

# Development Management Sub Committee

Wednesday 19 February 2020

**Application for Planning Permission 19/03712/FUL  
at 248 Ferry Road, Edinburgh, EH5 3AN.  
Change the use from a guest house to a House of Multiple  
Occupancy. (HMO License applied for separately). 24 hour  
support will be provided to up to 12 occupants at any given  
time.**

**Item number**

**Report number**

**Wards**

B04 - Forth

## Summary

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The proposal represents an acceptable use which is in keeping with the character of the surrounding area, and which will not have a materially detrimental impact on the living conditions of neighbouring residents. The proposal will preserve the character and appearance of the Inverleith Conservation Area and does not raise any issues in respect of vehicle or cycle parking and road safety. The proposal complies with policies Hou 7, Env 6 and Tra 3 of the adopted Edinburgh Local Development Plan (LDP) and the Council's Non-Statutory Guidance for Business. An infringement of policy Tra 2 in respect of the parking provision on the site is acceptable in respect of this application having regards to the nearby provision of public transport links.

## Links

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[Policies and guidance for this application](#)

LDPP, LHOU07, LEN06, LTRA02, LTRA03, NSG, NSBUS, CRPINV,

# Report

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## Recommendations

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

## Background

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### 2.1 Site description

The site is a two storey and attic level stone built end terraced building, located on the northern side of Ferry Road adjacent to the junction with Clark Avenue. The premises are situated at the eastern end of a row of identical buildings which extends along Ferry Road to Bangholm Place in the west. It is currently in use as a guest house. The surrounding area has a predominantly residential character which is characterised by detached and terraced dwellinghouses. Several other guest houses are situated within the terraced row and the Goldenacre playing fields are located to the south of the premises on the opposite side of Ferry Road.

The site is located directly to the north of Inverleith Conservation Area, the boundary of which runs down the middle of Ferry Road.

### 2.2 Site History

There is no relevant planning history for this site.

## Main report

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### 3.1 Description of the Proposal

The proposal seeks planning permission for a change of use from a guest house (class 7) to a house in multiple occupation for 12 occupants (sui generis). No external or internal changes to the premises are proposed. The premises encompasses front, side and rear garden areas. The rear garden is split between an area of grass and a driveway which provides vehicle parking and access to Bangholm Avenue. Waste storage and collection from the site will be provided by a private contractor.

## 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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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, the Committee needs to consider whether:

- a) The use is acceptable in terms of the amenity of neighbouring residents;
- b) The proposal will preserve or enhance the character and appearance of the Inverleith Conservation Area;
- c) The proposal raises any issues in respect of parking and road safety and
- d) Any matters in raised in representations have been addressed.

### a) Principle of Use

Policy Hou 7 of the adopted Edinburgh Local Development Plan (LDP) states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents will not be permitted. Policy Hou 7 is the only policy within the LDP which is directly relevant in relation to assessing the suitability of a HMO use. This policy does not seek to restrict the number of HMO properties in an area and is primarily concerned with protecting the living conditions of nearby residents. Supporting guidance is provided in the Council's Non-Statutory Guidance for Businesses which outlines that several factors will be considered in assessing such uses including background noise in the area and proximity to nearby residents.

The premises currently operates as a guest house and as such already constitute a non-residential use. The premises are located on Ferry Road which is a busy thoroughfare. The surrounding area encompasses several other guest houses which are located within the terraced row of buildings within which the application premises is situated. The premises are bordered to its west by a residential dwelling house at 250 Ferry Road, and a small section of the northern boundary of the site borders the driveway/front garden area of 1C Clark Avenue.

The current use involves the provision of guest house accommodation for a similar number of people as the proposed HMO. Guest house residents are likely to reside on a transient basis and are not permanent residential occupants of a building. In addition, the nature of the current use is such that the existing operations are likely to involve the arrival and departure of guests in the early morning and late at night. The proposed use of the premises as an HMO with 12 residents will not therefore represent the introduction of a use involving operations which differ significantly from the existing operations on the site. The main entrance to the premises is situated adjacent to its eastern gable elevation, with the main entrance to the site being located at the junction between Ferry Road and Clark Avenue. The entrance to the premises is situated a sufficient distance from neighbouring residential properties to ensure that neighbouring residents should not be impacted by the arrival and departure of individuals residing at the premises.

Environmental Protection was consulted on the application and raised no objection to the proposal on the grounds of potential anti-social behaviour, although it should be noted that this is a police matter and cannot be controlled by planning conditions. The demographic and personal circumstances of potential residents of an HMO cannot be controlled by the planning authority and are not a material consideration in the determination of planning applications. The planning authority can only assess whether a set number of unrelated individuals residing in a premises on a permanent basis is acceptable in planning terms, having regards to the development plan and any other material considerations. In addition, the proposed change of use of the property to a House in Multiple Occupation will require it to be licensed under the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000, where separate controls exist to safeguard neighbouring residential amenity from instances of noise, disturbance and anti-social behaviour.

