



Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Tel: 0131 529 3550 Fax: 0131 529 6206 Email: planning.systems@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 100030977-001

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.

Description of Proposal

Please describe accurately the work proposed: * (Max 500 characters)

The application proposes a material change of use and alteration from a double garage to a residential studio apartment. The proposed internal floor area of the studio apartment will be 36sqm accommodating 1 double bedroom, bathroom, storage and open plan kitchen, dining and living area.

Has the work already been started and/ or completed? *

No Yes - Started Yes – Completed

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

<input type="text"/>	
<input type="text"/>	
Katherine	<input type="text"/>
Izat	7
<input type="text"/>	1 West Montgomery Place
<input type="text"/>	<input type="text"/>
<input type="text"/>	Edinburgh
<input type="text"/>	Midlothian
<input type="text"/>	EH7 5EZ
<input type="text"/>	

Organisation/Corporate entity

Applicant Details

Ms	
<input type="text"/>	Heatherknowe
Katherine	<input type="text"/>
Izat	Blairs
<input type="text"/>	<input type="text"/>
<input type="text"/>	Aberdeenshire
<input type="text"/>	Scotland
<input type="text"/>	AB12 5YA
<input type="text"/>	<input type="text"/>
<input type="text"/>	

Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

2 Porteous Pend, Edinburgh, EH1 2HP

Northing

673285

Easting

325332

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? *

Yes No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Katherine Izat

On behalf of: Ms Katherine Izat

Date: 19/01/2017

Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? * Yes No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * Yes No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? * Yes No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. Yes No
- e) Have you provided a certificate of ownership? * Yes No
- f) Have you provided the fee payable under the Fees Regulations? * Yes No
- g) Have you provided any other plans as necessary? * Yes No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). *

You can attach these electronic documents later in the process.

- Existing and Proposed elevations.
- Existing and proposed floor plans.
- Cross sections.
- Site layout plan/Block plans (including access).
- Roof plan.
- Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. Yes No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. * Yes No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Miss Eilidh Izat

Declaration Date: 05/02/2017

Payment Details

Online payment: [REDACTED]
Payment date: [REDACTED]

Created: [REDACTED]

Design and Access Statement

Application for Planning Permission
2 Porteous' Pend, Edinburgh

EIBHNEAS
architecture

Site Appraisal and History

The site and proposed space is located on the ground floor of a traditional three storey stone built Victorian tenement located within Porteous' Pend, a quiet residential area accessed through a Grassmarket close. The cobbled courtyard lies adjacent to a secluded garden to the west and falls within the Edinburgh World Heritage Site and Grassmarket Conservation Area. The building itself is not listed.

Although currently disused, the space has served a variety of purposes over time from its most recent use as a garage and workshop to an ice cream store and stained glass studio. The space has three existing openings on two elevations - a large opening in the north elevation which is visible from Grassmarket and two smaller openings, a window and door which have been blocked up over time to the east. A drainage pipe serving the tenement flats above runs in front of the original doorway.

Externally, the ground level gradually rises across the north elevation and approximately 2m along the west elevation. Internally, a concrete base has replaced the original floor slab resulting in a drop of approximately 150mm from back to front and a small, uneven step at the entrance. This is to be left undisturbed for structural and archaeological reasons.



Photograph of North and East Elevations



Photograph looking through Porteous' Pend from Grassmarket

Brief

The brief is to provide a studio apartment suitable for short holiday breaks, with increased natural light and views to the secluded garden and mature trees to the west. The studio apartment is to provide an open plan kitchen, dining and living area alongside a double bedroom and private bathroom. The design is to respect and enhance the existing building and Porteous' Pend.

Design Statement

The sensitive nature of the site requires careful and minimal intervention. The proposal is designed to be harmonious, well proportioned and beautifully crafted adding quiet intrigue and softness to Porteous' Pend.

A simple and durable material palette of ashlar stone and oak timber will complement the historic setting and provide a high-quality finish for years to come.

Internally, the layout creates an open plan kitchen / dining / living space, a screened bedroom and separate bathroom alongside storage areas and open shelving. Natural finishes will create a strong experiential quality and cohesion between internal and external design.

Sunlight is encouraged throughout the day for wellbeing and reduced energy consumption - the existing window on the east elevation is to be reopened for morning light and a new opening proposed on the west elevation for afternoon and evening light. This will also provide outlook to the garden and observation of a narrow wynd which is an otherwise secluded area. A decision was made to leave the existing doorway blocked up to avoid repositioning the existing drainage pipe or need for translucent glass to the bathroom.

