

Development Management Sub-Committee Report

Wednesday 7 December 2022

Application for Planning Permission

Flat 9 9 South St Andrew Street, Edinburgh, EH2 2AU

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

Item – Committee Decision

Application Number – 22/01762/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 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 relates to Flat 9, 9 South St Andrew Street. It is a one-bedroom flat on the third floor of the block. The property shares its access to South St Andrew Street via a communal stair. It has no access to a communal or private garden.

South St Andrew Street is a city centre / mixed use location. The surrounding area contains a mix of different uses including offices, retail, cafes/restaurants, and hotels. Public transport links are easily accessible from the site.

The application property is part of a category B listed building including 9 and 11 South St Andrew Street. LB 29709, 20/2/1985.

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 2013. 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 ten 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: -

22/01752/FUL
22/01754/FUL
22/01755/FUL
22/01756/FUL
22/01757/FUL
22/01758/FUL
22/01759/FUL
22/01760/FUL
22/05039/FULSTL
22/01753/FUL

Pre-Application process

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: 2

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 harms neither the listed building, its setting, or the conservation area. It is therefore acceptable with regard to Sections 59 and 64 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 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 already 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 regards 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 1, Env 3 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.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with 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 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 Edinburgh 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 Retail Core, 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 2013.

The combination of residential use and short-term 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 short term use; each has applied for planning permission to regularise the use.

The character of the area is essentially commercial. Number 9 South St Andrew Street is located just off Princes Street which forms a busy thoroughfare and has high ambient noise levels. Pedestrian and vehicular traffic is considerable throughout the day and into the early hours of the morning. There are no known residential properties within the vicinity of the application site, excluding those within the communal stair.

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 contribute to 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. 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 Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a short term let will not harm neighbouring amenity, is acceptable in the city centre, meets the applicable parking standards, will not harm the Listed Building, its setting, or the World Heritage Site, 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 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 c) above.
- Rising number of short term lets in the area threatens the sense of place and community. Addressed in c) above.
- Causes congestion. Addressed in c) above.
- Impact on World Heritage Site's special characteristics of history and place. Addressed in c) above.
- Not every property in the block has submitted an application resulting in impact on existing residential flats. Addressed in c) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Contributes to unsustainable growth. Addressed in d) 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 listed buildings and/or buildings in a conservation area. The property will be managed by a company which will undertake the maintenance of the communal areas.
- Reduces quality of life. This is not a material planning consideration.
- Contradicts LDP policy Env 4. This is not a relevant LDP Policy.
- Contradicts LDP policy Des1. This is not a relevant LDP Policy.
- Contradicts LDP policy Des 5. This is not a relevant LDP Policy.

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 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**

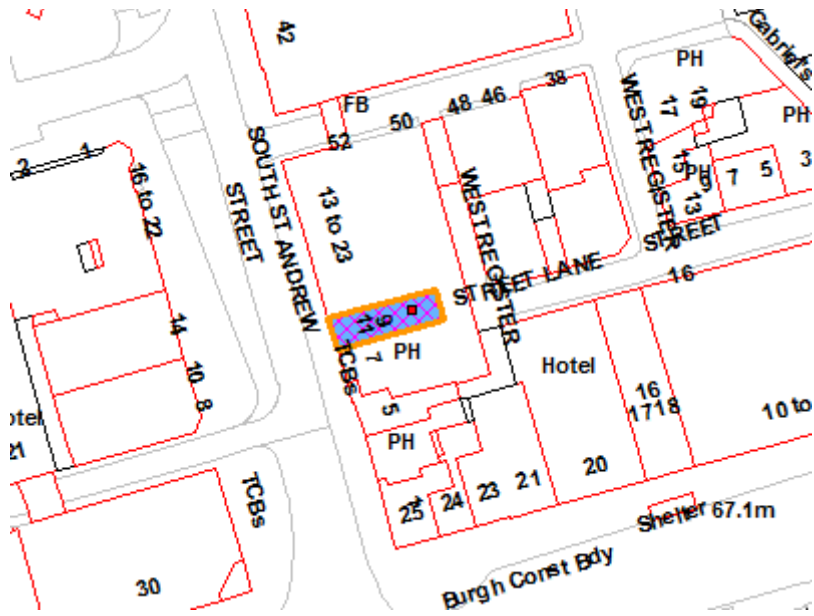
Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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