

Development Management Sub Committee

Wednesday 17 March 2021

**Application for Planning Permission 20/05425/FUL
at 39 London Street, Edinburgh, EH3 6LX.
Change of use from derelict property to holiday lets
(basement and sub-basement).**

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, LHOU07, LEN04, LEN01, LEN06, LTRA02, LTRA03, HES, HESUSE, NSG, NSBUS, CRPNEW,

Report

Application for Planning Permission 20/05425/FUL at 39 London Street, Edinburgh, EH3 6LX. Change of use from derelict property to holiday lets (basement and sub-basement).

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 basement and sub-basement property near the junction of London Street and Broughton Street.

The property is accessed at the front from basement level and sub-basement level at the rear through the garden area which is in the ownership of the applicant. The property has been disused for around 30 years and therefore any previous use has been abandoned and photographs submitted with the application show it is in a very poor state of repair.

The interior still has its original configuration and a number of original features including a kitchen range.

The surrounding area has a mixed character with largely residential units to the west of the property, a sauna to the east and a disused funeral parlour above at ground floor. Residential units are on the upper floors. Turning into Broughton street, there is a local centre with a mix of shops, pubs and cafes with residential units above.

It is a category A listed building (Listed 22 April 1965 LB Ref: 29260) and lies within the Edinburgh World Heritage Site.

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

3.1 Description of the Proposal

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

It is proposed to form 4 studios, two at basement level and two at sub-basement level. The studios will each contain a double bed, a small kitchen and a shower room and are designed for two persons. Access will be from the front basement door.

Externally, the only change is the change of a window to a patio glazed door at the rear basement. Internally, alterations are fairly minimal with the main change being the removal of a wall at sub-basement level. The kitchen range will be retained. At this stage listed building consent has not been applied for but this will be required.

There is no car parking proposed.

Previous Scheme

The application has been amended to retain a wall at basement level so access is now taken from the front of the building rather than the rear. This will give access to all four studios.

Supporting information

- Design Statement

This is available to view on the Planning Portal.

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 affects the Outstanding Universal Value of the Edinburgh World Heritage Site;
- e) the development will have a materially detrimental effect on the living conditions of nearby residents;
- f) the development raises any issues in respect of car and cycle parking and road safety and
- g) 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).

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"*.

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.

The formation of four individual studio units with a maximum of two persons each is relatively small scale. The property has its own private access to the front and all the units will be entered through this. The property is located on a relatively busy junction in a city centre location and local residents will be used to a certain degree of noise and disturbance from the uses as London Street turns into Broughton Street.

It would not be possible to use the sub-basement for residential use as daylighting is severely limited. Those renting out the studio rooms may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts.

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.

The conversion of the window to a patio door is a minor change which does not impact on the special interest of the listed building. Internal alterations are minor and the amended plans ensure the original basement configuration is retained. The property is in a very poor state of repair and a new use needs to be found for it to ensure it is properly maintained. A commitment has been given to restoring all features of special interest including cornicing, windows and the flagstone floor. These works will require listed building consent to ensure the detailing is correct. Based on the information submitted at this stage, the change of use 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 New Town Conservation Area Character Appraisal also notes that *"The New Town Conservation Area 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."*

The external alterations are minor and preserve both the character and appearance of the conservation area. The change of use to four short stay units will not have any material impact on the character of the conservation area as it contributes to the mix of uses in this area. The site is near a busy local centre 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) World Heritage Site

LDP Policy Env 1 states 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.

The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

The re-use of the basement and sub-basement as short stay visitor accommodation does not affect the reasons for the inscription and therefore meets policy Env 1. In addition, the Management Plan notes the importance of the value of the WHS to tourism industry and business community and stresses the importance of sustainable tourism. This is the sustainable re-use of a historic building which has been vacant for 30 years and the location and absence of car parking ensures public transport and walking will be the main modes of travel.

e) 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 near the junction of London Street and Broughton Street.

Broughton Street is a busy street in terms of traffic and pedestrian movement and the property is adjacent to a sauna at basement level and a cafe/restaurant above. The ground floor above has been disused for around 10 years and was previously a funeral parlour.

The property is a basement and sub-basement property which is self-contained. Its main entrance to London 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 rear garden area at sub-basement level. The garden is owned by the applicant. Any occupants of the studios would therefore not come into contact with residents living nearby.

Each unit is composed of one room with a double bed and kitchen/en-suite, geared towards couples. The relatively small number of units 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.

Concerns have been raised that the location next to a sauna would encourage the use of these units by stag and hen parties. However, the units are individual studios for couples and are not multi-bedroomed units.

The site is not located on a quiet residential street. Instead it is located near a busy junction and has a number of non residential and potentially intrusive uses nearby. In conjunction with the self-contained nature of the site, it would not result in an unacceptable impact on existing levels of residential amenity.

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

f) 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. There is no car or cycle parking provision. However, cycle could potentially be carried down the stairs into each unit.

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

g) Public Comments

Material Comments - Objections:

- Impact on residential amenity -This has been addressed in section 3.3 e)
- Access issues - This has been addressed in section 3.3 e)

Non-Material Comments:

- Property should be used for residential use - this is not what has been applied for and is not a relevant consideration in the determination of this application;
- Over provision of tourist accommodation in the area - this is an issue of commercial competition and is not a material planning consideration;
- Use of the property for sex tourism - this is not a material planning consideration;
- Ownership issues - this is a civil matter between all parties and is not a material planning consideration;
- Applicant has left the property to rot - this is not a material planning consideration;
- Listed building consent has not been applied for - this is a separate consent and there is no statutory requirement for it to be applied for at this stage;

- HMO compliance - this is not an application for a House in Multiple Occupancy; and
- Holiday lets are squeezing accommodation in the City Centre - there are currently no planning policies to control this.

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. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.
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.
4. 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.

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 received 12 objection 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

Date registered 29 December 2020

drawing numbers/Scheme 1-4, 05A, 06,

Scheme 2

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Links - Policies

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

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 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.

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 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.

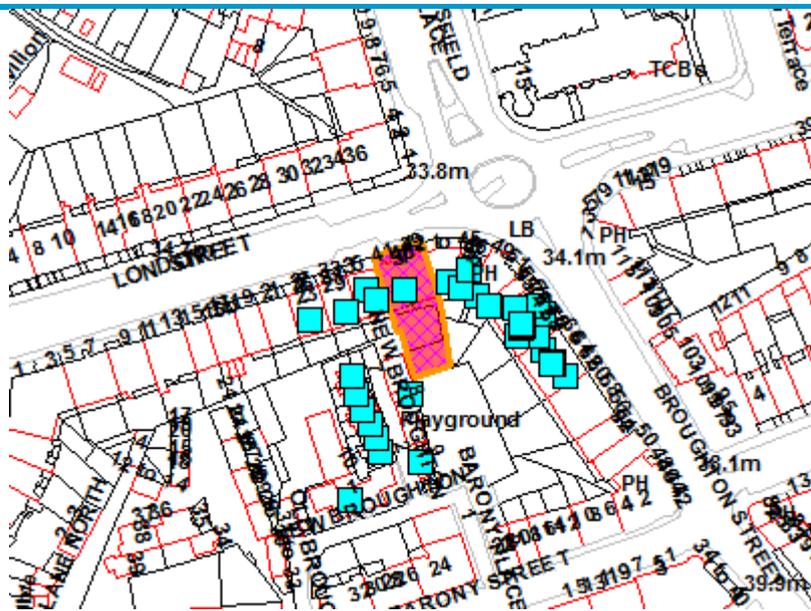
Appendix 1

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Consultations

No consultations undertaken.

Location Plan



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