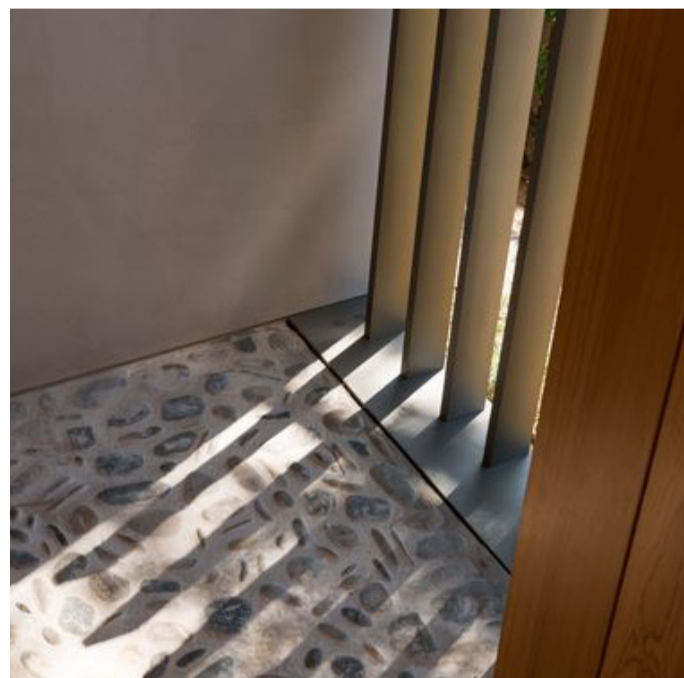
Access is provided through the large, existing opening on the north elevation by means of a bespoke pivot door with timber screen to help protect privacy and security. The remaining opening is enclosed by two tall, narrow fixed glazing panels in elegant proportions. Deep oak mullions accentuate the thick stone walls and limit oblique views into the studio apartment. The poor quality east jamb of this opening is also to be rebuilt with broached stone dressings, enhancing the character of the building.



External photomontage of the proposal



Internal photomontage of the proposal



Precedent images

Katherine Izat.
7 1 West Montgomery Place
Edinburgh
Midlothian
EH7 5EZ

Ms Katherine Izat
Heatherknowe
Blairs
Aberdeenshire
Scotland
AB12 5YA

Decision date: 13 April 2017

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Change of use and alteration from a double garage to a residential studio apartment
At 2 Porteous' Pend Edinburgh

Application No: 17/00463/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 15 February 2017, this has been decided by **Local Fast Track Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Granted** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

1. That prior to any work commencing on site details of windows/doors to be used shall be submitted to and approved in writing by the Council as Planning Authority.

Reasons:-

1. To protect the character of the Old Town Conservation Area and the Edinburgh World Heritage Site.

Informatives:-

It should be noted that:

Murray Couston, Planning Officer, Services for Communities, Planning & Building Standards
Tel , Fax 0131 529 7478, murray.couston@edinburgh.gov.uk
Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG;

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-07, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal is compliant with Edinburgh Local Development Plan Policies Del 2, Env 1, Env 4, and Hou 5 and the Council's non statutory guidance for Design and Listed Buildings and Conservation Areas. The conversion to a studio flat from a double garage will be in keeping with the character and appearance of the surrounding area and Old Town Conservation Area.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Murray Couston directly on .

D R Leslie

David R. Leslie
Chief Planning Officer

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice review should be addressed to the City of Edinburgh Planning Local Review Body, G2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

Application for Planning Permission 17/00463/FUL At 2 Porteous' Pend, Edinburgh, Change of use and alteration from a double garage to a residential studio apartment

Item	Local Fast Track Decision
Application number	17/00463/FUL
Wards	A11 - City Centre

Summary

The proposal is compliant with Edinburgh Local Development Plan Policies Del 2, Env 1, Env 4, and Hou 5 and the Council's non statutory guidance for Design and Listed Buildings and Conservation Areas. The conversion to a studio flat from a double garage will be in keeping with the character and appearance of the surrounding area and Old Town Conservation Area.

Links

<u>Policies and guidance for this application</u>	LDPP, LDEL02, LEN01, LEN06, LHOU05, NSLBCA, CRPOLD,
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Report of handling

Recommendations

1.1 It is recommended that this application be Granted subject to the details below.

Background

2.1 Site description

The proposal site is a disused garage at Porteous' Pend located to the South of the Grassmarket and accessed via a pend.

This application site is located within the Old Town Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description Of The Proposal

The proposal seeks planning permission for the change of use of a garage to form a residential studio apartment.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

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?

3.3 Assessment

To address these determining issues, it needs to be considered whether:

- a) the proposal is acceptable in principle;
- b) The proposal will preserve or enhance the character and appearance of the Old Town Conservation Area and the Edinburgh World Heritage Site;
- c) any public comments raised have been addressed;
- d) any impacts on equalities or human rights are acceptable.

a) Principle

The proposal to alter and change of use from garage to studio complies with both Local Plan policy and non-statutory guidance. The site is located within the City Centre; therefore a mix of uses is supported.

