

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100627028-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Architects Scotland Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	@rchitects	Building Name:	
Last Name: *	Scotland Ltd	Building Number:	50
Telephone Number: *		Address 1 (Street): *	Castle Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Forfar
Fax Number:		Country: *	Angus
		Postcode: *	DD8 3AB
Email Address: *			

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Lorna"/>	Building Number:	<input type="text" value="17"/>
Last Name: *	<input type="text" value="McKenzie"/>	Address 1 (Street): *	<input type="text" value="Dunnichen Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Kingsmuir"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Forfar"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Angus"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DD8 2RQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="FLAT 2"/>
Address 2:	<input type="text" value="38 NIDDRY STREET"/>
Address 3:	<input type="text" value="OLD TOWN"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH1 1LG"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673551"/>	Easting	<input type="text" value="325996"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change use of flat from tenanted to Air BnB

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Notification of Review Statement in the supporting documents section

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Notification of Review Supporting Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/05239/FULSTL

What date was the application submitted to the planning authority? *

15/10/2022

What date was the decision issued by the planning authority? *

05/04/2023

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: . @rchitects Scotland Ltd

Declaration Date: 03/07/2023

Proposal Details

Proposal Name	100627028
Proposal Description	Flat 2 38 Niddry Street Notice of Review
Address	FLAT 2, 38 NIDDRY STREET, OLD TOWN, EDINBURGH, EH1 1LG
Local Authority	City of Edinburgh Council
Application Online Reference	100627028-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
Notification of Review Statement	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

NOTICE OF REVIEW STATEMENT

On behalf of

Mrs. L. McKenzie

Relating to the delegated refusal of Planning Permission by The City of Edinburgh Council

Planning Application Ref: 22/05239/FULSTL

Change of Use of Flat to Air BnB (STL), Flat 2, 38 Niddry Street, Edinburgh, EH1 1LG



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1. INTRODUCTION

- 1.1 This Notice of Review Statement forms part of the Notice of Review submitted by Mrs. L. McKenzie (“the Appellants”) against the refusal by The Edinburgh City Council (the “Council”) of the application for Planning Permission Ref. 22/05239/FULSTL (the “Application”) relating to the change of use of Flat 2, 38 Niddry Street, Edinburgh, EH1 1LG to Air BnB use (Short term let – STL). The application was received by Edinburgh City Council on 15th October 2022 and refused by delegated decision on 5th April 2022. Two reasons were given for refusal are listed and responded to below.
- 1.2 The appellants submit that there is no justifiable evidence to support refusal of the application on the grounds stated within the two reasons for refusal and that planning permission should be granted for the reasons set out in this review statement.
- 1.3 This Notice of Review Statement contains the particulars of the appellants grounds of appeal and the matters that they consider require to be taken into account in determining this Notice of Review. This statement concentrates on the report of handling and the officer’s stated reasons for delegated refusal.

3. SITE AND SURROUNDING AREA

The application relates to a two-bedroom flat at 38 Niddry Street, Edinburgh, EH1 1LG. The property is strategically located in a mixed-use area just off the Royal Mile. This is a very busy area within the Old Town Conservation Area and the World Heritage Site and due to the nature of the uses can be busier at night than during the day. Access to the property is gained by secure entry via an entrance off Niddry Street that is used by a further two further properties which also contains lift access. It is understood that this block was built as either an addition, or as part of the original adjacent hotel, for hotel related use and had an entrance to both a hotel stairwell from one of the rooms and the carpark.

There is only this entrance this side of Niddry Street that is residential in nature. On the north side of this access is a hotel and carpark, with a large occupancy which creates noise and disturbance in the street at all hours. This stretches all the way to the Royal Mile & High Street at the top of the road. On the other side is the entrance to the university property St Cecilia's Hall: Concert Room & Music Museum, which as well as being a visitor attraction is used for events and concerts, as well as being able to be hired as a 260-person venue. The hall is in operation until 10pm when the occupants are turned out into the street, creating further noise and disturbance with some people then moving on to other local venues in the area which are open until the early hours.

