

Development Management Sub-Committee Report

Wednesday 1 May 2024

**Application for Planning Permission
3 John's Place, South Leith, Edinburgh.**

Proposal: Change of use from Class 4 offices to Class 7 hotel (as amended).

**Item – Committee Decision
Application Number – 24/00021/FUL
Ward – B13 - Leith**

Reasons for Referral to Committee

The application received 28 public comments in support of the proposed development. Consequently, under the Council's Scheme of Delegation the application must be determined by the Development Management Sub-Committee as the recommendation is for refusal.

Recommendation

It is recommended that this application be **Refused** subject to the details below.

Summary

The proposed change of use to a Class 7 hotel would have an unacceptably adverse impact on the amenity of neighbouring residential properties. The proposal fails to comply with NPF 4 policy 30 and LDP policy Hou 7.

SECTION A – Application Background

Site Description

The application site is a mid-terraced four storey traditional townhouse, overlooking Leith Links and is currently in Class 4 office use. The property is Category B listed (ref 27540 14/12/1970) and is located in the Leith Conservation Area. The property has been previously extended and altered to the rear.

The surrounding area is mixed in character with residential properties on either side of the application site, and a commercial car garage to the rear accessed on Johns Lane.

Description of the Proposals

The application proposes a change of use from an existing Class 4 office to a Class 7 hotel. A total of 16 en-suite bedrooms are proposed along with a laundry room, reception, and storage.

There are no external alterations proposed associated with the change of use.

Relevant Site History

No relevant site history.

Other Relevant Site History

Nearby Properties:

24/00770/LBC - Alter existing guest house at 9 John's Place, change the use of and extend adjacent buildings at 15, 16 and 17 John's Lane from disused garage to guest house and interconnect with 9 John's Place. Refused 23/04/2024.

23/06794/FUL - Proposed change of use and alterations to existing derelict warehouse to form student housing development. Pending decision continued for hearing 17/04/2024.

23/02622/FUL - Alter an existing guest house at 9 John's Place, change the use of and extend adjacent buildings at 15, 16 and 17 John's Lane from disused garage to guest house and interconnect with 9 John's Place. Refused 23/01/2024.

23/01510/FUL - Remove walls, gate and railings between pillars to allow access and form car parking. Refused 26/05/2023.

22/01291/FUL - Alter an existing guest house at 9 John's Place, change the use of and extend adjacent buildings at 15, 16 and 17 John's Lane from disused garage to guest house and interconnect with 9 John's Place. Withdrawn 12/04/2023.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Environmental Protection

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 11 January 2024

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 19 January 2024

Site Notices Date(s): 16 January 2024

Number of Contributors: 31

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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 or its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change - Use and Adaptation of Listed Buildings

All physical alterations proposed to the property associated with the change of use are internal only and do not require planning permission. The internal alterations have been assessed separately in an application for listed building consent (23/07500/LBC).

HES guidance on adaptations to listed buildings states; *"The reuse of listed buildings will have planning implications. Any proposals will have to comply with local and national planning policies. There may also be other issues to take into account when determining a planning application"*.

Conclusion in relation to the listed building

There are no external alterations proposed to the listed building and there will be a neutral impact on its special character. The proposal will not impact on the special architectural or historic interest of the listed building and is acceptable with regards 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?

The Leith Conservation Area Character Appraisal emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value.

Conclusion in relation to the conservation area

The Leith Conservation Area is characterised by a mix of uses including residential and commercial. The proposals will have a neutral impact on the character of the conservation area.

The proposals preserve the character and appearance of the conservation area and 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?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies support the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF 4 Policies 7, 9, 30.
- LDP policies Emp 10, Hou 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF 4 Policy 7.

Principle

The application seeks a change of use from an existing Class 4 to a Class 7 hotel.

The proposed floor plans submitted do not demonstrate that the premises can be operated as a Class 7 use as would typically be expected. Although a small area at the front door is labelled as reception, other than a linen room there are no other facilities proposed that would be traditionally associated with a hotel use such as a lobby, seating area or bar/restaurant area. This implies that the reception would only be managed with no significant staff presence. If this is the case, the proposed use would be more akin to a Sui Generis short term serviced apartment than a Class 7 hotel. As a result, although an assessment of the principle of a Class 7 hotel has been made below, there is insufficient certainty in the submitted plans to show if this change of use could take place.

LDP policy Emp 10 (Hotel Development) states new hotels will be supported in locations within the urban area with good public transport access to the city centre.

NPF 4 Policy 30 (Tourism) states that proposals for tourism related development should take into account;

- i) the contribution made to the local economy;
- ii) compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;
- iii) impacts on communities, for example by hindering the provision of homes and services for local people;
- iv) opportunities for sustainable travel;
- v) accessibility for disabled people;
- vi) measures taken to minimise carbon;
- vii) opportunities to provide access to the natural environment.

In terms of the site location, the property is located within the urban area and is accessible to the city centre with regular bus and tram routes within a short walking distance. The proposal complies with LDP policy Emp 10 and NPF 4 Policy 30 iv).

No evidence has been submitted with the application to show the impact to the local economy which the loss of office space and replacement with a hotel would create. A full assessment against NPF4 Policy 30 i) cannot be made.

The property itself does not create accessibility for physically disabled people. However, this is constrained by the listed status of the existing building and a justified compliance with NPF 4 Policy 30 v) is made.

The proximity of the site to Leith Links gives opportunities to access open space in compliance with NPF 4 Policy 30 vii).

Parts ii) and iii) of NPF4 Policy 30 are addressed in the amenity section below.