The studio meets the minimum internal floor area of 36sqm stated in the Edinburgh Design Guidance.

b) Impact on the Character and Appearance of the Conservation Area and the World Heritage Site

Policy Env 1 requires development to respect and protect the outstanding universal values of the World Heritage Sites and their settings. The proposal to change the use from a garage to a studio apartment will involve the opening up of currently boarded up windows which shall improve the visual amenity of the area. A condition has been attached requiring details of windows and doors to be submitted to the Council for approval prior to work commencing.

Policy Env 6 of the LDP states that development within a conservation area will be permitted which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal.

The proposed change of use will preserve the character and appearance of the New Town Conservation Area and the World Heritage Site.

c) Public Comments

No letters of representation were received.

d) Human Rights and Equalities

This application was assessed in terms of potential impacts on human rights and equalities. There were no impacts found on human rights and equalities.

Conclusion

In conclusion, the proposal involves an acceptable change of use to the premises which will preserve the character and appearance of the Old Town Conservation Area and the Edinburgh World Heritage Site. The proposal complies with policies Del 2, Env 1, Env 6 and Hou 5 of the LDP and the Council's Non-Statutory Guidance for Listed Buildings and Conservation Areas.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. That prior to any work commencing on site details of windows/doors to be used shall be submitted to and approved in writing by the Council as Planning Authority.

Reasons:-

1. To protect the character of the Old Town Conservation Area and the Edinburgh World Heritage Site.

Informatives

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

Risk, Policy, compliance and governance impact

4.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

5.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Consultation and engagement

6.1 Pre-Application Process

There is no pre-application process history.

6.2 Publicity summary of representations and Community Council comments

No representations have been received.

Background reading / external references

- To view details of the application go to
- [Planning and Building Standards online services](#)

Statutory Development

Plan Provision

The site is within the City Centre, Edinburgh World Heritage Site and the Old Town Conservation Area.

Date registered

15 February 2017

Drawing numbers/Scheme

01-07

David R.Leslie
Chief Planning Officer
Planning & Transport
Place

Contact: Murray Couston, Planning Officer
E-mail:murray.couston@edinburgh.gov.uk Tel:

Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Del 2 (City Centre) sets criteria for assessing development in the city centre.

LDP Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its setting.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Hou 5 (Conversion to Housing) sets out the criteria for change of use of existing buildings to housing.

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community

Appendix 1

Consultations

END

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 100641375-002

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.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Change of Use from Residential (Commercial) to STHL.

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?

Yes No

(Answer 'No' if there is no change of use.) *

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

01/11/2017

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

We converted the garage into a STHL in 2017. At the time, there was no guidance on which class use a STHL should be and we were advised to apply for residential as this class use best fitted our criteria. However, recognising that it was to be a STHL, the advice was to apply for Residential class use but immediately upon completion of the renovation register the property as a business unit with Edinburgh Council to ensure it was recognised as a business and not private residential.

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:	Izat Arundell		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Eilidh	Building Name:	12B
Last Name: *	Izat	Building Number:	
Telephone Number: *		Address 1 (Street): *	Geocrab
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Isle of Harris
Fax Number:		Country: *	Scotland
		Postcode: *	HS33HB
Email Address: *			

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	12B
First Name: *	Jack	Building Number:	
Last Name: *	Arundell	Address 1 (Street): *	Geocrab
Company/Organisation	Porteous Studio	Address 2:	
Telephone Number: *		Town/City: *	Isle of Harris
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	HS3 3HB
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

2 Porteous Pend Edinburgh EH1 2HP

Northing

673286

Easting

325333

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Advised to submit for Full Permission rather than Certificate of Lawfulness.

Title:

Miss

Other title:

First Name:

Deborah

Last Name:

Peterson

Correspondence Reference
Number:

Date (dd/mm/yyyy):

07/09/2023

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

48.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

STHL

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

Yes No

If Yes or No, please provide further details: * (Max 500 characters)

As existing

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Eilidh Izat

On behalf of: Mr Jack Arundell

Date: 27/09/2023

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Planning Statement

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Miss Eilidh Izat

Declaration Date: 27/09/2023

Payment Details

Online payment: [REDACTED]

Payment date: [REDACTED]

Created: [REDACTED]

Porteous Studio

This application is for a retrospective change of use from residential to Short Term Holiday Let (STHL) under the assumed class Sui Generis for the property at 2 Porteous Pend, also known as Porteous Studio.

Porteous Studio was converted from a garage to residential use in 2017 (Planning Ref: 17/00463/FUL) and we believe that we have operated lawfully as a STHL since then. As the conversion only took place in 2017, we have not operated the property as a STHL for 10 years or more so we have applied for this change of use in retrospect.

However, we believe we should be exempt from the fee for this change of use because we were originally advised by the planning department at Edinburgh Council to apply for a residential class use rather than sui generis on the full understanding the property would become a STHL and can provide all the steps we have taken to be formally recognised and operate as a STHL from the point of change of use in 2017. Please see further information on this below.