Across the street from the entrance are wide selection of pubs / clubs which are open into the early hours in the morning before the customers are again turned out into the streets, creating excessive noise and disturbance. One of which is advertised as being open until 3am seven nights a week. Additionally on this site of the street is a local homeless shelter which not only has people regularly coming and going but the outside street is also used as a meeting place for users during the day.



Figure 1 - Entrance to flats with carpark to left.



Figure 2 - St Cecilia's hall entrance to right of flat entrance



Figure 3 - Niddry Street to Royal Mile / High Street



Figure 4 - Hotel to North end of Niddry Street



Figure 5 - Hotel and bar north end of Niddry street, opposite side



Figure 6 - View south, down Niddry street, opposite side



Figure 7 - Whistlebinkies



Figure 8



Figure 9 - Globe Bar



Figure 10 – The Globe, food til 1am weekends, Karaoke Thursday from 9.30pm



Figure 11 - The Hive



Figure 12 – The Hive, 7 nights a week, 365 days of the year



Figure 13 - Niddry Street, at night



Figure 14 - Hostel and The Banshees Labyrinth



Figure 15



Figure 16 - Niddy Street to south of access



Figure 17 - Monkey Barrel Comedy Studio & Bannerman's



Figure 18 - Bannerman's, Live music 7 Nights a week

4. THE PROPOSED DEVELOPMENT

The application is simply for a change of use to formalise the existing use as a residential short term let property (STL) due to changes in the relevant legislation. This flat has been in use as a short term let since 2019. No alterations to the property are proposed.

5 DETERMINATION OF THE APPLICATION

5.1 The officers report confirms that the relevant NPF4 and LDP 2016 policies to be considered are:

- [NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.](#)
- NPF4 Productive Places Tourism Policy 30
- [NPF4 Historic Assets and Places Policy 7.](#)
- Local Development Plan Housing Policy, Hou 7.
- [Local Development Plan Transport Policies, Tra 2 and Tra 3](#)

[The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering NPF 4 Policy 7.](#)

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.](#)

5.2 The officer's report also confirms that the proposed change of use is acceptable in relation to the above policies [highlighted in green.](#)

5.3 The Report of Handling sets out the officer's consideration of the application. This summary downplays the positive aspects relating to the proposals and the lack of any objections from the neighbours / local property owners or occupiers or the fact that no objections have been raised by environmental health as the relevant department in relation to the considered issues raised over noise and amenity impact. It also glosses over the officer's own conclusions on many of the critical determining factors for the application.

5.4 The application was refused under delegated powers in relation to two policies (above). The following summarises the two reasons for refusal and provides the appellants rebuttal of each.

Reason for Refusal 1:

*'The proposal is contrary to **Local Development Plan Policy Hou 7** in respect of **Inappropriate Uses in Residential Areas**, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'*

Much has been made by the officer in their report with regard to the proposal being in a residential area in the context to the above reason for refusal. This however is not the case. The area is mixed use in nature. It is worth noting approval 08/01768/FUL (see Appendix) for the Change of use from office premises to drop-in centre at 25 Niddry Street Edinburgh EH1 1LG (directly opposite the property relating to this application). The Planning departments report to committee at the time, carried a recommendation for approval and confirms that **Niddry Street is within a busy commercial area accommodating a wide variety of uses including retail, public houses, tourist accommodation and residential. An accessible central area that already accommodates a wide mix of activities.** The nature of this area has not changed since this time, and this also confirms the low level of amenity and the impact of existing uses including tourist accommodation. Contrary to the claim made the area is not predominantly residential and has not been for at least the last 15 years.

At the time, this previous application was considered acceptable against Policy Hou 8 & H11 (HOUSING AMENITY) which have stark similarities to the current Policy Hou 7 in relation to activity to the detriment of residential amenity.

The report at the time goes on to comment further on the amenity in the area as follows:

'The concern that clients of the proposed drop-in centre will cause increased antisocial behaviour or create a more dangerous environment is a presumption. Letters have emphasised that the area already suffers from this type of behaviour from the social group that the drop-in centre will be catering for. The provision of a drop-in centre in this location would therefore have the potential to reduce the number of people causing problems in the area by providing them with a place to go and the opportunity to address dependency and homelessness issues. In conclusion the principle of a change of use in this location is acceptable. There will be minimal impact on neighbouring residential amenity.'

