February 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 - Use and Adaptation of Listed Buildings

No physical changes occur from the change of use.

The proposal does not alter the character, appearance or historical interest of the listed building.

All other listed buildings within the vicinity of the site are not materially impacted upon by this change of use.

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 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 impact on the appearance of the conservation area is neutral as no visible change has occurred.

The immediate character of the conservation area is mainly residential, however other uses are evident nearby including offices on the east side of Moray Place. In addition, some commercial uses are evident in surrounding area.

Use of the property for this commercial purpose is not at odds with the wider character of the conservation area.

Conclusion in relation to the conservation area

The proposal preserves the character and appearance of the conservation area therefore is 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 policy Env 1, Env 3, Env 4 and Env 6
- LDP Housing policy Hou 7

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policy Env 3, Env 4 and Env 6.

Impact on the character and appearance of the Listed Building and Conservation Area

This has been assessed in sections a) and b). The proposals comply with LDP policy Env 4 and Env 6.

World Heritage Site

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

As the proposal does not result in any physical change to the property there is no impact on the qualities or inscription of the World Heritage Site or its setting.

Principle

LDP policy Hou 7 (Inappropriate Uses in Residential Areas) states developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

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 such uses, the economic benefits are a material planning consideration.

The non-statutory Guidance for Businesses refers to the assessment of a change of use from residential property to short term visitor accommodation having 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.

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation are acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Application reference 21/04512/FUL for the change of use of basement tenement flat to a short term let, was refused by the Council as the proposed use was considered contrary to LDP policy Hou 7. The reason referred to the potential for high turnover of visitors causing disturbance to residents on a quiet residential street. In addition, that the basement stair was likely to lead to noisy arrivals and departures and transient visitors may have less regard for neighbours' amenity than long standing residents.

The report also referenced the potential for disturbance through use of external amenity space at basement level.

The decision was overturned at appeal (ref: PPA-230-2367) with the reporter commenting on matters including the modest size of property and its external stair, the likely degree that the external space would be used and the surrounding ambient noise.

Each case is assessed on its own merits however it is noted the characteristics of this property are similar to this basement flat at Fingal Place.

The immediate area around the site is mainly residential in character. The property is accessed via a private staircase from street level at Moray Place.

Visitors on arrival and departure would be in some proximity to adjacent flatted properties at ground and basement level.

There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents. Use of the private external staircase may bring some noise from guests transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.

However, whilst the area is primarily residential in character the property is located adjacent to a wide, cobbled road which has indirect access to busier city centre streets including Heriot Row and Queen Street. It is considered that current vehicular use along Moray Place would bring a level of existing ambient noise to the area.

Furthermore, the size of the unit is relatively modest, containing one bedroom, dining, kitchen and living area. It is therefore likely to be used by smaller groups such as individuals, couples or small families.

At basement level, the property has access to a private external space to the front. It is located near to residential property windows and use of this space may bring some noise.

However, its size is limited and is tightly enclosed by boundary walls located below street level. In this regard, it is not good quality amenity space and is unlikely to be frequently used by guests in this city centre location; with local access to a range of amenities and large public green space nearby.

In light of the above, it is not anticipated that there would be any material increase in noise from potential use of this space from the lawful residential use.

In addition, it is noted the submitted planning statement refers to the property being operational as a short term let for over nine years without complaints. Environmental Protection have confirmed they have received no noise complaints in regard to its use.

Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity.

The proposal complies with LDP policy Hou 7.

Transport

There are no specific parking standards for short-term lets in the Edinburgh Design Guidance (EDG). However, the site is located within Zone 1 in the Edinburgh Design Guidance with good access to public transport. Therefore, the limited car parking provision is appropriate in this accessible location.

There is adequate space within the internal layout of the flat to accommodate cycle provision.

No specific road or pedestrian safety issues will occur as a result.

Conclusion in relation to the Development Plan

The proposal complies with the Local Development Plan.

It does not adversely impact on the architectural character or setting of the listed building. The character and appearance of the conservation area is preserved.

The change of use does not adversely impact on residential amenity. It does not impact on the qualities that justify inscription of the World Heritage Site or its setting.

It is compatible with the character of the area and is located near to sustainable modes of transport.

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 protects the character of the historic environment.

It is located near to sustainable modes of transport therefore encourages reduced reliance on car usage.

It is recognised this commercial use is located in a mainly residential area. However, given the size, characteristics and location of the property the amenity of existing development is not unreasonably affected.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

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

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

Equalities and human rights

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

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

Public representations

material considerations

- -Amenity, use of residential property - Addressed in section (b) - principle
- -Impact on community - Assessed through considerations on local character and amenity in sections (a) and (b)
- -Impact on World Heritage Site - Addressed in section (b)
- *non-material considerations*
- -Over provision of short term lets - there is currently no policy restricting use of short term lets therefore this matter is not material.

Conclusion in relation to identified material considerations

The proposal protects the character of the historic environment. It is a sustainable land use, located near to sustainable modes of transport therefore encourages reduced reliance on car usage.

The commercial use of the property is compatible with the character of the wider area and protects the amenity of existing development.

Overall, the proposal complies with the relevant sustainability principles set out in SPP.

Overall conclusion

The proposals do not harm the listed building, its setting and preserve the character and appearance of the conservation area.

The change of use does not adversely impact on residential amenity or harm the qualities that justify the inscription of a World Heritage Site.

It is compatible with the character of the wider area and is located near to sustainable modes of transport.

It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and it is in accordance with the development plan.

There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

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: 14 February 2022

Drawing Numbers/Scheme

01-02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

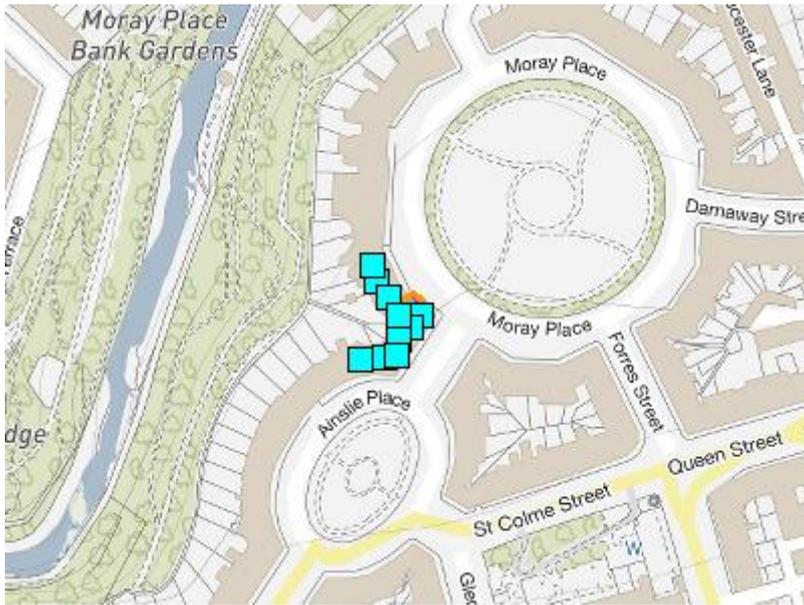
Contact: Lewis McWilliam, Planning Officer
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Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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