The garage property was purchased in 2016 with the intention of converting it into STHL accommodation. Prior to submission of the planning application, we were advised by the planning department during a drop-in meeting that the residential class use would be the most appropriate for our application as there was no specific policy or guidance regarding the class use to be used for a STHL at the time. However, we were also advised that as an operating STHL, the property would be residential in function but classified as a 'non-domestic' commercial property and that we should register with Lothian Valuation Joint Board as such as we would need to pay Business Rates rather than Council Tax.

The renovation and conversion was completed in early November 2017 and the property has operated full time as a STHL since then with the first guest arriving on 15 November

STHL is that we operate the unit formally through a limited company, Porteous Properties Limited and this was incorporated in May 2017 prior to any renovations starting. We are happy to provide any further evidence in support of our application as requested.

Porteous Studio now is recognised as one of the best places to stay in Edinburgh and has been featured in The Times, Conde Nast, Homes and Interiors Scotland, Grand Designs Magazine, Monocle and has been published by Gestalten in Petite Places. It's good design is also formally recognised as it received the Small Projects Award from Edinburgh Architectural Association and also the Best Project Under £200k by the Scottish Design Awards in 2017 and 2018. It continues to be independently owned and operated by Eilidh Izat and Jack Arundell who live in Scotland.

The intention of this application is to ensure that the class use of our property reflects the recently changed and clarified guidance issued by Edinburgh Council in relation to STHL's as we will be applying for a Short Term Holiday Let licence in due course.



Izat Arundell.
FAO: Eilidh Izat
12B Geocrab
Isle Of Harris
HS3 3HB

Porteous Studio.
FAO: Jack Arundell
12B Geocrab
Isle Of Harris
HS3 3HB

Decision date: 28 November 2023

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013

Change of use to short term let (in retrospect).
At 2 Porteous' Pend Edinburgh

Application No: 23/05137/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 27 September 2023, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

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 term let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
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 term let will result in an adverse impact on local amenity and the loss of a residential property has not been justified

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01, 02, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal complies with section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a Short Term Let (STL) will result in a loss of the residential accommodation and a negative impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact James Armstrong directly at james.armstrong@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission STL
2 Porteous' Pend, Edinburgh,**

Proposal: Change of use to short term let (in retrospect).

**Item – Local Delegated Decision
Application Number – 23/05137/FULSTL
Ward – B11 - City Centre**

Recommendation

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

Summary

The proposal complies with section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a Short Term Let (STL) will result in a loss of the residential accommodation and a negative impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application site is a one bedroom ground floor flat with it's own main door access located off a courtyard area (Porteous' Pend) that is accessed via a pend to the south of the Grassmarket. The courtyard is shared with other residential properties.

Porteous' Pend is of predominantly residential character. Though the courtyard area is in close proximity to the busy and mixed use Grassmarket, the level of activity in the courtyard itself is low, and the area is significantly insulated from the noise created by nearby uses outside the courtyard by the urban form of the area.

The application property is located within the Old Town Conservation Area and Edinburgh Old and New Towns World Heritage Site.

Description Of The Proposal

The application is for the retrospective change of use of the property from residential to short term let (sui generis) (STL). No internal or external physical changes are proposed.

Supporting Information

Planning Statement

Relevant Site History

17/00463/FUL
2 Porteous' Pend
Edinburgh

Change of use and alteration from a double garage to a residential studio apartment
Granted

13 April 2017

Other Relevant Site History

No other relevant site history was identified.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 28 November 2023

Date of Advertisement: 3 November 2023

Date of Site Notice: 3 November 2023

Number of Contributors: 2

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 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

a) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

As stated previously, there are no external changes proposed. The change of use will not impact on the character or appearance of the conservation area.

Conclusion in relation to the conservation area

The proposals comply with 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 supports 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 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 (April 2023) 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.

Conservation Area and World Heritage Site

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a). There are no external or internal works proposed and as such there will not be a significant impact on historic assets and places.

The proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (e) specifically relate to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

The non-statutory Guidance for Businesses (2023) states that an assessment of a change of use of dwellings to a short term let 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.

Amenity

The use of this property as an STL would introduce an increased frequency of movement to the property, requiring visitors to pass through the pend and into the shared courtyard area, enabling visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home. There may also be an impact to neighbouring resident's safety and community cohesion. Whilst it is noted that the courtyard area is not in the ownership of the applicant, public comments note that visitors to the property will regularly gather in the courtyard, with associated amenity impacts for neighbours.

It is noted however that the amenity impacts of the proposal on neighbours is to a degree mitigated by the one bedroom size of the property, and the likelihood that the additional servicing that operating a property as an STL requires compared to that of a residential use would be conducted during the daytime.