Appellants Response to Local Development Plan Policy Hou 7 :

- Local Development Plan Policy Hou 7 relates specifically to the detrimental effect on the living conditions of nearby residents. The intention of this policy is firstly to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent further deterioration in living conditions in more mixed-use areas.
- The officers report fails to appropriately assess both the use of the area as well as the existing level of residential amenity in the area.
- With reference to the information provided above and previously on the surrounding area. It cannot be considered that this area is predominantly residential in its nature, ruling out the first section of the intention relating to Hou 7.
- There is only this flat and the other two flats accessed from the same location this side of Niddy Street. On the north side of the access is the hotel and carpark, with a large occupancy which is active at all hours. On the other the university property St Cecilia's Hall: Concert Room & Music Museum, which as well as being a visitor attraction is used for events and concerts, as well as being able to be hired as a 260-person venue. The hall is in operation until 10pm when the occupants are turned out into the adjacent streets, creating associated noise and disturbance with some people than moving on to other local venues in the area.
- Across the street are wide selection of pubs / clubs which are open into the early hours in the morning before the customers are again turned out into the streets, creating excessive noise and disturbance. One of which is advertised as being open until 3am seven nights a week. Additionally on this site of the street is one of the local homeless shelter which not only has people coming and going at night but the outside street is also used as a meeting place during the day.
- Taking the above into consideration it is clear that in terms of this existing mixed-use area the use of this unit as an Air BnB (STL) will not further impact the residential amenity in the area than it already has been by existing uses previously approved by the council (both Planning and Licencing).
- Due to the existing low level of amenity in the area this applies as equally with regard to the access shared by the 3 properties, with noise from external sources far outstripping potential disturbance from within the stair by users coming and going. This is confirmed by the letters

of support contained in the appendix from the only two other properties served by the stair, as well as the lack of any objection from any other property owners or occupiers in the area. As well as the fact that in the years this property has already operated as a STL there have never been issues / complaints from neighbours or to the relevant statutory authorities.

- Taking the above into consideration the application is therefore compliant with Local Development Plan Policy Hou 7.

Reason for Refusal 2:

*'The proposal is contrary to **National Planning Framework Policy 30(e)** in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.'*

Page 98 of NPF4 advises that the policies should be read as a whole, and it is for the decision maker to determine what weight to attach to policies on a case-by-case basis.

Appellants Response:

- National Planning Framework Policy 30 is intended to encourage, promote and facilitate sustainable tourism development which benefits local people and is consistent with net zero and nature commitments, and inspire people to visit Scotland.
- In terms of sustainable tourism this property is ideally located within tourist heartland of Edinburgh, within the city centre and the world heritage site, just off the Royal Mile. While 21% of visitors to the city give a reason of their visit as being the world heritage site, 77% say a reason is the historic city and 62% indicate that the castle is a reason for their visit. This property has close and ready access to the main tourist attractions as well as to good public transport connections which are all within walking distance. This location therefore has the potential to significantly reduce tourism related carbon emissions and fuel use over less central and less accessible other out of centre locations. Which would also likely have a better level of existing residential amenity.
- Paragraph e), as referred to specifically in the officer's report as the reason for refusal and relates to the reuse of existing buildings for short term holiday lets and confirms that these will not be supported if they lead to the following two criteria:
 - i. An unacceptable impact on local amenity or the Character of the neighbourhood or the area.
 - ii. The loss of residential accommodation, where the loss is not outweighed by demonstratable local economic benefit.
- Regarding the first of the two criteria, relating to amenity, this has been appropriately discussed and dismissed under reason 1 for refusal, above. The lack of impact relating to the character of the neighbourhood or area has also previously been addressed and confirmed as acceptable in the officer's report.
- The second of the two criteria relates to the local economic benefit of the short term let of the property. The officers report acknowledges that the LDP confirms that tourism is the biggest source of employment in Edinburgh and provides jobs for over 31,000 people and that the maintenance and upkeep of a STL is likely to create an additional level of job creation and spend within the local economy which can be classed as having an economic benefit. However fails to make the link that without diverse tourist accommodation tourism potential and hence economic benefit is hindered considerably.

