

Development Management Sub Committee

Wednesday 7 October 2020

**Application for Planning Permission 20/03069/FUL
at 4 Campbell's Close, 87 Canongate, Edinburgh.
Change of Use from residential to short term visitor
accommodation.**

Item number

Report number

Wards

B11 - City Centre

Summary

The proposal is contrary to the policies contained in the adopted Edinburgh Local Development Plan. The proposed change of use would have an unacceptable impact on residential amenity. The change of use will affect a quiet residential close that makes an important contribution to the character of the conservation area. There are no material considerations that would outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LDEL02, LHOU07, LEN06, LEN04, LTRA02, LTRA03, HES, HESUSE, OTH, CRPOLD,

Report

Application for Planning Permission 20/03069/FUL At 4 Campbell's Close, 87 Canongate, Edinburgh Change of Use from residential to short term visitor accommodation

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The property is a former brewery converted into flats in 1982. It was listed category B on 11 January 1989 (LB reference 28412). Owing to the slope of Campbell's Close, it is four storeys high at its north (Calton Road) elevation but at its south elevation, where the application property is located, is two storey high with a basement level.

The application relates to a two bedroom, main door flat on the top floor accessed up one flight of an external stair. No. 6 Campbell's Close is also accessed from this external stair.

The surrounding area is mostly residential with commercial located towards the Canongate.

The site is within the Edinburgh World Heritage Site.
This application site is located within the Old Town Conservation Area.

2.2 Site History

8 August 2015 - planning permission granted for installation of new roof window above bathroom (14/02906/FUL)

19 August 2015 - listed building consent granted for installation of new roof window above bathroom (14/02907/LBC)

Adjacent Site

28 July 2020 - an application for planning permission has been submitted for short stay visitor accommodation at 6 Campbell's Close. This is awaiting decision. (Planning Application reference: 20/01717/FUL).

Main report

3.1 Description of the Proposal

Planning permission is sought for the change of use from residential accommodation to short stay visitor accommodation.

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 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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 change of use is acceptable in this location;
- b) the proposal will preserve the architectural and historical character of the listed building;
- c) the proposal will preserve the character and appearance of the Old Town Conservation Area;
- d) the proposal raises any issues in respect of parking and road safety; and
- e) any comments have been addressed.

a) Principle

The site is within the city centre where Edinburgh Local Development Plan (LDP) policy Del 2 (City Centre) permits development which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city. The policy requires uses or a mix of uses appropriate to the location of the site, its accessibility and the character of the surrounding area.

LDP policy Hou 7 (Inappropriate Uses in Residential Areas) 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.

It should be noted that the LDP does not include any policies against the loss of residential use.

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 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). There are also currently 66 planning enforcement cases open in relation to short stay let uses.

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 has direct access from the street and it is within a busy city centre location with significant tourist traffic. However, it is located on a quiet close just off the main thoroughfare with minimal passing footfall except those accessing the residential properties. The property is accessed via an external stairwell which is shared with the other upper floor property and will pass by the properties on the lower floors. Therefore, there would be direct interaction between users of the short term letting accommodation and long term residents of the surrounding residential properties.

The proposed use would enable new individuals 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 also 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 long standing residents.

Environmental Protection have stated they do not support the application due to concern regarding neighbouring residential amenity.

On the balance of probability, there could be the potential for disturbance to the living conditions of neighbouring occupiers and a detrimental impact on residential amenity.

The proposal is contrary to LDP policy Hou 7 as it cannot be demonstrated that the proposal will not have a materially detrimental impact on the living conditions of nearby residents and its use is not appropriate for its location which is a quiet residential close.

b) Impact on Listed Building

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Historic Environment Scotland's (HES) guidance note Managing Change in the Historic Environment: Re-use and Adaptation of Listed buildings, sets out the principles that apply to altering historic buildings.

Policy Env 4 Listed buildings- Alterations and Extensions states that proposals to alter or to extend listed buildings will be permitted where those alterations are justified; would not result unnecessary damage to historic structures or diminution of its interests; and where any additions would be in keeping with other parts of the building.

HES guidance on the Use and Adaptation of Listed buildings stresses that changes may be required to find a new use for a listed building. The guidance advises that changes to specific assets and their context should be managed in a way that protects the historic environment and that careful consideration is required to avoid harming the building's special interest. It recognises that listed buildings will be adapted for new uses and that small-scale alterations will be required.

This application is for a change of use only and listed building consent will be required for any proposed internal or external changes. No changes are proposed.

On the basis, that the proposal is for a change of use only, the proposed change of use will preserve the character and setting of the listed building and accord with section 59 of the Planning (Listed Buildings and Conservation Area) (Scotland) Act 1997. It also complies with Env 4 of the LDP and HES managing Change guidance.

c) Old Town Conservation Area and World Heritage Site

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 which preserves or enhances the special character and appearance of the conservation area and which is consistent with the relevant character appraisal.

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.

While there are no proposed external changes to the building that would affect the appearance of the conservation area, it is important to recognise that residential uses make an important contribution to the diverse mix of uses in the area. While the introduction of a short holiday let would complement a range of visitors' accommodation being offered throughout the city, its use within a quiet residential close in this part of the conservation area would alter the existing residential nature of the lane which would undermine its contribution to the character of the conservation area. The proposal is contrary to policy Env6.

Due to the small-scale nature of the proposal, there is no requirement to assess the impact on the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site.

d) Transport

Policies Tra 2 and Tra 3 of the LDP sets out the requirement for private car and cycle parking. The car and cycle parking standards are contained in the Edinburgh Design Guidance.

The Roads Authority have no objections to the proposal. The zero parking provision is acceptable and complies with the parking standards in the Edinburgh Design Guidance. The application property is well served by public transport and is within walking or cycling distance of local amenities and many tourism venues.