On balance, the proposed use would have an unacceptable impact on residents that are living in proximity to the property, representing a significant detrimental effect on their living conditions and amenity as the noise generated by the proposed use would be significantly different from the ambient background noise that neighbouring residents might reasonably expect, particularly at night. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential accommodation, this will only be supported where the loss is outweighed by demonstrable local economic benefits.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

The current lawful use of the property is for residential accommodation. Consequently, the use of the property as an STL would result the loss of this residential accommodation, which given the recognised need and demand for housing in Edinburgh it is important to retain, where appropriate.

Further, it is important to recognise that residential occupation of the property contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

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

The following material planning considerations have been identified:

Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited weight can be attached to it as a material consideration in the determination of this application.

Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only limited 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

Two objections to the application were received. A summary is provided below:

material considerations in objection

Negative impact to neighbouring amenity (privacy). Assessed in section b).

Negative impact to neighbouring amenity (security). Assessed in section b).
Incidents of littering. Suitable refuse and recycling facilities are provided within the property.

Loss of residential accommodation. Assessed in section b).

non-material considerations

Incidences of anti-social behaviour.

Conclusion in relation to identified material considerations

The identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

Overall conclusion

The proposal complies with section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a Short Term Let (STL) will result in a loss of the residential accommodation and a negative impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

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 term let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
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 term let will result in an adverse impact on local amenity and the loss of a residential property has not been justified

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 27 September 2023

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Appendix 2

Application Certification Record

Case Officer

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: James Armstrong

Date: 27 November 2023

Authorising Officer

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Lynsey Townsend

Date: 28 November 2023

Print Version

Close Window Print

Summary

Description Of Works	The works set out are for the alteration of an existing stone tenement double garage to form revised internal layout and studio apartment. The works include partial demolition a wall at the rear of the property to open up the area beneath the stairs to the main space and creating a new window opening on the West elevation. Other works include insulating existing externals floor and walls, installing new fixed and opening glazing alongside a new pivot door in existing window and door openings. New gas and water connections are required to complement the existing electrical supply. The space is to provide a open plan kitchen and living area, separate bedroom and bathroom.
Site Address	2 Porteous' Pend Edinburgh
Application Reference Number	17/O1294/WARR
Application Valid Date	Thu 13 Apr 2017
Decision Date	Mon 04 Sep 2017
Status	Certificate of Completion issued
Application Type	Domestic New Build - Other
Received Date	Thu 13 Apr 2017
Decision	Granted Warrant

Further Information

Application Reference Number:	17/O1294/WARR
Description Of Works:	The works set out are for the alteration of an existing stone tenement double garage to form revised internal layout and studio apartment. The works include partial demolition a wall at the rear of the property to open up the area beneath the stairs to the main space and creating a new window opening on the West elevation. Other works include insulating existing externals floor and walls, installing new fixed and opening glazing alongside a new pivot door in existing window and door openings. New gas and water connections are required to complement the existing electrical supply. The space is to provide a open plan kitchen and living area, separate bedroom and bathroom.
Alternative Reference:	500035712-001
Agent Name:	Eilidh Izat
Agent Address:	2F11 West Montgomery Place Edinburgh EH7 5EZ
Applicants Name:	Mrs Katherine Izat
Site Type:	-
Listed Building Description:	-
Value of work:	£58,000.00
Decision Issued:	Granted Warrant
Warrant Expiry Date:	04 Sep 2020
Case Completion Type:	Certificate of Completion
Completion Accepted Date:	22 Jan 2018
Completion Certificate Ref No:	-
Verifiers Name:	The City Of Edinburgh Council
Owners Name:	-
Case Officer:	Stuart Russell
Security Matters:	-
Conditions/Continuing	No Continuing Requirement

Conditions/Controlling Requirements:	No controlling requirements
Discharges State:	Discharged
Variation/ Discharged Date:	-

Plots

Plot Description: Plot 1

Plot Address:	-
Plot Status:	Temporary Occupation Certificate issued
Builder:	-
Plot Commencement Date:	-
Plot Completion Date:	01 Nov 2017
Occupation Date:	01 Nov 2017
All Certificates Received:	Yes
Plot UPRN:	-

Important Dates

Application Received	Thu 13 Apr 2017
Application Valid Date	Thu 13 Apr 2017
Decision Date	Mon 04 Sep 2017
Application Completion Date	Mon 22 Jan 2018

Certificates of Design

Certificate: 252305

Design Scheme:	Cert of Design (Building Structures)
Design Section:	All Parts
Work Certified:	All structural works.
Certifiers Name:	Mr Robbie Templeton
Certifiers Registration No:	SER1-D-01423
Certifying Body:	NARRO
Certificate of Design No:	252305
Certificate Date:	03 Apr 2017
Date Certificate Checked:	13 Apr 2017

Applies to plots

- Plot 1

Certificates of Construction

Certificate: SEL1-C-01053-2140514

Construction Trade:	Certificate under SELECT scheme
Trade Part:	Electrical Install - Whole Bldg SELECT
Work Certified:	All electrical works
Certifiers Name:	George Sutherland
Certifiers Registration No:	SEL1-C-01053
Certifying Body:	GEORGE
Certificate No:	SEL1-C-01053-2140514
Certificate Date:	07 Dec 2017
Certificate Accepted:	Yes
Date Certificate Checked:	09 Jan 2018

Applies to plots

- Plot 1

Energy Performance Certificates

There are no Energy Performance Certificates associated with this case.

