

Development Management Sub Committee

Wednesday 13 January 2021

**Application for Planning Permission 20/03051/FUL
at BF, 18 Torphichen Street, Edinburgh.
Change of use from residential flat to residential holiday let.**

Item number

Report number

Wards

B11 - City Centre

Summary

The change of use to short-term holiday/commercial visitor accommodation (SCVA) is acceptable in principle in this location and will not harm the special interest of the listed building or the defined character of the conservation area. It will not result in an unreasonable loss of amenity for neighbouring residential properties or any transport concerns. The proposal complies with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LEN04, LEN06, LTRA02, LTRA03, LTRA04, LHOU07, NSG, NSBUS, NSLBCA, CRPWEN, HES, HESUSE,

Report

Application for Planning Permission 20/03051/FUL at BF, 18 Torphichen Street, Edinburgh. Change of use from residential flat to residential holiday let.

Recommendations

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

Background

2.1 Site description

The application site relates to a main door, lower ground floor level, two bedroom flat.

The main door is accessed down a flight of stairs which leads to a private courtyard. There is also a rear door which leads to a private area and then steps which provide access to a car parking area and then Dewar Place Lane.

It is a category B listed building (Listed 14/12/19 LB Ref: 29850)

This application site is located within the West End Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description of the Proposal

The application proposes the change of use of the flat to a short-term holiday/commercial visitor accommodation (SCVA). This is a sui generis use.

No external alterations are proposed.

Supporting information was provided and its contents have been summarised below:

- The SCVA has been operational constantly since 2013;
- There are no dwellings or commercial units located below the property;
- Many of the properties surrounding the site are non-residential, like the Edinburgh City Suites (holiday lets), other SCVAs and offices;
- The property has its own private front and rear door and
- The space in front of the building is private and is not used to access any other property.

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 proposal is acceptable in principle;
- b) the development has special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest;
- c) the development preserves or enhances the special character or appearance of the conservation area;
- d) the development will have a materially detrimental effect on the living conditions of nearby residents;
- e) the development raises any issues in respect of car and cycle parking and road safety and
- f) comments raised have been addressed.

a) Principle of the Proposal

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 main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP 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 Businesses states that an assessment of a change of use of dwellings to SCVA 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.

The guidance states that a 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"*.

In addition, policy Del 2 states development which lies within the area of the City Centre as shown on the Proposals Map will be permitted 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 site lies within this area.

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration, and this is compatible with policy Del 2.

The use is relatively small scale and the flat is located on a busy road in a city centre location. It has its own private access. The surrounding uses are a mixture of business, residential and commercial.

Based on the criteria established above, the proposal is acceptable in principle.

b) Impact on the 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 Notes on Managing Change in the Historic Environment: Use and Adaptation of Listed Buildings states; *"New uses may enable us to retain much of the fabric and special interest of a building, but they will always have an impact on its intangible value. The process of conversion will have some impact on a building's special interest, regardless of how well it is handled. The continued use of a listed building for its original function will normally be the best way to retain its historic character"*.

LDP Policy Env 4, Listed Buildings - Alterations and Extensions, permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

No external or internal alterations are proposed to the listed building. Whilst it is acknowledged that the use of the building will change from residential to a SCVA, the change will not have a material impact on the special interest of the listed building. The proposal complies with LDP Policy Env 4 and the relevant HES guidance.

c) Impact on 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 West End Conservation Area Character Appraisal also notes that *"The area is characterised by mixed, residential commercial buildings with the Georgian and Victorian tenements being mainly 4-6 storeys, constructed of stone with pitched, slated roofs. In the central section of the conservation area, there is a major modern financial section consisting of modern offices, which spills over the conservation area to the south. This central section is more characteristic of big city commercial districts which are untypical in an Edinburgh City Centre context."*

No external alterations are proposed and the change of use of the one relatively small flat will not have any material impact on the appearance of the conservation area. The site is on a busy thoroughfare with mixed uses and the change of use would not impact on the intrinsic character of the conservation area. The proposal complies with LDP Policy Env 6.

d) Impact on Residential Amenity

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), restricts developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents.

The site is located on Torphichen Street, which is within the defined city centre. The West End Conservation Area Character Appraisal states that within the western Area of the West End, to which the site lies *"The public realm consists of busy streets affected by one way systems to ease the flow of traffic around and approaching Haymarket. Consequently, footways are constrained by pedestrian barriers, traffic signs, route signs and other street furniture. Haymarket provides a convergence point for three major vehicular routes as well as a busy railway station. This major meeting point is currently dominated by vehicular traffic, resulting in constrained pedestrian movement and does not reflect its importance as a gateway into the World Heritage Site"*

The West End Conservation Area Character Appraisal also notes of the western area - *"One characteristic of the area is that the former Georgian residential properties along West Maitland Street and Torphichen Street are largely given over to office use"*

Torphichen Street is a busy street in terms of traffic and pedestrian movement as would be expected being so close to main arterial routes in and out of the city and Haymarket. The agent states that the flat has a variety of offices and SCVA accommodation located directly around it. Information from the Scottish Assessors Association confirms that the street has a mix of office, SCVA and residential accommodation present. The property directly next door to the site, No. 16 Torphichen Street, is utilised as Edinburgh City Suites (SCVA accommodation). The two storeys above the unit appear to be utilised as an office. Just further along at No. 24, there is the new Hotels by Premier Inn development.

