

Development Management Sub-Committee Report

Wednesday 29 June 2022

**Application for Planning Permission
34A William Street, Edinburgh, EH3 7LJ**

Proposal: Change the use from residential to commercial short-term let, (in retrospect).

**Item – Committee Decision
Application Number – 22/01193/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application is for a short stay let and is recommended to be granted.

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 policies in the Edinburgh Local Development Plan. The change of use to a short stay let is acceptable in this location as it will not have a materially detrimental effect on the living conditions of nearby residents. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a one-bedroom, basement floor flat and is located within William Street with steps down to its own main door access. The property forms part of an extensive three-storey and basement, plain classical commercial terrace with earlier 19th century shop premises ground floor. The property is part of a category B listed building (listing reference: LB29932, date of listing: 14/12/1970). The property sits below a delicatessen.

The premises was previously part of the Chinese restaurant that was on William Street and was classed as commercial space prior to being sold in January 2018 and converted into a flat for a short term let use. There is no planning record for the conversion of the property or for the current use as a short term let.

William Street is a mix use street with eatery and shop uses on the ground floor and residential uses on the upper floors.

The site is within the New Town Conservation Area.

Description of the Proposal

The proposal is for retrospective planning permission for a change of use from residential to short term stay let (STL).

No external or internal physical alterations are proposed.

Supporting Information

- Supporting statement

Relevant Site History

No relevant site history.

Other Relevant Site History

None.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 4 April 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: 6

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

There are no external or internal alterations proposed. The change of use will not have a material impact on the special interest of the listed building.

The proposal is 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?

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.

Streets of shops were included from the beginning of the New Town. Many of these shops have survived on the fringes of the central area, such as Stockbridge and William Street.

Conclusion in relation to the conservation area

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.

The proposal 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 policies Env 4 and Env 6
- LDP Housing policies Hou 7

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

Principle

The main policy that is applicable to the assessment of short-stay lets (STL) lets 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. There are no policies relating specifically to the control of short stay commercial visitor accommodation (STL) in the current Local Development Plan (LDP).

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.
- The guidance states that a 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 short stay visitor accommodation is 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.

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 supporting statement states that the premises was part of a former Chinese restaurant before it was sold separately in January 2018. The premises has been used as a short-term let since. However, there is no record of planning permission for this and the use requires to be considered as a new proposal under current policies. It should also be noted that the premises does not have planning permission as a flat.

The proposed one-bedroom short stay use would enable two related or unrelated visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also 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.

The property has the benefit of a main door access down from basement steps. While the basement steps have the potential to generate noise from luggage wheels being dragged to-and-fro, the relatively small size of the premises means that the turnover of noise would not be so significant as to impact on residential amenity. With the exception of the small basement area to access the premises, the property has no private outdoor space.

Given the predominately commercial uses on the ground floor, daily occurrences of deliveries/vehicles, noise from cobbled road surface and proximation to nearby uses, existing residents would already be accustomed to a degree of ambience noise throughout the day and evening times. As the premises sits below an existing delicatessen and would largely be restricted to two guests staying at any one time, it is unlikely that its use as a short term let would have a materially detrimental impact on the living conditions of nearby residents in terms of noise.

Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.

It is expected that a turnover of two related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.

There are no statutory policies on the loss of housing in the current Development Plan. The proposal complies with LDP policy Hou 7.

Listed Building

There are no external or internal alterations proposed. The proposal complies with LDP policy Env 4.

Conservation Area

There are no external alterations and the development preserves both the character and appearance of the conservation area. The proposal complies with LDP policy Env 6.

Conclusion in relation to the Development Plan

The principle of a change of use to a short stay let is acceptable as it will not have a materially detrimental effect on the living conditions of nearby residents. The proposal complies with LDP policy Hou 7.

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 in terms of net economic benefits.

Emerging policy context

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

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

Equalities and human rights

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

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

Public representations

A summary of the representations is provided below:

material considerations

- Impact on residential amenity in terms of noise

non-material considerations

- Impact of short term lets on the availability and affordability of long-term rental accommodation - planning does not control fluctuations in the rental market.
- Loss of housing stock and contradicts commitment to reduce poverty - There is no loss of housing policy in the current plan and the existing premises is not an established housing stock.
- Security issues (unlocked doors) - planning does not control/condition security arrangements. The premises has its own main door access and would not interfere with the security arrangements of other properties.
- Contrary to City Plan 2030 - the proposed City Plan 2030 is not adopted and carries limited weight in the assessment of the proposals.

Conclusion in relation to identified material considerations

The other material considerations have been addressed and there are no new material issues to resolve.

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 policies in the Edinburgh Local Development Plan. The change of use to a short stay let is acceptable in this location as it will not have a materially detrimental effect on the living conditions of nearby residents. There are no material considerations that outweigh this conclusion. It is recommended that Development Management Sub Committee approves this application.

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: 25 March 2022

Drawing Numbers/Scheme

01-02.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer
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Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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