

Development Management Sub Committee

Wednesday 4 August 2021

**Application for Planning Permission 21/02615/FUL
at 41 Barony Street, Edinburgh, EH3 6NX.
Change of use from a residential property to short term
commercial visitor accommodation.**

Item number

Report number

Wards

B11 - City Centre

Summary

The change of use to SSCVA 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.

Links

[Policies and guidance for this application](#)

LDPP, LHOU07, LEN04, LEN06, LEN01, LTRA02, LTRA03, HES, HESEXT, NSG, NSBUS, NSLBCA, OTH, CRPNEW,

Report

Application for Planning Permission 21/02615/FUL at 41 Barony Street, Edinburgh, EH3 6NX. Change of use from a residential property to short term commercial visitor accommodation.

Recommendations

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

Background

2.1 Site description

The application property is a ground floor main door flat in a four storey stone tenement in the New Town. It has a sitting room, two bedrooms and two bathrooms.

The surrounding area is predominantly residential although there are other uses nearby. Next to the application site is Broughton Market which houses commercial, businesses and industrial units.

The application property is a category C listed building (date of listing 31 March 1999; ref LB46116).

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

2.2 Site History

30 March 2015 - listed building consent granted for minor alterations to internal layout. New structural steel to slapping's in existing walls, new services throughout, new finishes (application number 15/00720/LBC).

Main report

3.1 Description Of The Proposal

The application seeks permission for a change of use from residential flat to a short term commercial visitor accommodation (SSCVA) i.e. short-term holiday let use.

No external or internal physical alterations are proposed.

Supporting information

- planning statement

This is available to view on the Planning and Building Standards Online Services.

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 raises any issues in respect of car and cycle parking and road safety;
- f) there are any other material considerations and
- g) comments raised have been addressed.

a) Principle of Proposal

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. There are no policies relating specifically to the control of short stay commercial visitor accommodation (SSCVA) in the current LDP. 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 and so the loss of community. The application must be assessed against existing policies. The impact on neighbouring amenity is considered below.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SSCVA 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 SSCVA properties, the economic benefits are a material planning consideration.

The change of use from a domestic residential flat to a short stay commercial visitor accommodation with a maximum of four persons would be no greater than what the existing residential flat could currently accommodate.

The property has its own private access to the front. Although located in a mainly residential street, the property is next to a small concentration of commercial and business uses at Broughton Market and local residents will be used to some degree of noise and disturbance from the uses such as vehicles/traffic.

In addition, there are no policies which limit the number of short stay lets in a particular area so the assessment can only be based on the potential impact on residential amenity. The cumulative impact may be significant but there have been no other applications for short terms lets in Barony Street.

The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden. As a two bedroom flat, the application property can accommodate four residents and the proposed change of use to a SSCVA will also accommodate four visitors/guests. Therefore, there will be no increase in the numbers of people who can be accommodated in the flat.

The small size of the flat (two- bedroom) 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 so significantly different to impact on residential amenity.

Those renting out the flat 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.

Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal.

Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.

b) 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 :set out the principles for alterations to listed buildings including physical alterations and change of use.

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.

There are no external or internal alterations proposed. The Planning Statement advises that visitors/guest would be met at the property and there is no reference to the installation of a key lock box in the Planning Statement nor shown on the drawings. Listed Building Consent would be required to install a key lock box on the listed building.

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

c) 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."*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a two-bedroom domestic flat to a short-term holiday let (SSCVA) 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 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 proposed change of use to the ground floor 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. The proposal will not have a detrimental impact on the Outstanding Universal Value of the World Heritage Site - Northern New Town.

The proposal complies with LDP Policy Env 1.

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 SSCVA. There is no car or cycle parking provision and the proposal does not include additional parking. The application property is in a traditional tenement street where there is no scope to provide a parking space for the proposal. As the maximum number of visitors/guests would be no greater than what the existing residential flat can currently accommodate, it is unlikely that there would be an increase in demand for parking beyond what already exists. There are no road safety issues. It is likely visitors would come by public transport.

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

f) Other material considerations

Equalities and human rights

Mental Health impacts have been raised in the public comments. The comment quotes from MIND - "If wherever you're living feels unsafe, uncomfortable or insecure, you might constantly feel stressed, anxious, panicked or depressed."

The comment is not a specific comment nor details or explains how the proposal will impact on these feelings. Visitors/guests to the proposed SSCVA will not have access to the communal stair or communal garden of the tenement. Access to the property is via the main door directly from the street and as the street is a public street, planning cannot control who is walking on the street nor who is leasing the property.