It is noted that the applicant has advised that the manner of proposed operations involves the provision of 24 hour support and a manager's office. However, it is not possible to condition such provision to be part of any consent, as it would not meet the tests of enforceability or necessity as set out in circular 4/1998. Therefore, whilst this is part of the applicant's case, little weight has been attached to this consideration.

A search on the planning authority application database has been undertaken for all applications for planning permission for HMO use in the current Forth Ward. Since the establishment of the current Forth Ward in 2017, this application is the only one which has been submitted for an HMO use. Between 2006 and 2017 when the site was located in the previous Forth Ward, no applications for HMO use were submitted to the planning authority. The proposed use would not therefore result in an over provision of HMO properties within the Forth Ward area.

The proposal will not have a materially detrimental impact on the living conditions of neighbouring residents and is acceptable in principle. The proposal complies with LDP policy Hou 7, and the use is acceptable.

## b) Character and Appearance of the Inverleith Conservation Area

The site is situated near the northern boundary of the Inverleith Conservation Area which runs along the middle of Ferry Road. The proposal does not involve any physical changes to the external appearance of the building. In addition, having regards to the presence of existing guest houses in the surrounding area, the proposal will not involve the introduction of a land use which will alter the character of the conservation area.

The proposal will preserve the character and appearance of the Inverleith Conservation Area and complies with LDP policy Env 6.

## c) Parking and Road Safety

The proposal includes provision to utilise the existing driveway area in the rear garden to provide vehicle parking for a maximum of 4 vehicles. The parking standards in the EDG do not contain any set standards for a House in Multiple Occupation.

The EDG standards for a dwelling house in this location outline that any house should have a maximum of 1 parking space. While the provision on site exceeds the guidance, it is considered appropriate in the context of this application. Parking on the site is provided by a section of existing hardstanding in the rear garden which will not be enlarged or expanded, and it is not considered that the proposed level of parking provision will serve to encourage potential residents to utilise private car travel. The site is situated in a location which benefits from good public transport connectivity, with bus stops for Lothian Buses services 14, 21 and 23 located nearby. The site is also located in close proximity to an access point leading onto Goldenacre path which provides direct access to the wider cycle and pedestrian path network serving south Edinburgh. Prospective residents will therefore have convenient access to several modes of public transport.

The EDG standards outline that a dwelling house with more than four rooms in this location should have a minimum of 3 cycle parking spaces. A shed structure which is located within the rear garden can provide cycle storage provision for prospective residents.

The Roads Authority were consulted on the proposal and raised no objection.

The proposal accords with the requirements of LDP policy Tra 3. An infringement of policy Tra 2 in respect of the level of parking on the site is acceptable in the context of this application having regards to the proximity of the site to good public transport connectivity. The proposal does not raise any issues in respect of vehicle or cycle parking.

## d) Matters Raised in Representations

### **Objection Comments**

#### **Material Considerations**

- Proposal will result in anti-social behaviour and have a detrimental impact on the living conditions and privacy of neighbouring residents - addressed in section 3.3 (a);
- Proposal will result in the over provision of HMO's in the local area - addressed in section 3.3 (a);
- Proposal is not in keeping with the character of the surrounding area - addressed in section 3.3 (a);
- Proposal will have a detrimental impact on the character and appearance of the Inverleith Conservation Area - addressed in section 3.3 (b), and;
- Proposal will have a detrimental impact on existing parking arrangements - addressed in section 3.3 (c).

#### **Non-Material Considerations**

- Demographic and personal background of proposed residents will result in anti-social behaviour and have an impact on the security and safety of neighbouring residents, including children - The planning authority cannot effect control over the personal background or demographic nature of potential residents of an HMO. Issues relating to the security and safety of neighbouring residents are a matter for Police Scotland if criminal acts are involved.
- Proposal will have a detrimental impact on the operation of existing businesses in the surrounding area - The potential impact of a proposed change of use on the commercial operations of private businesses is not a material planning consideration
- Proposal may result in a loss of amenity to neighbouring commercial businesses - The planning system does not seek to protect amenity to commercial properties.
- Proposed management practices cannot be guaranteed to stay in place over the long term - The management practices are a matter for HMO licensing.
- Proposal will result in a decrease in the value of private property - The effect of a proposal on the value of private property is not a material planning consideration.
- Proposal may result in other guest houses in the surrounding area being tempted to change to HMO use - The planning authority cannot pre-judge whether other premises may seek to make a material change of use as a result of the granting of consent for a development.