- Edinburgh & South East Scotland (E&SES) Regional Prosperity Framework identifies the priorities for regional growth and explicitly identifies the visitor economy & culture as key growth opportunities.
- Tourism is one of Edinburgh's key sectors. The Scottish Government - Short-term lets: business and regulatory impact assessment publication confirms that the tourism sector makes a significant contribution to the Scottish economy. In 2019, there were around 17.3 million overnight visitors to Scotland, spending £5.7 billion, and around 134 million day visits, spending £5.8 billion. Within this, there were almost 3.5 million international overnight visits, spending around £2.5 billion. The sector generated in the region of £4.1 billion in Gross Value Added in 2018. Prior to COVID-19, the tourism sector employed 229,000 people, or around 1 in 11 jobs across Scotland.
- The same government publication confirms that Short-term lets such as that proposed make an important contribution to the tourist economy because they can:
 - a) offer more affordable accommodation, helping to attract tourists that may have a lower budget, and
 - b) provide additional capacity to accommodate tourist or other visitor demand in areas with a high demand over a short period of time (for example, to accommodate tourists during the Edinburgh Festival or the Open golf tournament).
- And goes on further to comment that Short-term let control areas could reduce short-term let capacity if significant numbers of planning applications were refused in a control area such as this.
- In terms of UK towns, Edinburgh is second only to London in the number of visitors. According to the Tourism in Edinburgh – Key Figures. In 2010 Edinburgh sold £1.3 Billion of services to staying visitors,
- This also confirms that in 2015 visitors to the city spent an average £98.20 per day. With £40.38 being the average spent on accommodation this indicates that a significant proportion of visitors to the city are not staying in hotels which tend to be more expensive. This level of spending is a significant local economic benefit well beyond that of the occupants of a standard residential dwelling. It is also worth pointing out that these figures obviously do not account for more recent large increases in costs and inflation.
- Each August, Edinburgh hosts the world-famous Edinburgh International Festival and Edinburgh Festival Fringe, along with a myriad of other world leading events like 'Edinburgh's Hogmanay'. All of which closely relate in terms of proximity to the site of these proposals. This site is ideally located for this use type.
- When considering the above it is considered that the economic benefits relating to the proposals significantly outweighs the loss of a residential unit that due to its location and existing low amenity level will never be attractive as a permanent residence but is ideally suited to continue in providing suitable accommodation for visitors, supporting one of the city's key sectors and a significant economic generator.

9 CONCLUSIONS

- 9.1 This Statement has assessed the development against all relevant development plan policies and demonstrated that when considered as a whole, the proposal conforms to policy. In summary, it has specifically shown that the proposal conforms with:
- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
 - NPF4 Productive Places Tourism Policy 30
 - NPF4 Historic Assets and Places Policy 7.
 - Local Development Plan Housing Policy, Hou 7.
 - Local Development Plan Transport Policies, Tra 2 and Tra 3
 - The non-statutory Listed Building and Conservation Area Guidance.
 - The non-statutory Guidance for Business and the Edinburgh Design Guidance
- 9.2 The statement demonstrates that the proposals will have economic benefits beyond that of a residential use.
- 9.4 That the development will have no detrimental impacts on the already degraded residential amenity of the area.
- 9.5 There is a legal presumption in favour of granting consent for development which complies with the development plan. The Review Committee must therefore consider the extent to which the proposals comply with the relevant planning policy. All planning decisions involve balancing competing policies and priorities in the plan and as such, the plan must be looked at in the round. There may be some points in the plan which support a proposal, but there may be some considerations pointing in the opposite direction. The decision maker must assess all of these and then decide whether in light of the whole plan the proposal does or does not accord with it. (*City of Edinburgh Council v Secretary of State for Scotland* 1998 SLT 120 (Document D52). The Committee is required to follow the correct legal approach in determining this review.
- 9.6 Since the proposals accord with all relevant development plan policies they benefit from a legal presumption in favour of granting consent for the development. If the Committee considers that there is still a breach of any of the development plan policies, it is submitted that there are material considerations in favour of granting consent which outweigh any perceived breach.
- 9.7 In these circumstances, the DMRC is respectfully requested to set aside the officer's refusal of planning permission for the development and for permission to be granted for these proposals.

