

# Development Management Sub Committee

Wednesday 29 July 2020

**Application for Planning Permission 20/00724/FUL  
at Flat 1, 1 Saunders Street, Edinburgh.  
Change of property use from residential to short term let.  
The property will be used for a mixture of family use and  
short term letting. The flat is ground floor with its own door  
access via a private garden.**

**Item number**

**Report number**

**Wards**

B05 - Inverleith

## Summary

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The proposal complies with the Development Plan. It will not have a negative impact on neighbouring amenity. The proposal preserves the character and appearance of the New Town Conservation Area and there is no impact on the Outstanding Universal Value of the World Heritage Site. The proposal is an appropriate use in this area. The proposal complies with relevant guidance and satisfies the requirements of section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material planning considerations which outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

LDPP, LEN01, LEN06, LHOU07, NSG, NSGD02, NSBUS, OTH, CRPNEW,

# 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 application site is a ground floor flat situated within a five storey tenement, located on the south east side of Saunders Street. The site has its own independent means of access and a small fenced curtilage. Kerr Street is to the north and India Place to the south.

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

### 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 is for a change of use of a residential unit to short term letting accommodation. The residential unit is a ground floor, one bedroom flat with its own means of access. Short term letting accommodation is not covered under the Town and Country Planning (Use Classes) (Scotland) Order 1997 and is a sui generis use.

### 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 principle;
- b) the proposal will preserve the character and appearance of the New Town Conservation Area;
- c) the proposal affects the Outstanding Universal Value of the Edinburgh World Heritage Site;
- d) the proposal will have a detrimental impact on the amenity of neighbouring residents;
- e) the proposal raises any issues in respect of parking and road safety and
- f) any comments have been addressed.

#### a) Principle of development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP). It should be noted that the LDP does not include any policies against the loss of residential use.

The only policy that is applicable to the assessment of short stay commercial lets is policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Business states that for a change of use to short term commercial visitor accommodation, special regard will be made to the following:

- 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.

The guidance states that change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

In connection to short stay lets it states - *The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest.*

There has been a number of appeal decisions which have helped to assess whether a change of use has taken place and whether that change of use is acceptable. There are currently 44 planning enforcement cases open in relation to short stay let uses.

There has also been planning appeal decisions against refusals to grant planning permission and certificates of lawfulness for short stay lets. These decisions have typically allowed short term let uses in main door properties or flats with their own private accesses e.g. 11 Stevenson Drive (CLUD-230-2007), 103 Restalrig Road (CLUD-230-2006) and 17 Old Fishmarket Close (PPA-230-2238). Appeal decisions such as 20 Pirniefield Grove (CLUD-230-2003) have also indicated that the use of residential properties for short stay letting does not always constitute a change of use. These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Recent appeal decisions like that at Flat 3F2, 22 Haymarket Terrace (ENA-230-2156) stress that the frequent movement by tourists, and other itinerant residents, of baggage along landings and stairwells as well as the necessity for daily servicing of the apartment all lead to a pattern of intense usage of the access stairs and communal areas beyond that which may otherwise be expected from an apartment of this size. All of which creates the potential for unacceptable noise and disturbance to existing residents.

The application site is a main door entry flat. The site plan shows that bins will be provided within the small rear curtilage linked to the flat. This is owned by the applicant. Users of the short term let will not come into contact with long term residents of the surrounding tenements. The use is small scale and is acceptable in principle.

#### b) Character and 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."*

LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The application site is within the New Town Conservation Area and forms part of the Old and New Town World Heritage Site. The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions. Although the New Town Character Appraisal does not mention Saunders Street, it does briefly discuss the surrounding area stating:

*Stockbridge was laid out around a single through route; now called Kerr Street to the south east of the Water of Leith and Deanhaugh Street, Raeburn Place, Comely Bank Road successively on the other bank. Dean Street and Leslie Place join Raeburn Place from the higher ground to the south-west.*

*These streets are lined with Georgian and Victorian terraces of tenements or three storey houses some particularly fine buildings including palace fronted terraces with substantial individual front gardens. The majority of property remains in residential use - in particular the Raeburn Estate has been subject to little redevelopment and remains an attractive and architecturally outstanding residential area.*

In this instance, there are no proposed external changes to the building. The introduction of a new bin within the curtilage of the property will be screened by existing fencing and will not disrupt the existing streetscape. The appearance of the conservation area will not be affected. The small size of the flat will limit visitors to either a single person or a couple. This combined with the screening of the existing fencing and the ability to access the property through its own door, mean that the comings and goings of any occupants and the use of the property is unlikely to be any different to the existing situation. The proposal will not have a negative impact on the existing residential character of the street. The proposed changes will have no impact on the character or appearance of the conservation area.

#### c) World Heritage Site

LDP Policy Env 1 (World Heritage Sites) states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

Due to the small scale nature of this proposal, there will be no impact on the Outstanding Universal Value of the World Heritage Site.

#### d) Neighbouring Amenity

There are no policies relating specifically to the control of short stay visitor accommodation in the current LDP. The only policy that can be applied is Hou 7 (Inappropriate Uses in Residential Areas) which considers whether proposed new uses would harm existing residential amenity. Hou 7 only focuses on neighbouring amenity and not the loss of housing and the impact this may have on the wider community. There is currently no policy relating to the loss of housing in the LDP. The application must be assessed against existing policies. The impact on neighbouring amenity is considered in more detail below.

