

# Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission**  
**Flat 5, 23 Thistle Street South West Lane, Edinburgh.**

**Proposal: Change of use (retrospective) from residential to short term let (sui-generis).**

**Item – Local Delegated Decision**  
**Application Number – 22/01794/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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

The proposal complies with the relevant policies within the local development plan and the SPP as it will contribute to sustainable development. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

## SECTION A – Application Background

### Site Description

The application site is a one bedroom flat on the third floor at 23 Thistle Street South West Lane. The property shares its access to Thistle Street South West Lane via a communal stair. There is no access to a private or communal garden.

Thistle Street South West Lane is in a mixed use area with rear entrances to retail uses and garages on the ground floor and a mix of commercial uses and offices above. The property is off Thistle Street which has cafes, restaurants and bars. Public transport links are easily accessible from the site.

The site lies within the New Town Conservation Area and the Edinburgh World Heritage Site.

### **Description of the Proposal**

The application is for a change of use 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 as a short term let since 2018. Therefore, the application is retrospective.

Retrospective planning applications have been submitted for a change of use from residential to short term let use (sui generis) for the 10 remaining flats in the same residential block.

### **Supporting Information**

Planning Statement.

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

The following planning applications are being considered within the same residential block: -

22/01780/FUL

22/01781/FUL

22/01804/FUL

22/01785/FUL

22/01798/FUL

22/01675/FUL

22/01679/FUL

22/01683/FUL

22/01688/FUL

22/01691/FUL

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

No consultations undertaken.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 27 April 2022

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

**Press Publication Date(s):** 6 May 2022;

**Site Notices Date(s):** 29 April 2022;

**Number of Contributors:** 3

## 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?**

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 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.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not have a negative impact on the character 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.

### **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 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 applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let 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.

### Proposed Use

The application site is situated in the Urban Area and City Centre, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets (STLs) is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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 ten other residential units, each of which has applied retrospectively for planning permission, having been in use as STLs since 2018.

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 nearby neighbours to be impacted, as all the units within the stair are already in STL use; each has applied for planning permission to regularise the use.

The character of Thistle Street South West Lane, although in the heart of the city centre is relatively quiet. The main uses are rear accesses for retail units and restaurants on George Street and Thistle Street, garages and offices. There are no residential properties within the vicinity of the application site, excluding those within the communal stair. Consequently, introducing a STL use in this street would not have a materially detrimental impact on the living conditions of nearby residents.

In these particular circumstances, there would be no negative impact on sense of place or community.

The retrospective grant of planning permission for each unit 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 Council 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 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 however there is a limited amount of metered on street parking available nearby. The site is highly accessible by public transport. There are no cycle parking standards for STLs. Bikes could be parked within the property if required. 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 harm neighbouring amenity 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.

#### **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 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 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

A summary of the representations is provided below:

### *material objections*

- Would negatively impact on residential amenity. Addressed in b) above.
- Rising number of short term lets contribute to unsustainable growth and threaten the sense of place and community. Addressed in b) and c) above.
- Causes congestion. Addressed in b) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in b) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in b) above.
- Adequate bins should be provided. The applicant should agree a waste strategy with CEC Waste Services
- Give consideration to 'Guidance for Businesses'. Addressed in b) above.
- Contradicts LDP policy Hou 7. Addressed in b) above.

### *non-material considerations*

- Impact on availability 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 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.
- Impact on maintenance of communal areas and buildings in a conservation area. The property would be managed by a company that would undertake maintenance of the communal areas.
- Contradicts LDP Policy Des 1. This is not a relevant LDP policy
- Contradicts LDP Policy Des 5. This is not a relevant LDP policy.

- Contradicts LDP Policy Env 4. This is not a relevant LDP policy.
- Give consideration to new Hou 7 of City Plan 2030. The application must be assessed against the adopted LDP.
- Reduces quality of life. Not a material planning consideration.

### **Conclusion in relation to identified material considerations**

The proposals do not raise any issues in relation to other material considerations identified.

### **Overall conclusion**

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

The proposal complies with the relevant policies within the local development plan 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. There are 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: 31 March 2022**

### **Drawing Numbers/Scheme**

01A, 02A

Scheme 1



David Givan  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council

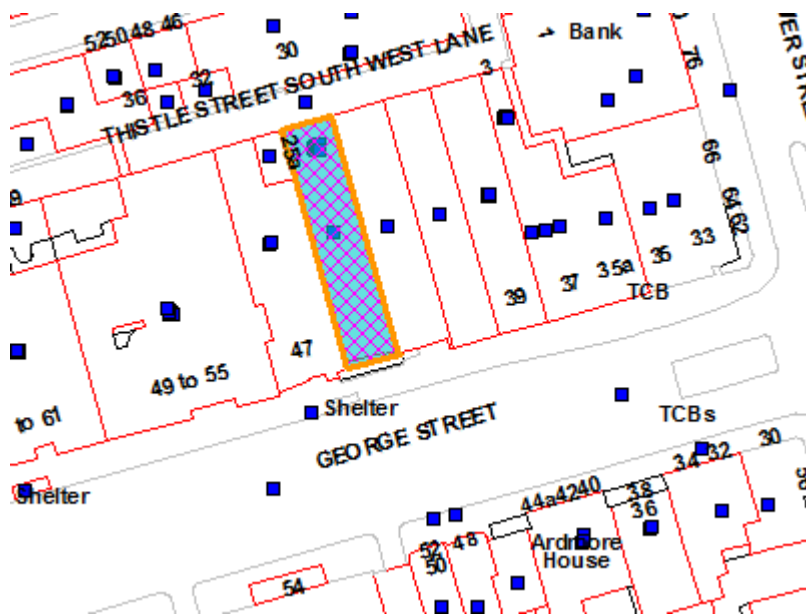
Contact: Lesley Porteous, Planning Officer  
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Appendix 1

## Summary of Consultation Responses

No consultations undertaken.

## Location Plan



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