Amit Shah & Idrisha Das
Flat 1
38 Niddry Street
Edinburgh
EH1 1LG

25th April 2023

To Whom it may Concern

Dear Sirs

We write in support of the application no. 22/05239/FULSTL for continued use as an AirBnB in Niddry Street, Edinburgh.

We are the landlords for Flat 1 at 38 Niddry Street, Edinburgh, EH1 1LG, which is immediately below Flat 2, and would state that we have absolutely no objection to this continuing as an AirBnB in the communal block of 3.

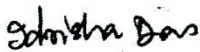
We have never experienced any issues regarding noise or antisocial behaviour, and the use as AirBnB in no way affects our own letting arrangements.

As such, we are happy to support the application for Flat 2 to run as short term let/AirBnB.

Yours faithfully,



Amit Shah



Idrisha Das

Brian Dawes and Heather Allison

38/3 Niddry Street

Edinburgh

EH1 1LG

24/04/23

To whom it may concern,

As the owner of number 3 Niddry street we have no objection to Number 2 applying and gaining a license to Air BNB or holiday let their flat via application number 22/05239/FULSTL for short term letting in Edinburgh.

We have no noise complaints or have had no behaviours that have warranted a complaint to the council or flat owners since it has been rented out currently as an AIR BNB. The renting style does not affect the amenity of our property and we are more than happy for the property to be let out as a holiday let rental.

Regards

Brian and Heather

Full Planning Application 08/01768/FUL
at
25 Niddry Street
Edinburgh
EH1 1LG

**Development Management Sub-Committee
of the Planning Committee**

1 Purpose of report

To consider application 08/01768/FUL, submitted by The Salvation Army Trustee Company. The application is for: **Change of use from office premises to drop-in centre**

It is recommended that this application be **GRANTED** subject to the conditions below.

2 The Site and the Proposal

Site description

The application site is a basement, ground and first floor unit within an unlisted Victorian 6-storey tenement on Niddry Street, within the city centre in the World Heritage Site.

The block fronts onto both Niddry Street and South Bridge, with residential and commercial units within it accessed from both streets. The application site is accessed solely from Niddry Street.

This property is located within the Old Town Conservation Area.

Site History

Relevant Planning History - Site

04/02625/FUL: Change of use to Class 4. Approved 13.10.2004

Relevant Planning History - Use

08/00365/FUL: 25-29 Clerk Street. Change of use from retail to Salvation Army drop-in centre. Committee continued the application for a site visit and police report 09.04.2008. Withdrawn 09.05.2008.

Description of the Proposal

The proposal is for a change of use from offices (class 4) to a drop-in centre run by the Salvation Army.

The proposed drop in centre would open from 09.00-17.00 (Monday, Wednesday and Friday), 09.00- 21.00 (Tuesday and Thursday) and 13.00-21.00 (Saturday). The drop in centre would operate as a 'dry centre' with no alcoholic drinks allowed on the premises. The centre is proposed as a drop in support centre for clients at which meals may be served as required. The applicants have confirmed that the maximum number of people using the centre at any one time is unlikely to exceed 25.

External changes would be limited to the installation of a louvered air intake panel in the upper sash of an existing first floor window.

3 Officer's Assessment and Recommendations

Determining Issues

Do the proposals harm the character or appearance of the conservation area?
If they do, there is a strong presumption against granting of permission.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

ASSESSMENT

To address these determining issues, the Committee needs to consider whether:

- a) The principle of the use is acceptable in this location
- b) The proposal will have a detrimental impact on the character and appearance of the conservation area;
- c) The proposal will affect residential amenity or safety

a) Policy CS 5 of the Central Edinburgh Local Plan states that the provision of community centres catering for the needs of particular population groups will be encouraged on suitable sites.