NPF4 Policy 9 states "development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses.

The existing property has not been vacant for a substantial period of time. However, the proposal will make use of an existing building, and require internal alterations only to facilitate the change of use. The proposal therefore complies with NPF 4 policy 9.

Impact on neighbouring amenity

LDP policy Hou 7 (Inappropriate Uses in Residential Areas) states that "*developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted*".

Adjoining properties on either side of the application site at 2, 4 and 5 Johns Place are currently in residential use.

The existing Class 4 use of the building allows for business use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell or fumes. The change of use to a Class 7 would result in pedestrian and visitor movements later in the evening with a high turnover of guests. The size of the property, with 16 guest bedrooms means that there will be frequent movements from the property. A hotel use of this scale would adversely affect neighbouring amenity given the immediate prevailing character is residential.

In addition, a Class 7 hotel use would allow for the potential future installation of other internal services associated with a hotel use such as a commercial kitchen/bar area for guests, without requiring planning permission. This has the potential to impact on neighbouring amenity and no details of sound attenuation and ventilation have been submitted.

It is noted that there are uses in the area which may be an existing noise source such as a car repair garage on John's Lane to the rear of the application site which may have an impact on the existing amenity levels for these residential properties. However, these also appear to operate during traditional business hours with little impact during quieter evening hours. The proposed change of use will have a greater degree of movement and noise during these existing quieter times and it is on this basis that an adverse impact on existing amenity would occur.

The proposal fails to comply with NPF4 policy 30 ii) and LDP policy Hou 7.

Impact on the historic environment

NPF4 policy 7 c) states that development proposals for the reuse of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. NPF4 policy 7 d) states that development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced.

As detailed above all physical alterations proposed to the property associated with the change of use are internal only and do not require planning permission. The internal alterations have been assessed separately in an application for listed building consent (23/07500/LBC). The proposals therefore comply with NPF4 policy 7 c) and d).

Climate and nature crisis

No details have been submitted with the application to show how the proposed use will be supported by low carbon technology. Insufficient evidence has been submitted to show compliance with NPF4 policy 30 vi).

Conclusion in relation to the Development Plan

The proposals fail to comply with NPF4 policy 30 and LDP policy Hou 7.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified. There are no changes proposed to the accessibility of the building from the existing situation.

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 total of 28 support comments and 3 objections were received. The Leith Links Community Council objected to the proposals.

A summary of the representations is provided below:

material considerations - support

- Site is located in the urban area;
- Located in an area with good transport links;
- Complies with NPF 4 policies 9 and 30;
- Reuse of the listed building supported by NPF 4 policy 7.
- Complies with LDP policy Emp 10.

material considerations - objection

- Adverse impact on amenity of neighbouring residents;
- Increased footfall and noise to property;
- Existing overprovision of hotels in Edinburgh;
- Loss of office space which provides employment uses;
- Failure to provide operational details;
- Intensification of hotel uses in the local area;
- Failure to comply with LDP policy Hou 7.

non-material considerations - objection

- Potential use of the property as HMO accommodation;

Material considerations have been addressed in the report above.

Overall conclusion

The proposed change of use to a Class 7 hotel would have an unacceptably adverse impact on the amenity of neighbouring residential properties. The proposal fails to comply with NPF 4 policy 30 and LDP policy Hou 7.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

Reason for Refusal:-

1. The proposal fails to comply with NPF4 policy 30 as they are incompatible with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors.
2. The proposal fails to comply with LDP policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a materially detrimental effect on the living conditions of nearby residents.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 9 January 2024

Drawing Numbers/Scheme

01, 02A, 03A, 04A, 05, 06, 07A, 08A, 09, 10

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Rachel Webster, Planning Officer
E-mail: rachel.webster@edinburgh.gov.uk

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. Our decision not to provide comments should not be taken as our support for the proposals.

DATE:

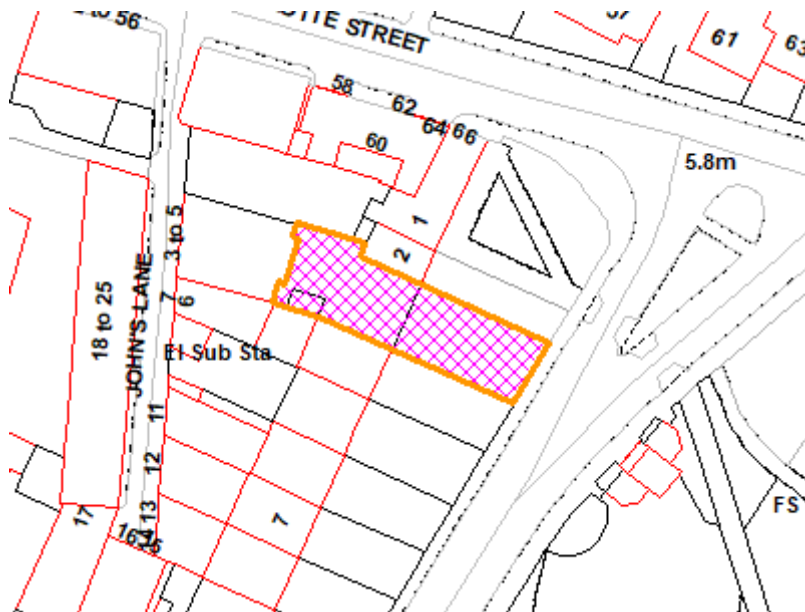
NAME: Environmental Protection

COMMENT: No objection subject to condition

DATE:

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

Location Plan



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