In this context, it is not expected that there will be impacts on equalities or on human rights caused by the proposal.

Waste

The applicant/operator of the SSCVA is responsible for ensuring that an appropriate waste strategy is in place and an informative is recommended should permission be granted.

g) Public Comments

Material Comments - Objections:

- loss of residential - residential lets being given to tourist lets. Addressed in 3.3a).
- the development is contrary to Scottish Planning Policy on "socially sustainable places" - addressed in 3.3 a)
- listed building - key lock box. Addressed in 3.3b).
- impact on residential amenity - noise; antisocial behaviour; nuisance and annoyance; social and physical detriment; number and timing of arrivals and departures; insecurity; loss of community. Addressed in section 3.3a) and 3.3f)
- over provision of tourist accommodation in the area. Addressed in section 3.3a);
- parking. Addressed in 3.3e).
- -equalities and human rights. Addressed in 3.3f).

Non-Material Comments:

- mix of local house types and size; need for local housing and affordable housing; contrary to Policy Hou 2 - the relevant policy for the application development type is Hou 7 (Inappropriate Uses in Residential Areas) and policy Hou 2 (Housing Mix) is not the relevant policy.
- Scottish Government Housing Policy - there are currently no policies on loss of residential use and housing shortages are addressed in housing allocations in the Development Plan.
- security/fire - not a material planning consideration.
- blocking private access - not a material planning consideration. Police Scotland have powers to deal with obstruction of public roads and accesses.
- -maintenance - not a material planning consideration.

Conclusion

The change of use to SSCVA 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.
4. This consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.
5. This application relates to a flatted building. This planning permission does not affect the legal rights of any other parties with an interest in the building. In that respect, the permission does not confer the right to carry out the works without appropriate authority.
6. Private waste management arrangements should be put in place for this commercial use.
7. It is understood that this would be a conversion (from domestic to non-domestic) in relation to the Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004 and will therefore require a building warrant. Details of how to apply for a Building Warrant can be found at:
<https://www.edinburgh.gov.uk/building-warrants/apply-building-warrant>

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:

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

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 28 May 2021 and 16 objection comments have been received, including from the Cockburn Association.

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**

Local Development Plan - conservation area, World Heritage Site.

Date registered

12 May 2021

Drawing numbers/Scheme

01-02.,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Jackie McInnes, Planning officer

E-mail: jackie.mcinnnes@edinburgh.gov.uk

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

LDP Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its setting.

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: Extensions sets out Government guidance on the principles that apply to extending 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.

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

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.

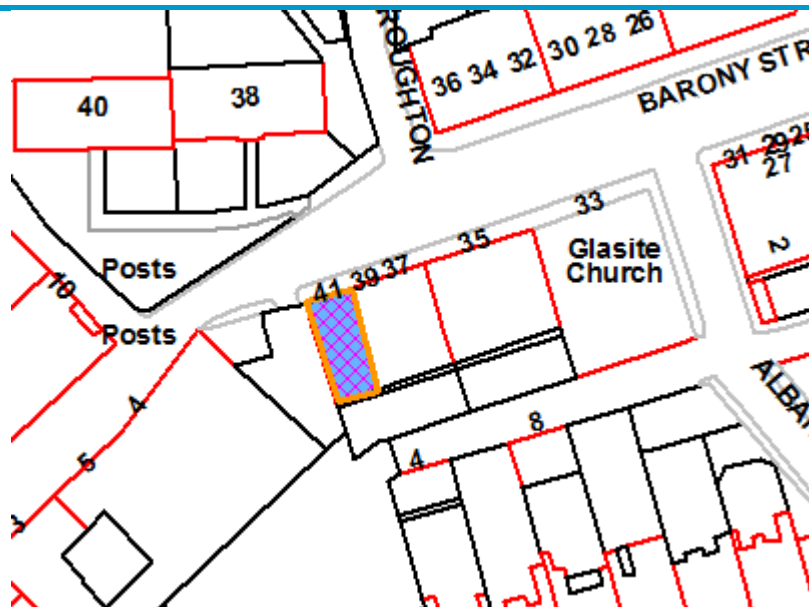
Appendix 1

**Application for Planning Permission 21/02615/FUL
At 41 Barony Street, Edinburgh, EH3 6NX
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commercial visitor accommodation.**

Consultations

No consultations undertaken.

Location Plan



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