

Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
Flat 4, 24 York Place, Edinburgh.**

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

**Item – Committee Decision
Application Number – 22/01735/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 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 five-bedroom flat at 24 York Place. Fronting York Place on the third floor and attic level. Access is gained via a shared entrance from York Place separate from 24A York Place. The shared access is used by three further properties.

The flat is situated within an A listed building (29985), statutorily listed on 14/09/1966. A late 18th century, three storey - four bay.

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

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

15/02349/FUL
24 York Place
Edinburgh

Change of use from office to form 4 flatted dwellings with external alterations, including dormer windows and new windows to rear.

Granted

17 July 2015

04/02196/FUL
24 York Place
Edinburgh
EH1 3EP

Conversion of attic to form additional flat, new dormer windows and new sash and case window (as amended)

Granted

2 September 2004

Other Relevant Site History

Other applications within the property for proposed short-term let use are planning references 22/02533/FUL, 22/01730/FUL, 22/01731/FUL and 22/01734/FUL

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: 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 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 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 Sections 59 and 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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy Del 2

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 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 SCVA 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 is located on York Place. The character of the immediate area is primarily commercial, with low levels of residential. York Place is a busy vehicular and pedestrian thoroughfare, with high ambient noise levels. Vehicular traffic is considerable throughout the day. The level of amenity is that of a busy mixed-use area. The nature of the vicinity is one in which STL use can be supported in principle, as any noise and disturbance associated with such uses will be largely masked by background noise and activities.

The application property forms part of a larger five storey property. This flat shares an access at the ground floor level with three further flats, each of which has applied retrospectively for planning permission, having been in use as STLs.

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 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 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 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

The application received one objection 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 immediate and nearby residents. This is addressed within section C
- Already a substantial number of short term lets on the street leading to a loss of a sense of community. This 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 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: -

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: 31 March 2022

Drawing Numbers/Scheme

01, 02 A

Scheme 2

David Givan
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PLACE
The City of Edinburgh Council

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Appendix 1

Summary of Consultation Responses

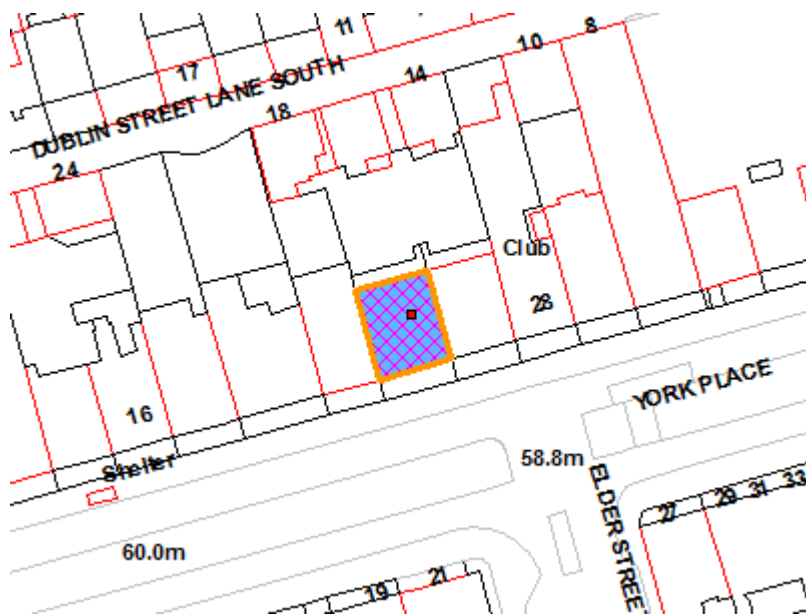
NAME: Historic Environment Scotland

COMMENT: We have considered the information received and do not have any comments to make on the proposals.

DATE:

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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