

# 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

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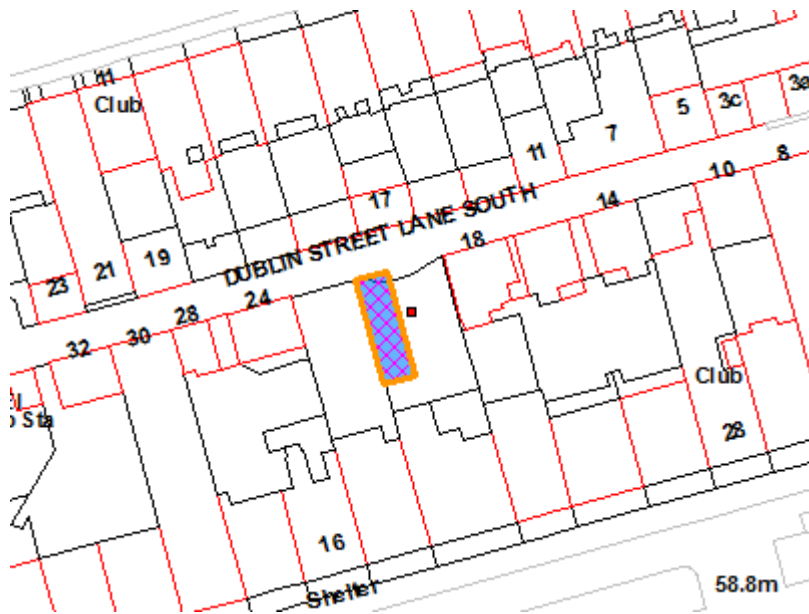


Appendix 1

**Summary of Consultation Responses**

No consultations undertaken.

**Location Plan**



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