There are no Roads Authority or transport issues.

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

e) Public comments

Material Objections

- Impact on amenity - addressed in section 3.3(a);
- Overall impact of tourism on residents - addressed in section 3.3(a);
- Parking - addressed in section 3.3(d).
- Proposal is contrary to Hou 7 - addressed in section 3.3(a);
- Impact on the Old Town Conservation Area - addressed in 3.3 (c);
- Proposal is contrary to Env 6 - addressed in section 3.3(c);
- Impact on environment - addressed in 3.3 (c).

Non-material Considerations

- Use contrary to title deeds - this is not a material planning consideration;
- Grant from Edinburgh World Heritage is to maintain Old Town in residential use - this is not a material planning consideration;
- Over provision of holiday lets and impact on housing market - each application must be assessed on its own merits in accordance with the Development Plan;
- Anti-social behaviour - this is a matter for the police;
- Other short-term lets nearby don't have planning permission - this does not preclude the assessment of this application;
- Impact upon neighbour's mental health - there are no policies of the Development Plan in relation to this;
- The change of use would take property away from the homeless and skilled workers - the use of the residential unit is not controlled by the planning authority;
- Impact on accommodation for staff at educational establishments - the use of the residential unit is not controlled by the planning authority;
- Impact on hotels - the planning system does not seek to control commercial competition;
- Impact on house insurance of other properties - this is not a material planning consideration;
- contrary to SPP on New Homes - this is an application for change of use and this policy is not directly relevant. There is no LDP policy in relation to the loss of homes; and
- Contrary to Scottish Government Housing policy - this is an application for change of use and this policy is not directly relevant.

Conclusion

In conclusion, the proposal is contrary to the policies contained in the adopted Edinburgh Local Development Plan. The proposed change of use would have an unacceptable impact on residential amenity. The change of use will affect a quiet residential close that makes an important contribution to the character of the conservation area. There are no material considerations that would outweigh this conclusion.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the proposed change of use is likely to adversely affect the amenity of neighbouring residents.
2. The proposal is contrary to policy Env 6 on Conservation Area Development as its location within a quiet residential close in this part of the conservation area would alter the existing residential nature of the lane which would undermine its contribution to the character of the conservation area.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

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

Equalities impact

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

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

8.1 Pre-Application Process

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on the 11 August 2020. 12 objection comments were received including one from the Old Town Community Council.

Background reading/external references

- 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**

Adopted Edinburgh Local Development Plan

Date registered

28 July 2020

Drawing numbers/Scheme

01,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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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 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 Env 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

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 Government Guidance on Historic Environment.

Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings sets out Government guidance on the principles that apply to enable the use, the reuse and adaptation of listed buildings.

Other Relevant policy guidance

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

Application for Planning Permission 20/03069/FUL At 4 Campbell's Close, 87 Canongate, Edinburgh Change of Use from residential to short term visitor accommodation

Consultations

Environmental Protection

Environmental Protection do have slight concerns with this proposal and therefore cannot fully support it.

Short-term visitor accommodation can impact on neighbouring residential amenity, primarily due to noise and anti-social behaviour. The applicant advises that for this building, the property below (no. 8) and the basement flat (no. 12) are currently owner-occupied flats. No. 10 is sometimes occupied by the owner and sometimes rented out for holiday lets. The adjacent flat, (no.6) has a pending application to change to a short-term holiday let. (20/01717/FUL). The applicant advises that the adjoining flat to the north which is accessed off Calton road is also an owner-occupied property.

Therefore, there is residential accommodation that could be affected by the use of this property. This property has the benefit of having main door access, however the external stair case could be a source of noise, in particular from suitcases being bumped off the steps, early in the morning or late at night. The other noise concern we have is the noise being generated by guests playing loud music, banging around, shouting, or making noise outside if smoking on the landing etc.

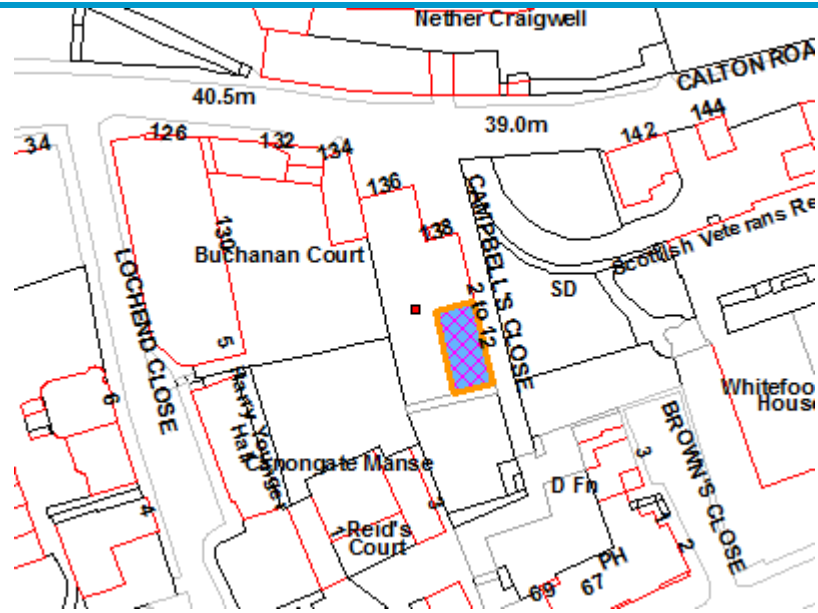
The applicant has advised that many of the surrounding properties are already operating as short-term lets, which may be correct, although they may be operating without appropriate planning consent.

Environmental Protection do have slight concerns with this proposal and therefore cannot fully support it.

Roads

No objections.

Location Plan



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