A drop in centre will cater for a specific group of people in need of a particular community service offered by the Salvation Army. It is desirable for the city to have community facilities catering for the needs of people experiencing homelessness and dependency problems.

Niddry Street is within a busy commercial area accommodating a wide variety of uses including retail, public houses, tourist accommodation and residential. An accessible central area that already accommodates a wide mix of activities would be suitable for accommodating this type of use without significant change to its character.

b) The application site is located within the Old Town Conservation Area. The Old Town Character Appraisal details the essential character of the conservation area as a product of its topography and built form. The historic street pattern of narrow, steeply sloping streets leading off the Royal Mile lead to a compact finely grained and densely built form which allows for a wide mix of activities to function in close proximity.

External alterations are limited to the insertion of a louvered air intake panel in the upper sash of an existing first floor window. This would not comply with supplementary guidelines in relation to windows on unlisted buildings in conservation areas. However, it is on what is essentially the rear elevation of the building, which has a number of grilles of this nature, and would maintain the form of the window, and in this context, is a minor and acceptable alteration.

The proposal will have no impact on the character or appearance of the Old Town Conservation Area.

c) The hours of operation proposed for the centre are reasonable and reflect the commercial nature of the area. With no early morning or late night activity (beyond 9pm), levels of noise and disturbance associated with the proposed drop in centre will be acceptable.

Environmental Assessment has some concerns regarding the proposed ventilation system, due to the high level of maintenance it requires, and have suggested an alternative ventilation system comprising two small drainpipe-style ducts. A number of conditions are recommended to ensure that the finalised method of ventilation will not result in cooking odours or airborne noise affecting neighbouring residences.

It is preferable to have ventilation details finalised prior to the determination of the application. However in this case, a decision is required prior to the final stop date on the negotiations for the purchase of the application site, on 30th November. The conditions would ensure that the proposed change of use will have no detrimental impact on residential amenity, and therefore, in the circumstances, it is acceptable that the finalised details be submitted following further discussions with Environmental Assessment.

Concerns have been raised that the application site is unsuitable for the proposed use, due to its perceived impact on the amenity of the area and safety of residents, workers and visitors.

The concern that clients of the proposed drop in centre will cause increased antisocial behaviour or create a more dangerous environment is a presumption. Letters have emphasised that the area already suffers from this type of behaviour from the social group that the drop-in centre will be catering for. The provision of a drop-in centre in this location would therefore have the potential to reduce the number of people causing problems in the area by providing them with a place to go and the opportunity to address dependency and homelessness issues.

The Salvation Army have a zero-tolerance approach to alcohol and drug use. Copies of their Operational Procedures in respect of Drug Use, which would be implemented at the centre, are available to view in group rooms. However, it must be noted that antisocial activity does not fall within the remit of, and cannot be controlled through planning legislation. Antisocial behaviour relating to the proposed drop-in centre would be handled through effective management of the centre, or if necessary, by the police.

In conclusion the principle of a change of use in this location is acceptable. There will be minimal impact on neighbouring residential amenity and the proposal will not affect the character or appearance of the Old Town Conservation Area or World Heritage Site.

There are no material considerations which outweigh this conclusion. It is recommended that the Committee approves this application, subject to conditions on types of cooking, ventilation and opening hours.

John Bury
Head of Planning

Contact/tel	Alison Martin on 0131 529 6235
Ward affected	A11 - City Centre (NEW)
Local Plan	Central Edinburgh Local Plan
Statutory Development Plan Provision	Mixed Activities
Date registered	21 May 2008
Drawing numbers/ Scheme	01-03 Scheme 1

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Control Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Graham Dixon on 0131 529 3519.

Email: graham.dixon@edinburgh.gov.uk.

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail gavin.king@edinburgh.gov.uk or carol.richardson@edinburgh.gov.uk

Application Type Full Planning Application
Application Address: 25 Niddry Street
Edinburgh
EH1 1LG

Proposal: Change of use from office premises to drop-in centre
Reference No: 08/01768/FUL

Consultations, Representations and Planning Policy

Consultations

Environmental Health

Environmental Assessment raised some concerns about the kitchen aspect of the proposed drop-in centre, questioning how the kitchen would be ventilated in order to prevent cooking odours affecting the amenity of the residential properties found on the upper floors of the tenement block.

