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Decision date: 14 August 2024

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

Retrospective change of use from office space to a short term let (sui generis)
At Flat 1 15 York Place Edinburgh EH1 3EB

Application No: 23/04984/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 7 November 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 National Planning Framework Policy 30(e) part (i) in respect of Local Amenity, as the use of the site for STL accommodation will result in an adverse impact on local amenity.
2. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this property as a short term let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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 is acceptable with regards to Sections 59 and 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 and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The change of use of the office space to short term let (STL) accommodation will have an unacceptable impact on neighbouring amenity. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) part (i) and LDP 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 Craig Turnbull directly at craig.turnbull@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.

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Report of Handling

**Application for Planning Permission STL
Flat 1 15 York Place, Edinburgh, EH1 3EB**

Proposal: Retrospective change of use from office space to a short term let (sui generis)

**Item – Local Delegated Decision
Application Number – 23/04984/FULSTL
Ward – B11 - City Centre**

Recommendation

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

Summary

The proposal is acceptable with regards to Sections 59 and 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 and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The change of use of the office space to short term let (STL) accommodation will have an unacceptable impact on neighbouring amenity. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) part (i) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application property relates to a ground floor flat on York Place. The property is one of six flats at 15 York Place, all accessed via a communal main door entrance a few steps up from street level with a communal hallway and stairway inside.

The surrounding area comprises a mix of uses including residential and commercial. The site is located adjacent to the tramway, which runs through York Place, and is approximately 250 metres from Picardy Place Tram Stop. The site is also near numerous bus and active travel routes.

The property forms part of a category A listed building (LB reference: 299962; date of listing: 14 September 1966). The site is in the New Town Conservations Area of Edinburgh and the Old and New Towns of Edinburgh's World Heritage Site.

Description Of The Proposal

The application seeks planning permission for a change of use from office space to a short term let (sui generis). The application is in retrospect with the STL use commencing in July 2017.

Supporting Information

- Statement in relation to house rules.
- Evidence of STL use at the property since July 2017.
- An old sales brochure in relation to the 11 accommodation units at 15 to 19 York Place.

Some of the evidence submitted in support of the application is not publicly available for viewing on the Council's planning portal because it contains third-party personal details or commercially sensitive information. This is in line with the Council's usual practice.

Relevant Site History

No relevant site history.

Other Relevant Site History

15/04271/FUL

GF-2F 15 - 19 York Place Edinburgh EH1 3EB

Conversion of existing Offices to form 11 residential flats.

Granted

12 November 2015

15/04273/LBC

GF-2F 15 - 19 York Place Edinburgh EH1 3EB

Conversion from offices to 11 residential apartments.

Granted

12 November 2015

Consultation Engagement

Historic Environment Scotland

Publicity and Public Engagement

Date of Neighbour Notification: 8 July 2024

Date of Advertisement: 17 November 2023

Date of Site Notice: 17 November 2023

Number of Contributors: 0

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

a) The proposals harm the listed building or its setting?

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

- Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent.
- Managing Change in the Historic Environment: Setting.

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

Internal physical changes to the property have been assessed and approved listed building consent in 2015 (reference: 15/04273/LBC).

The change of use from office space to STL accommodation proposal will not have a detrimental impact on the special architectural or historic interest of the listed building, its setting, or the setting of neighbouring listed buildings.

Conclusion in relation to the listed building

The proposal 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?

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

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

The New Town Conservation Area of Edinburgh represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves

There are no external changes proposed to the property. The change of use would not have a material impact on the character or appearance of the conservation area. Therefore, the proposal does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal is 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 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 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Sustainable Places Historic assets and places Policy 7.
- NPF4 Productive Places Tourism Policy 30.
- LDP Housing Policy, Hou 7.
- LDP Transport Policies, Tra 2 and Tra 3.

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

The non-statutory Guidance for Business (2024) is a material consideration that is relevant when considering LDP Policy Hou 7 and NPF4 policy 30.

The Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building, Conservation Area and Edinburgh World Heritage Site

Impact to the category A listed building and the New Town Conservation Area have been assessed in sections a) and b) respectively. Additionally, the proposal does not conflict with the objective of preserving and protecting the Old and New Towns of Edinburgh's World Heritage Site.

The proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the operational development carried out in relation to the retrospective change of use is of a scale that its impacts are not significant when considering the climate and nature crises. The proposals will therefore have a negligible impact on the global climate and nature crisis and thus, complies with NPF4 Policy 1.

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 relates to STL proposals.

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

Amenity:

The property is in a mixed-use area. Whilst there is evening and late-night commercial uses in nearby surrounding areas, the immediate surrounding character is residential. The property is in a building with five residential dwellings at 15 York Place that share a common entrance, with common hallways and a shared stairway inside. The property's

door entrance is directly opposite the entrance for Flat 2 15 York Place. Residential flatted dwellings are directly beneath and above the property.

The use of the ground floor property as an STL would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have limited regard for neighbours' amenity.

The servicing that operating a property as an STL requires is also likely to result in an increase in disturbances, further impacting on neighbouring amenity. However, this would be of lesser impact as it is likely that servicing would be conducted during the daytime.

The applicant has provided details in relation to house rules for the STL including check in and check out times and instruction that no parties or smoking is permitted. Planning permission is granted to property rather than individuals; property can change hands and be operated in a different way than was intended by the applicant for planning permission.

In comparison to the application sites use as office space, the pattern of activity associated with STL use will result in a material detrimental impact on the amenity of neighbouring residents, particularly during the evening and going into the night. The potential for noise to be generated as described above would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions of nearby residents.

The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation:

NPF4 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.

Whilst planning permission and listed building consent were granted for the change of use of the property from an office to a residential apartment in 2015 as part of the conversion of existing offices to form 11 residential flats at GF to 2F 15 to 19 York Place (references: 15/04271/FUL and 15/04273/LBC) and works have been carried out in line with these consents, the residential use on site at Flat 1 15 York Place was never instituted. Instead, the use of Flat 1 15 York Place went from office to STL accommodation.

The existing planning status of the property is as an office and therefore the change of use would not lead to the loss of residential accommodation.

Accordingly, NPF4 policy 30(e) part (ii) is not applicable.

Transport

No car parking is proposed. The property is located nearby public transport links and cycles could be stored inside of the property.

The proposal complies with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of the office space to STL accommodation will have an unacceptable impact on neighbouring amenity. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) part (i) 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. On 27 June 2024 the Council accepted the recommendations and modifications required to the Proposed City Plan 2030. The Proposed City Plan 2030 has now been submitted to Scottish Ministers for their final consideration. 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 adoption of the plan.

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

No public comments received.

Conclusion in relation to identified material considerations

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 is acceptable with regards to Sections 59 and 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 and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The change of use of the office space to STL accommodation will have an unacceptable impact on neighbouring amenity. The proposal does not comply with the

Development Plan policy NPF 4 policy 30(e) part (i) and LDP 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 National Planning Framework Policy 30(e) part (i) in respect of Local Amenity, as the use of the site for STL accommodation will result in an adverse impact on local amenity.
2. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this property as a short term let will have a materially detrimental effect on the living conditions and amenity 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: 7 November 2023

Drawing Numbers/Scheme

01 - 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Craig Turnbull, Assistant Planning Officer
E-mail: craig.turnbull@edinburgh.gov.uk

Appendix 1

Consultations

NAME: Historic Environment Scotland

COMMENT: No comments.

DATE: 20 June 2024

The full consultation response can be viewed on the Planning & Building Standards Portal.

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: Craig Turnbull

Date: 9 August 2024

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): Elaine Campbell

Date: 14 August 2024



By email to:
planning.local1@edinburgh.gov.uk

City of Edinburgh Council
Planning and Strategy
4 Waverley Court
East Market Street
Edinburgh
EH8 8BG

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
HMConsultations@hes.scot

Our case ID: 300073539
Your ref: 23/04984/FULSTL
20 June 2024

Dear City of Edinburgh Council

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

Flat 1 15 York Place Edinburgh EH1 3EB - The flat has been used for STL purposes.
This application is to apply for this use under any new legislation.

Thank you for your consultation which we received on 03 June 2024. We have assessed it for our historic environment interests and consider that the proposals affect the following:

Ref	Name	Designation Type
LB29962	15-19A (ODD NOS) YORK PLACE, INCLUDING RAILINGS AND LAMPS	Listed Building

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

Our Advice

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. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

Further Information



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Yours faithfully

Historic Environment Scotland