Completion Certificates

Certificate:

Completion Certificate Ref No:	-
Completion Certificate Approved:	Yes
Completion Applied for Date:	15 Jan 2018
Completion Type:	Certificate of Completion
Completion Decision Date:	-
Applicant / Relevant Person:	Miss Katherine Izat
Temporary Occupation Expiry:	-
Completion Certificate Accepted / Rejected Date:	22 Jan 2018

Applies to plots

- Plot 1

Certificate:

Completion Certificate Ref No:	-
Completion Certificate Approved:	Yes
Completion Applied for Date:	01 Nov 2017
Completion Type:	Temporary Occupation Certificate
Completion Decision Date:	08 Jan 2018
Applicant / Relevant Person:	Eilidh Izat
Temporary Occupation Expiry:	08 Jul 2018
Completion Certificate Accepted / Rejected Date:	08 Jan 2018

Applies to plots

- Plot 1

Related Information

There are 0 cases associated with this application.

There is 1 property associated with this application.



Appeal Decision Notice

Decision by Fortune Gumbo, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-230-2446
- Site address: Flats 1 – 9, 31A Chambers Street, Edinburgh, EH1 1HU
- Appeal by Carnegie Willow Limited against the decision by the City of Edinburgh Council
- Application for planning permission 22/05381/FULSTL dated 25 October 2022 refused by notice dated 10 July 2023
- The development proposed: change of use of the entire property at 31A Chambers Street for use as short-term let accommodation including 9 apartments operated and managed as one unit with independent/main door access from the street.
- Date of site visit by Reporter: 27 October 2023

Date of appeal decision: 20 December 2023

Decision

I allow the appeal and grant planning permission.

Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises National Planning Framework 4 (NPF4), and the Edinburgh Local Development Plan 2016 (the LDP). The non-statutory guidance 'Guidance for Businesses' is a material consideration in applying the LDP policies.
2. Having regard to the provisions of the development plan, the key issues in this appeal are the loss of residential accommodation and the impacts of the proposal on residential amenity.
3. As the appeal site is located within the Old Town Conservation Area and Edinburgh World Heritage Site, I am required by section 64(1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Additionally, as the proposal relates to a building which forms part of a group of category B listed buildings, Section 59 of the same Act also requires that I have special regard to the desirability of preserving the listed buildings and their setting and of those other listed buildings near the appeal site.
4. The proposal is for the change of use to short-term let accommodation. The appeal site comprises nine one-bedroom units, eight of the units are located on the first floor, with one at ground level. The proposal would be accessed via a separate entrance that is not associated with any of the existing residential properties on the third and fourth floors.

5. The proposal does not seek to make any alterations to the fabric of the listed buildings or introduce a new use that would harm the character and appearance of the conservation area. It is an agreed position between the main parties that the proposal satisfies the two tests that I have outlined in paragraph 3 above. I concur. I therefore do not need to interrogate this any further.
6. With respect to the two main issues that I have identified in this appeal, the most relevant development plan policies are 27 'City, Town, Local and Commercial Centres', 30 'Tourism' of the NPF4, Del 2 'City Centre', and Hou 7 'Inappropriate Uses in Residential Areas' of the LDP.
7. The main parties disagree as to the lawful use of the appeal property. As the findings on this point have a significant bearing on the determination of this appeal, it is proper that I dispense with it at the outset.
8. It is agreed by the main parties that the appeal property was previously in use as offices. Planning permission 19/01581/FUL (and accompanying listed buildings consent) was granted on 15 August 2019 for the change of use to nine residential units. The description of the proposal on the application was "Change of use from offices to dwellings. Alterations to form 9No. studio flats (as amended)".
9. According to the council, once the physical alterations were undertaken, the permission was implemented and therefore the lawful use of the property became residential use. The appellant, on the other hand, argues that the alterations undertaken do not constitute a material operation as defined in s27(4) of the 1997 Act. Consequently, the appellant's position is that the change of use was never implemented and therefore the lawful use is still office use.
10. The appellant's submission from the third paragraph of section 2 of the planning statement reads:
"The physical works to the building have been completed, but the properties were sold to the Applicant with the intention of using them for commercial lets. The planning permission has been commenced through the physical alterations and the new addresses were registered. However, the use for residential was not initiated and as such the most recent use remains office/development site."
11. The appellant's extract of the Valuation Roll indicates that the property is described as self-catering units, with an effective date of that description being 1 November 2021.
12. The council's development management sub-committee report states that although planning permission was granted for the change of use from offices to dwellings to form 9 studio flats, their use as long-term residential units was not initiated after the physical works were completed. The report then concludes that because of the internal physical alterations to the layout of the building, carried out pursuant to the planning permission 19/01581/FUL, a change of use from office use to residential use had occurred, and therefore the lawful use of the property is residential.
13. The council relies on the judgement in *Doonin Plant Ltd v Scottish Ministers* (2011) in support of its position. The appellant on the other hand relies primarily on the judgement in *Caledonian Terminal Investments Ltd v Edinburgh Corp*, (1970). I need not re-state the particulars of each case.