No external changes are proposed to the building. The application complies with guidance outlined in *Edinburgh Design Guidance* relating to the protection of daylight to neighbouring windows, sunlight to neighbouring amenity space and neighbouring privacy. The application site is a one bed flat which will not be suited to large groups but more likely a single person or a couple. This reduces the likelihood that comings and goings to the property will disturb neighbours. The flat also benefits from its own access and is screened by an existing fence. A bin will be introduced to the curtilage of the building and visitors will not have access to communal areas of the tenement. This significantly reduces the scope for arrivals, departures and any cleaning to disturb existing residents. The small size of the flat and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter.

Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be significantly different from the existing residential use.

One letter of representation objected to the proposal on the basis that it would have a negative impact on shops and services. Any occupants using the proposed accommodation would be likely to use shops and services in the same way as other residents in the area. It is not considered that the proposal would have a negative impact on shops and local services.

A further letter of representation objected to the proposal due to public health concerns; specifically, the spread of coronavirus. Legislation and guidance independent of the planning system has been developed in relation to this issue and it is not a matter that can be controlled under planning legislation. In this instance any short stay visitors to this property would not have access to communal areas associated with the tenement and it is unlikely therefore that this application would have any public health implications.

#### e) Road Safety and Parking

The proposal does not include additional parking. As the application site is a one bed flat, the number of occupants in the flat will be limited to one or two. This will not lead to an increase in demand for parking beyond what already exists. The application site is in a controlled parking zone. Parking attendants will enforce parking regulations. The application has no implications for road safety.

The application is acceptable in this regard.

#### f) Public Comments

#### **Material representations - objections**

- Negative impact on appearance of building and the conservation area - addressed in section 3.3b);
- Negative impact on neighbouring amenity and erosion of community - this is addressed in section 3.3d);
- Negative impact on shops and services - this is addressed in section 3.3d);
- Loss of homes for local residents - this is addressed in section 3.3d); and
- Impact on parking- addressed in section 3.3e).

#### **Non-material representations**

- Too many Airbnbs - this is a commercial consideration which is not covered by current planning policy;
- Decrease in demand for short term lets should be an opportunity to scale back short term letting in the city and change policy - the application must be assessed against existing policies and
- Spread of Coronavirus - this is controlled under public health legislation.

## Conclusion

The proposal will not have a negative impact on neighbouring amenity. The proposal preserves the character and appearance of the New Town Conservation Area and there is no impact on the Outstanding Universal Value of the World Heritage Site. The proposal is an appropriate use in this area.

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

### **3.4 Conditions/reasons/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**

Following the neighbour notification, a total of six representations were received, five objecting to the proposal and one in support.

A full assessment of the representations can be found in the main report in the Assessment section.

## **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**

Edinburgh Local Development Plan.

**Date registered**

17 April 2020

**Drawing numbers/Scheme**

01-03,

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

**Relevant Non-Statutory Guidelines**

**Non-Statutory guidelines** Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the

Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

**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.

### **Other Relevant policy guidance**

**The New Town Conservation Area Character Appraisal** states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

# Appendix 1

## Application for Planning Permission 20/00724/FUL

At Flat 1, 1 Saunders Street, Edinburgh

Change of property use from residential to short term let.

The property will be used for a mixture of family use and short term letting. The flat is ground floor with its own door access via a private garden.

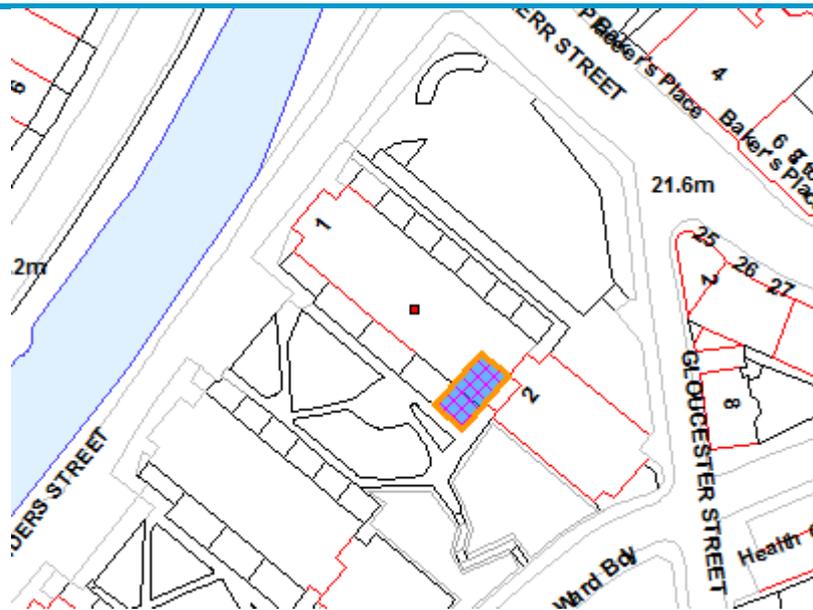
### Consultations

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No consultations undertaken.

### Location Plan

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