

# 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  
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## Summary of Consultation Responses

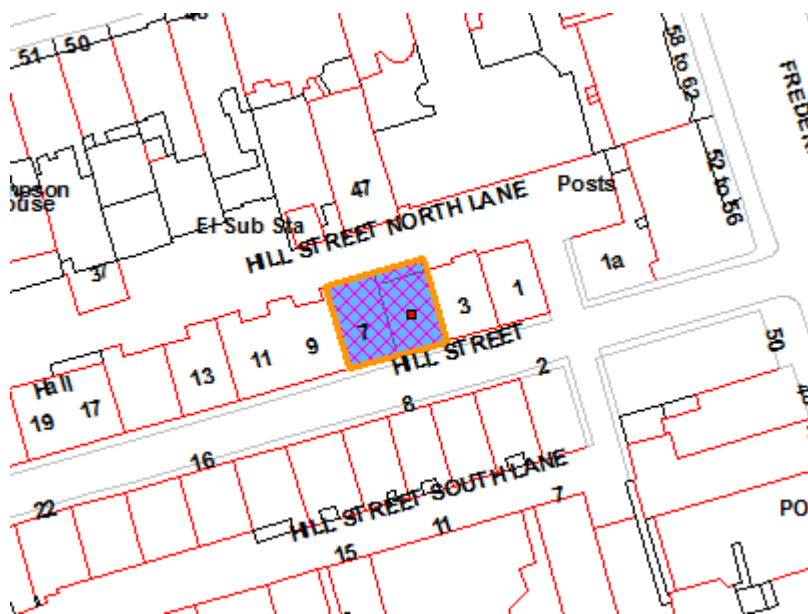
NAME: Historic Environment Scotland

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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