In response to this, the applicant investigated options for a system that would use the internal chimneys to provide ducting, which would allow for effective dispersion of odours at the chimney head level. Unfortunately a ventilation engineer concluded that these chimneys were impassable.

To date the applicant has investigated a number of other methods. The agent submitted details of an electro-static precipitator or ultra-violet filtration and carbon filtration system. These types of systems have variable performances in high odour cooking situations and this Department normally recommends against them. In this case, there would be a low level discharge point at 5 meters above the pavement level on Niddry Street façade. As with any mechanical system, continuing operational effectiveness is highly dependant on adherence to the maintenance programme and cleaning schedule recommended by the manufacturer. Failure to adhere to the recommended maintenance/cleaning programme may result in the escape of cooking odours, with the potential for adverse impact on neighbouring occupiers.

Another option would be to provide two small drain-pipe style ducts to the external elevation on Niddry Street, hence bringing the exhaust point up to the roof area. Initially this option was disregarded because of concerns about noise from the exhaust point but this Department is satisfied that there is enough scope to allow for space to provide effective acoustic remedies on the flat roof area of the tenement. In

addition as operations are restricted to daytime hours there is no issue with noise affecting neighbours at night.

This is the preferred option for the kitchen extraction system. It alleviates costly and periodic maintenance/cleaning programme and allows for high level dispersal of cooking odours away from neighbouring properties.

As there are still a number of outstanding issues regarding this system, to be agreed with the applicant, we recommend the following conditions are put on any permission for the Class 10 use. We also recommend a number of planning conditions below, to ensure that enforcement controls are available if necessary.

- 1. Full details of the kitchen ventilation system shall be submitted to and approved in writing by the Council's Planning Authority prior to the use hereby approved being taken up.*
- 2. The approved ventilation system shall be installed and operational to the satisfaction of the Council's Planning Authority, prior to the use hereby approved being taken up.*
- 3. Cooking operations on the premises shall be restricted to the use of a six hob cooker with grill; no other forms of cooking shall take place without the prior written approval of the Planning Authority.*
- 4. Cooking odour shall not escape or be exhausted into any neighbouring premises, all to the satisfaction of the Planning Authority.*
- 5. The hours of operation shall be restricted to between the hours of 0900 and 1700 Monday, Wednesday and Friday, 0900 and 2100 Tuesday and Thursday and 1300 and 2100 Saturday.*
- 6. The design, installation and operation of any plant, machinery or equipment shall be such that any associated noise complies with NR35 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.*
- 7. The sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the application premises is audible in any neighbouring living apartment.*

Representations

27 letters of objection to the proposal have been received. Of these, six letters are from commercial neighbours, four are from residential neighbours (two of these are from the same person), 12 are pro-forma letters from employees of a local business, four are from other members of the public (of whom two work in the area), and one is from a planning consultant on behalf of two commercial neighbours who have also sent in individual representations).

The material points of concern are:

- * Impact on local amenity (see section c of assessment)
- * Safety/security of local residents, workers and tourists (see section c of assessment)

The main focus of concern in the letters are social issues associated with the proposed use, including anti-social behaviour and intimidation and exacerbation of existing problems in the area, and impact on tourist volumes and opinion of the Old Town.

Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.

Planning Policy

The application site is located within the Central Area in the Finalised Edinburgh City Local Plan and the Mixed Activities Zone in the Central Edinburgh Local Plan. Both plans identify the site within the Old Town Conservation Area and World Heritage Site.

Relevant Policies:

Relevant policies of the Finalised Edinburgh City Local Plan.

Policy Des 11 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

Policy Env 4 (Conservation Areas – Demolition of Buildings) sets out criteria for assessing proposals involving demolition of buildings in conservation areas.

Policy Env 5 (Conservation Areas – Development) sets out criteria for assessing development in conservation areas.

Policy Hou 8 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Relevant policies of the Central Edinburgh Local Plan.

Policy CD4 (CONSERVATION AREAS) requires that developments in a conservation area retain all features which contribute to the area's character and appearance.