- Neighbour notification was not carried out correctly - Neighbouring residents located within 20 metres of the application site were notified directly of the proposal on 14 August 2019. The application was also published on the Council's Weekly List of applications on 19 August 2019. The planning authority has fulfilled its requirements under The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 in respect of the notification and publication of this application.
- Geographical location of individuals who have made support comments - The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 do not place any specific geographical restrictions on who may or may not make a comment on a planning application.

### **Support Comments**

### **Material Considerations**

- Proposal is an appropriate use which will be in keeping with the character of the surrounding area - addressed in section 3.3 (a) and (b).
- Proposal will not result in anti-social behaviour - addressed in section 3.3 (a).

### **Non-Material Considerations**

The proposal will provide help and support to vulnerable individuals - The planning authority cannot effect control over the personal background or demographic nature of potential residents of an HMO. Such matters are not a material planning consideration.

### **Conclusion**

In conclusion, the proposal represents an acceptable use which is in keeping with the character of the surrounding area, and which will not have a materially detrimental impact on the living conditions of neighbouring residents. The proposal will preserve the character and appearance of the Inverleith Conservation Area and does not raise any issues in respect of vehicle or cycle parking and road safety. The proposal complies with policies Hou 7, Env 6 and Tra 3 of the adopted Edinburgh Local Development Plan (LDP) and the Council's Non-Statutory Guidance for Business. An infringement of policy Tra 2 in respect of the parking provision on the site is acceptable in respect of this application having regards to the nearby provision of public transport links.

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

### **3.4 Informatives**

#### **Informatives:-**

It should be noted that:

1. The development 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.

### **Financial impact**

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#### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

### **Risk, Policy, compliance and governance impact**

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

### **Equalities impact**

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#### **6.1 The equalities impact has been assessed as follows:**

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

### **Sustainability impact**

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#### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

There is no pre-application process history.

### **8.2 Publicity summary of representations and Community Council comments**

102 letters of objection, 102 letters of support and one general comment were received in respect of the proposal. A full summary of the considerations raised by these contributors can be found in section 3.3 of the main report.

### **Background reading/external references**

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- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development****Plan Provision**

The site is located in the urban area in the adopted Edinburgh Local Development Plan.

**Date registered**

12 August 2019

**Drawing numbers/Scheme**

01 - 02,

Scheme 1

**David R. Leslie**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:****Relevant policies of the Local Development Plan.**

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

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

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

## **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

**The Inverleith Conservation Area Character Appraisal** emphasises the predominance of Georgian, Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of public and private open space. The villa streets are complemented by a profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas are in a considerable variety of architectural styles, unified by the use of local building materials.

# Appendix 1

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## **Consultations**

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### Environmental Protection

*The applicant proposes the change of the property to from a guest house to provide residential accommodation for up to 12 occupants as a House of Multiple Occupation. The property is a semi-detached stone built Victorian property with its own entrance.*

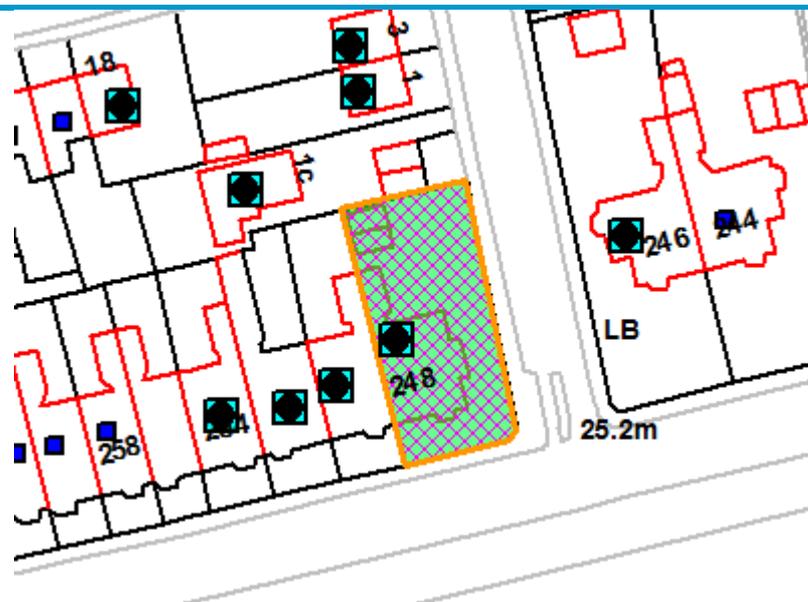
*Environmental Protection has no objections to this proposed development.*

### Roads Authority

*No objections to the application.*

## **Location Plan**

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