14. The issue of whether or not the development had been lawfully commenced is one of law and fact. At face value, the description of the development in the planning permission 19/01581/FUL consists of both operational development and a change of use. It follows, based on the description of the development alone that Section 27(1)(c) of the 1997 Act would be engaged in relation to the time when the development began. Section 27(1)(c) of the 1997 Act states that if the development consists both of the carrying out of operations and a change in use, at the earlier of the times mentioned in paragraphs (a) and (b). Subsections (a) and (b) refer to carrying out operations and when the new use is instituted respectively.

15. An internal alteration to a property, subject to the standard caveat, whether pursuant to a planning permission or not, is not development under the provisions of Section 26(2) of the 1997 Act. Furthermore, I concur with the appellant's submission that notwithstanding the inclusion of the phrase 'Alterations to form...' does not bring those internal alterations within the scope of the material operations set out in Section 127(4) of the 1997 Act. Unlike in Doonin, the planning permission before me does not have any conditions precedent or suspensive conditions. It follows, to me, that notwithstanding what appears to be operational development and material change of use on the description of the proposal, the development shall only be taken to be initiated when the new use is instituted. Therefore Section 27(1)(b), not Section 27(1)(c) of the 1997 Act is the one engaged.

16. The council argues that following the undertaking of the internal alterations to the property, the lawful office use could not resume without further works and therefore by extension, the residential use was by default now the lawful use. In my opinion, this is an unsubstantiated leap of faith. Taking the council's reasoning at face value, bringing back the office use may or may not need further works. However, if the internal alterations were to be necessary and required, these would not constitute development under Section 26(2) of the 1997 Act, therefore taking those works outside of the scope of the council's planning control.

17. It is common cause between the main parties, that the 'long-term' residential use approved by the planning permission was never instituted. After the internal alterations had been carried out at the appeal property, the property was put to use as self-catering accommodation or commercial lets or commercial short-term lets, terms which are used interchangeably in the submissions by the main parties. That use is unlawful. The lawful use is therefore still office use.

18. The second reason for refusal relates to the principle of the development. The council considers that the proposal would result in an unjustified loss of residential accommodation, contrary to policy 30(e) of the NPF4. Policy 30(e) states that development proposals for the reuse of existing buildings for short-term holiday letting will not be supported where the proposal will result in an unacceptable impact on local amenity or the character of a neighbourhood or area; or the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits. As I have found that the lawful use of the property is office use, I do not consider that the second limb of policy 30(e) relating to the loss of residential dwelling is relevant.

19. Turning to the first reason for refusal, the council argues that the proposal would have a detrimental effect on the living conditions and amenity of nearby residents, contrary to policy Hou 7 of the LDP. Policy Hou 7's intention is firstly, to preclude the introduction of non-residential uses incompatible with predominantly residential areas, and secondly to prevent any further deterioration in living conditions in more mixed-use areas which nevertheless have important residential functions.

20. The appeal property forms part of the former Edinburgh Dental Hospital and School and is a four-storey building. The site is located at the west end of Chambers Street opposite the National Museum of Scotland and is near the George IV Bridge. The existing residential accommodation in this block is located on the third and fourth floors (30B and 30A).

21. From my site inspection, I observed that the appeal site entrance is sandwiched by a restaurant on one side and a nightclub on the other. In addition, it is located within proximity of other late opening, noise and heavy footfall generating uses such as pubs, takeaways and restaurants, shops, and other tourist offerings. This is in addition to the bus route which operates nearby.

22. Due to the heightened ambient noise close to the property, I would not characterise the location as a quiet, peaceful location. While it is correct that there are some residential uses in what were presumably, historical residential tenements, these now comprise commercial uses on the ground floors, with residential uses, where these exist, mainly confined to the upper floors. The appeal site location cannot be described as either residential or predominantly residential. It is a city centre location both by function and designation in the proposals map of the LDP. It follows that the second limb of policy Hou 7 relating to mixed-use areas is the one that is engaged. In doing so, policies 27 of the NPF4 and Del 2 of the LDP are also engaged.