The property is a lower ground floor flat which is self-contained. Its main entrance to Torphichen Street is not shared with any other residential properties. The property has doors to the rear which on the plans are shown to open up to a shared area. However, a site visit showed that this area is in fact partitioned and provides no access to the other lower ground floor flat. Any occupants of the flat would therefore not come into contact with residents living nearby.

The dwelling is composed of two bedrooms and separate living room, the latter of which could, in principle, be used as supplementary overnight accommodation. The agent has, however, confirmed that the potential level of occupancy will be similar to neighbouring residential uses, with up to four occupants renting the two bedroom unit, most commonly for between 2-4 nights.

The relatively small size of the flat would restrict usage by an excessive number of visitors and means that the unit will retain a comparable occupation level to neighbouring residential properties. An SCVA of this size will not materially intensify demand on local services. The agent has also stated that the flat has been used continually as SCVA accommodation since 2013. There is no history of enforcement complaints.

The site is not located on a quiet residential street. Instead it is located on a busy route in and out of the city and has a number of non-residential and potentially intrusive uses nearby. In conjunction with the self-contained nature of the site, this one, relatively small-scale SCVA unit, which has been operational for the last 7 years, would not result in an unacceptable impact on existing levels of residential amenity. Environmental Protection was consulted on the application and offered no objection with regards to the proposals potential impact upon amenity of nearby residents.

It complies LDP Policy Hou 7 and the non-statutory Guidance for Businesses.

e) Parking and Road Safety

LDP Policy Tra 2, Private Car Parking, and LDP Policy Tra 3, Private Cycle Parking, state that planning permission will be granted for development where proposed car and cycle parking provision complies with and does not exceed the parking levels set out in the Non-statutory Edinburgh Design Guidance.

The guidance does not define car or cycle parking standards for a SCVA. Whilst the agent involved has stated that there is a car parking area to the rear of the site which is within the applicant's ownership, this area has not been included within the red line boundary. Regardless of whether the property has access to off-street car parking, the site is located near to roads which are well served by buses, trams and Haymarket Train station. Given the nature of the use, it is likely that the majority of visitors shall arrive by public transport. Sufficient internal space for cycle storage is available.

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

f) Public Comments

Material Comments - Objections

- Impact on the character, authenticity and integrity of the conservation area, not in compliance with LDP policy Env 6. This is addressed in section 3.3 c)
- Concerns relating to noise and disturbance, not in compliance with LDP policy Hou7. This has been addressed in section 3.3 d)

Non-Material Comments - Objections

- Loss of potential residential housing- This is a commercial consideration which is not covered by current planning policy.

Material Comments - Support

- Brings employment in terms of people looking after the property and encouraging tourists to the city. This is addressed in section 3.3 a)

Conclusion

The change of use to SCVA is acceptable in principle in this location and will not harm the special interest of the listed building or the defined character of the conservation area. It will not result in an unreasonable loss of amenity for neighbouring residential properties or raise any transport concerns. The proposal complies with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

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

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 meets 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 received two objection comments and two support comments. The points raised are addressed in section 3.3 of this report.

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

The site is located within the Urban Area as identified by the Edinburgh Local Development Plan.

Date registered

4 August 2020

Drawing numbers/Scheme

1, 2,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

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 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.

LDP Policy Tra 4 (Design of Off-Street Car and Cycle Parking) sets criteria for assessing design of off-street car and cycle parking.

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 '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.

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

The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

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.

Appendix 1

Application for Planning Permission 20/03051/FUL at BF, 18 Torphichen Street, Edinburgh. Change of use from residential flat to residential holiday let.

Consultations

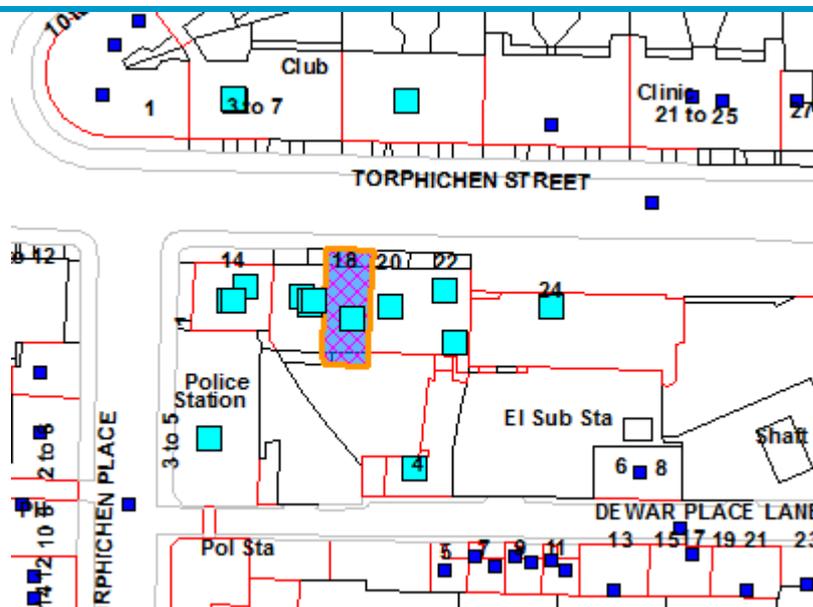
Environmental Protection

I did manage to visit the site from the street and from what I could make out there are no connecting residential uses. Based on this and the additional information provided by the applicant, Environmental Protection would offer no objection with regards amenity impacts.

The Roads Authority

No comments.

Location Plan



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