Policy CD5 (CONSERVATION AREAS - REDEVELOPMENT) sets out the criteria against which new development in conservation areas will be assessed, and seeks to preserve or enhance their character and appearance.

Policy CD20 (WINDOW ALTERATIONS) sets out different levels of control for window alterations for listed buildings, non listed buildings in conservation areas and non listed buildings in defined areas of window control.

Policy H11 (HOUSING AMENITY) establishes a presumption against new development and changes of use likely to introduce increased levels of traffic or activity to the detriment of residential amenity or to the reasonable prospects of further residential development where this is an objective of the Local Plan.

Policy CS5 (COMMUNITY FACILITIES - SPECIAL PROVISION) encourages the provision of community and cultural centres catering for the needs of particular population groups on suitable sites and in compatible surroundings.

Relevant Non-Statutory Guidelines

Non-statutory guidelines on 'REPLACEMENT WINDOWS AND DOORS' supplement local plan conservation and design policies, providing additional guidance on window and door alterations.

Non-statutory guidelines on 'SERVICES ON BUILDINGS' supplement local plan conservation and design policies, providing additional guidance on the installation of services on the exterior of buildings.

Application Type Full Planning Application
Application Address: 25 Niddry Street
Edinburgh
EH1 1LG

Proposal: Change of use from office premises to drop-in centre

Reference No: 08/01768/FUL

Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **GRANTED** subject to the conditions below.

Conditions

1. The development hereby permitted shall be commenced no later than five years from the date of this consent.
2. Full details of the kitchen ventilation system, including if necessary, a maintenance schedule, shall be submitted to and approved in writing by the Council's Planning Authority prior to the use hereby approved being taken up.
3. The approved ventilation system shall be installed, tested and operational to the satisfaction of the planning authority, and confirmed in writing as such, prior to the use being taken up, and the approved maintenance schedule (if required) shall be complied with.
4. Cooking operations on the premises shall be restricted to the use of a six hob cooker with grill; no other forms of cooking shall take place without the prior written approval of the Planning Authority.
5. Cooking odour shall not escape or be exhausted into any neighbouring premises, all to the satisfaction of the Planning Authority.
6. The hours of operation shall be restricted to between the hours of 0900 and 1700 Monday, Wednesday and Friday, 0900 and 2100 Tuesday and Thursday and 1300 and 2100 Saturday.

7. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.
8. The sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the application premises is audible in any neighbouring living apartment.

Reasons

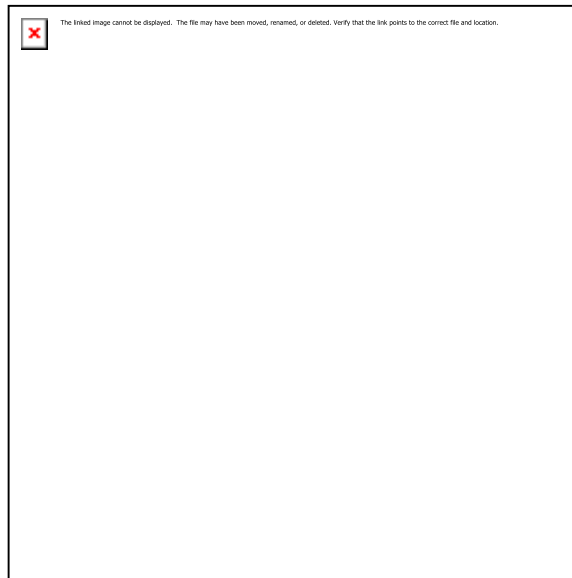
1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
3. In order to safeguard the amenity of neighbouring residents and other occupiers.
4. In order to safeguard the amenity of neighbouring residents and other occupiers.
5. In order to safeguard the amenity of neighbouring residents and other occupiers.
6. In order to safeguard the amenity of neighbouring residents and other occupiers.
7. In order to safeguard the amenity of neighbouring residents and other occupiers.
8. In order to safeguard the amenity of neighbouring residents and other occupiers.

End

Application Type Full Planning Application

Proposal: Change of use from office premises to drop-in centre

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Location Plan

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