23. The council's non-statutory Guidance for Businesses assists in the interpretation of policy Hou 7. According to the guidance, the amenity of flatted blocks can be adversely affected by short-term lets; that such uses should be resisted within flatted blocks unless there is private access from the street and the impact on amenity is otherwise acceptable. Background noise levels and the proximity of residents are important considerations when it comes to proposals such as the one before me.

24. The council argue that the change of use would result in an unacceptable loss of amenity for neighbouring residents due to increased noise and disturbance. These are the only two amenity factors identified by the council. The proposal would comprise nine one-bedroom apartments. I find it highly unlikely that the apartments would accommodate more than two guests. The guests are likely to arrive and stay for short periods regularly in a manner that would likely be dissimilar to that of permanent residents. However, these factors do not demonstrate to me that an unacceptable reduction in amenity for neighbouring properties would occur given that there are no shared spaces (entrance doors, outdoor amenity spaces or stairs and stairwells) between the proposal and the other adjoining properties and uses.

25. The council is concerned that the guests would come and go frequently, day and night and may have less regard for neighbours' amenity thus generating unacceptable noise. There is no evidence of any complaints submitted to the council regarding noise, nuisance or anti-social behaviour arising from the use of the property as short-term visitor accommodation. I consider that the use has not been shown to cause a materially detrimental effect on nearby residents in this busy tourist destination city centre location.

26. Given that the use has subsisted for at least 15 months, this informs me that the council's concerns may be overstated. This plays an important part in my decision. In any event, isolated noise incidents may arise and would likely arise within tenement buildings notwithstanding the form of occupation. However, the sizes of the apartments do not suggest to me that this would be a regular occurrence as large groups of unrelated people

would not be their target market. Accordingly, in my view, the use at this scale and particular location would accord with policy Hou 7 of the LDP and the first limb of policy 30(e) of the NPF4.

27. Policies Del 2 of the LDP and 27 of the NPF4 have similar objectives; to retain and enhance the character, attractiveness, vitality and accessibility of the city centre, encouraging a mixture of uses that are appropriate to the location and that reflect the character of the surrounding area. For the reasons that I have set out above, I find that the proposal would, in principle, accord with those policies.

Development plan conclusion

28. The lawful use of the appeal property is office use. The proposal would not result in the loss of residential dwellings. I find that the proposal would accord with policy 30(e) of the NPF4. Due to the nature, design and size of the apartments, location, absence of any shared spaces and presence of private access from the street, I find that the proposal would not give rise to demonstrable amenity impacts on the neighbouring residential properties. The proposal would comply with policy Hou 7 in this respect. The use would add to the vibrancy, vitality and economic activity of this city centre location, in accordance with policies Del 2 of the LDP and 27 of the NPF4.

Material considerations

29. Recently, the City of Edinburgh Council declared a housing emergency. I sought the views of the main parties as to the substantive terms of the declaration, and any effect of the declaration on this appeal. I am grateful for the parties' submissions. The council's response states that the motion to declare the housing emergency specifically raised the issue of homelessness and the lack of availability of affordable housing as key contributory factors.

30. The main parties agree that the planning permission for the nine residential units did not meet the threshold for affordable housing contribution as set out in Policy Hou 6 of the LDP. The appellant further argues that even if I were to take the view that the planning permission 19/01581/FUL was implemented, the development approved was for private housing and not for affordable housing. As such this would have made no contribution towards the delivery of affordable housing or addressing homelessness in Edinburgh. I take a different view. If that permission had been implemented, it would have added, however modest that addition was, to the available housing stock. However, given the location and the absence of any control over the cost of the accommodation, it would not have been affordable accommodation and therefore not addressed the key elements of the housing emergency declaration. However, this is a moot point as I have found that the change in use to residential was never implemented.

31. The housing emergency declaration is the first step towards the formulation of the Housing Emergency Action Plan which would complement the development plan policies and other wider council actions in addressing homelessness and housing shortage. Therefore, it is a material consideration. The Housing Emergency Action Plan which is intended to be one of the key outcomes of the housing emergency declaration has not yet been produced at the time of writing this decision. Based on the facts of this case, I do not consider that the housing emergency declaration outweighs the proposal's policy conformity.

Other matters

32. I have noted the representations objecting to the proposal. The objections fall broadly into two categories, objections to the principle of the development and objections on amenity grounds. I have addressed the principle of the development in the preceding paragraphs. On the amenity objections, I have addressed those as well. However, I also noted that none of the objectors reside in or adjacent to the appeal site to have first-hand experience of the amenity impacts of the proposal.

Conclusion

33. I conclude, for the reasons set out above which are specific to this case, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations above which would still justify refusing to grant planning permission. The council has not identified relevant planning conditions. As the development has largely subsisted for more than 15 months without any known adverse amenity impacts, I have decided against the imposition of any conditions. I have considered all other matters raised, but there are none which would alter my conclusions.

Fortune Gumbo

Reporter