

# Development Management Sub-Committee Report

**Wednesday 7 December 2022**

**Application for Planning Permission  
50/2 Thistle Street, Edinburgh.**

**Proposal: Retrospective COU from residential to short-term let visitor accommodation (sui generis).**

**Item – Committee Decision  
Application Number – 22/02135/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 (LDP) and Scottish Planning Policy (SPP). There are no material considerations that outweigh this conclusion. The proposal is acceptable.

## **SECTION A – Application Background**

### **Site Description**

The application site relates to a second floor, one - bedroom flat, fronting Thistle Street. Access is gained through a shared entrance and hallway. The block comprises two apartments, a retail unit on the ground and retail offices on the first floor. The remaining flat currently has a pending application for change of use from residential to short term lets.

The flat is situated within a B listed building (43363), statutorily listed on 13/01/1996. A late 18th century, three story - three bay tenement with attic.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site.

### **Description Of The Proposal**

Retrospective COU from residential to short-term let (STL) visitor accommodation (sui generis).

### **Supporting Information**

Planning Statement

### **Relevant Site History**

02/00655/FUL

50 Thistle Street

Edinburgh

EH2 1EN

Change of use from office to shop and joining two properties to form larger shop

Granted

9 May 2002

### **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 reference is;

50/3 Thistle Street - 22/02314/FUL

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

No consultations undertaken.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 5 May 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 13 May 2022.

## **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.

The proposal complies with the objectives of LDP Policy Env 4.

### 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 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. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world."*

*The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential 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

### **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:

- Local Development Plan Environment Policies, Env 1, Env 3, Env 4 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Delivering the Strategy Policy, Del 2
- Local Development Plan 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 LDP Policies Env 3, Env 4 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

#### Listed Building 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 and City Centre Retail Core, 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 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 site location is mixed use in nature, comprising flats and commercial uses including retail, offices bars and restaurants and other existing tourist accommodation. The immediate area sees high levels of pedestrian traffic throughout the day and night. Therefore, the nature of the vicinity is one in which STL use can be supported in principle.

The property is accessed by a shared doorway and stairwell - this access is used by two further properties, a residential flat which has also applied for a change of use to a STL and a retail business. The retail business has access to both the shared entrance and a private access located from the street. The combination of residential use and STL use within a shared stair can have negative impacts on neighbouring residential amenity. However, in these circumstances there are no other neighbours to be impacted.

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.

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 proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will not adversely affect the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

### Parking standards

There is no off street car parking available within the site and no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the 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 materially detrimental 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 Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

#### **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 Draft National Planning Framework has been consulted on but has not yet been adopted. As such, little 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

The application received four contributions, three objections and one neutral. A summary of the representations is provided below:

### *material considerations*

- The change of use would detrimentally affect growth, community and place. With emphasis on the World Heritage Site. This is addressed within section C.
- Increase in congestion and reduced quality of life in the immediate community. This is addressed within section C.
- Risk of unnecessary damage to historic structures. This is addressed within section C.
- Detrimental effect on amenity and the living conditions of nearby residents. This is addressed within section C.
- The local economy is being detrimentally affected during the off-peak tourist periods, leading to some local businesses closing. The effect on business has been discussed within section C.

### *non-material considerations*

- The application is under separate ownership, and not owned by the management company which has submitted the applications.
- Aspects of joint responsibility in listed buildings and conservation areas are diminished by the increase of short-term occupants.
- Loss of affordable housing. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not come into effect. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Consideration of the draft City Plan 2030 specifically "Proposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted, unless in exceptional circumstances...". As the City Plan 2030 has not come into effect it is not a material consideration.



- Short term lets creating unequal competition within the housing market making housing unaffordable.
- The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities). These policies are not applicable to a change of use

### **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 West End Conservation Area.

The proposal complies with the relevant policies within the LDP and the SPP as it will contribute to sustainable development. 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;

1. No conditions attached to this permission.

### **Background Reading/External References**

To view details of the application go to the [Planning Portal](#)

**Further Information - Local Development Plan**

**Date Registered: 5 May 2022**

**Drawing Numbers/Scheme**

01

Scheme 1

**David Givan**  
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**The City of Edinburgh Council**

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Appendix 1

## Summary of Consultation Responses

No consultations undertaken.

## Location Plan



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