

# Development Management Sub Committee

Wednesday 4 August 2021

**Application for Planning Permission 21/01541/FUL  
At 17 Spring Gardens, Edinburgh, EH8 8HU  
Change of Use from dwelling to holiday-let (in retrospect).**

**Item number**

**Report number**

**Wards**

B14 - Craigentinny/Duddingston

## Summary

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The change of use to short-term holiday/commercial visitor accommodation (SCVA) is not acceptable in principle in this location. Whilst the development will not harm the special interest of the listed building, it will result in an unreasonable loss of amenity for neighbouring residential properties. The proposal does not comply with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

LDPP, LHOU07, LEN03, LEN04, NSG, NSBUS, HES, HESUSE,

# Report

## **Application for Planning Permission 21/01541/FUL At 17 Spring Gardens, Edinburgh, EH8 8HU Change of Use from dwelling to holiday-let (in retrospect).**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application property dates from the late 18th or early 19th century and is a symmetrical, 2-storey and attic 3-bay villa with later (19th century) single storey wing and conservatory to the east.

It is a detached property with quite large front and rear gardens and a private access. There are residential properties to the east, west and south of the site, whilst there is a railway line directly to the north.

The building is Category B listed. It was listed on 14 December 1970 (Listing reference: LB 29801).

#### **2.2 Site History**

24 December 2020 - Retrospective planning application for the change of use of the house to a 6 bedroom furnished holiday let (short term commercial let) received (application reference: 20/05822/FUL). This application was subsequently returned on 5 January 2021 following a change of plans by the applicant resulting from the on-going Covid 19 restrictions.

7 January 2021 - an enforcement investigation into alleged unauthorised use as short term visitor accommodation was closed on the basis the use had ceased (enforcement reference 20/00477/ESHORT)

### **Main report**

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#### **3.1 Description Of The Proposal**

The application proposes the change of use of the existing dwelling house to a short-term holiday/commercial visitor accommodation (SCVA). This is a sui generis use. The property has 6 bedrooms and has a maximum capacity of housing 16 visitors at a time.

It is understood that the SCVA had been operational since August 2015 although this has stopped since the pandemic.

### 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.

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 and whether it will have a materially detrimental effect on the living conditions of nearby residents;
- 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 raises any issues in respect of car and cycle parking and road safety; and
- d) comments raised have been addressed.

#### a) Principle of the proposal and effect on living conditions of nearby residents

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 proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents.

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 property. Generally, the smaller the property 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.

The property is located on a residential street. The property is detached, has quite large garden grounds and its own private access. However, the dwelling is quite substantial in size and it can host up to 16 visitors at a time.

The proposed use would enable a large number of 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. The applicant has also stated that the property has had 345 bookings and approximately 4140 visitors since it was first utilised as an SCVA in 2015.

Environmental Protection was consulted on the application and stated that it had concerns in relation to the proposals potential impact upon the amenity of nearby residents. It also raised concerns about how the property could be managed in terms of ensuring there would be no noise disruption from occupants.

Given the above, on the balance of probability, it is likely that the SCVA would result in an unacceptable impact upon existing levels of residential amenity.

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, including that of tourism, are a material planning consideration. However, these considerations do not outweigh the detrimental impacts of the proposal on nearby residential amenity.

The proposal is not acceptable in principle and is contrary to LDP policy Hou 7 as it cannot be demonstrated that it will not have a materially detrimental impact on the living conditions of nearby residents.

#### 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."*

No external or internal alterations to the building are indicated on the submitted plans or are stated within the development description. The proposal will therefore have no impact upon the setting of the building or on any features of special architectural or historical interest which it possesses.

#### *Use and adaptation*

Historic Environment Scotland's (HES) Managing Change in the Historic Environment guidance note on the use and adaptability of listed buildings is applicable. It states that *"for a building to remain in use over the long term, change will be necessary. This reflects changes over time in how we use our buildings and what we expect from them. The listed buildings in Scotland reflect a wide range of our history and culture, they contribute to our well- being culturally, socially and economically. We can't have these benefits without caring for these buildings. We need to make sure they have a long term future if we want to benefit from them in the long term"*

*"A building's long-term future is at risk when it becomes hard to alter and adapt it when needed. Proposals that keep buildings in use, or bring them back into use, should be supported as long as they do the least possible harm. Once a building is empty or underused its long term future is immediately at risk"*

Historic Environment Scotland's guidance note on the use and adaptability of listed buildings explains that the process of converting a building will have some impact on a building's special interest, regardless of how well it is handled.

No external or internal alterations are indicated on the submitted plans or are stated within the development description relating to the proposed change of use. The proposal therefore complies with Historic Environment Scotland's Managing Change in the Historic Environment guidance notes. There is no suggestion that the property needs to be SCVA to be a viable use for the building.

### c) 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. Bikes could be stored within the garden of the property. The property has a driveway for the off street parking of cars.

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

### d) Public Comments

#### **Material Comments - Objections:**

- Does not comply with LDP policy Hou 7 in terms of potential noise and disruption. This is addressed in section 3.3 a)
- Impact on traffic and road safety. This is addressed in section 3.3 c.
- Unauthorised use - This planning application has been submitted to formalise the use.

#### **Non Material Comments - Objections:**

- Pollution and littering- This is not a material consideration in assessment of SCVAs.
- Impact on safety- This is not a material planning consideration. Any concerns over personal safety should be raised with Police Scotland.

#### **Material Comments- Support**

- Complies with LDP policy Hou 7 in terms of noise and disruption. This is addressed in section 3.3 a.
- No impact in terms of parking. This is addressed in section 3.3c.

#### **Non Material Comments Support**

- No objections to the change of use.

#### **Material Neutral Comment**

- How will potential noise and disruption be managed. This is addressed in section 3.3a.

## **Non Material Neutral Comment**

- Property did not operate within published restrictions.

### Conclusion

The change of use to short-term holiday/commercial visitor accommodation (SCVA) is not acceptable in principle in this location. Whilst the development will not harm the special interest of the listed building, it will result in an unreasonable loss of amenity for neighbouring residential properties. The proposal does not comply with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

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

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

#### **Conditions:-**

#### **Reasons:-**

1. The proposal is contrary to adopted Edinburgh Local Development Plan policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a detrimental effect on the living conditions of nearby residents by virtue of increased noise and disturbance to the detriment of residential amenity.

#### **Informatives:-**

### **Financial impact**

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#### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

### **Risk, Policy, compliance and governance impact**

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

### **Equalities impact**

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#### **6.1 The equalities impact has been assessed as follows:**

The application has been assessed and has no impact in terms of equalities or human rights.

### **Sustainability impact**

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#### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## Consultation and engagement

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### 8.1 Pre-Application Process

Pre-application discussions took place on this application.

### 8.2 Publicity summary of representations and Community Council comments

Three objection comments, 3 letters of support and one letter of neutral comment were received. A full assessment of the matters raised can be found in section 3.3 of the main report.

### Background reading/external references

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- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

#### Statutory Development Plan Provision

**Date registered** 24 March 2021

**Drawing numbers/Scheme** 01,02,

Scheme 1

**David Givan**  
**Chief Planning Officer**  
PLACE  
The City of Edinburgh Council

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## **Links - Policies**

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### **Relevant Policies:**

#### **Relevant policies of the Local Development Plan.**

LDP Policy 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 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

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

#### **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.

#### **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 21/01541/FUL At 17 Spring Gardens, Edinburgh, EH8 8HU Change of Use from dwelling to holiday-let (in retrospect).

### Consultations

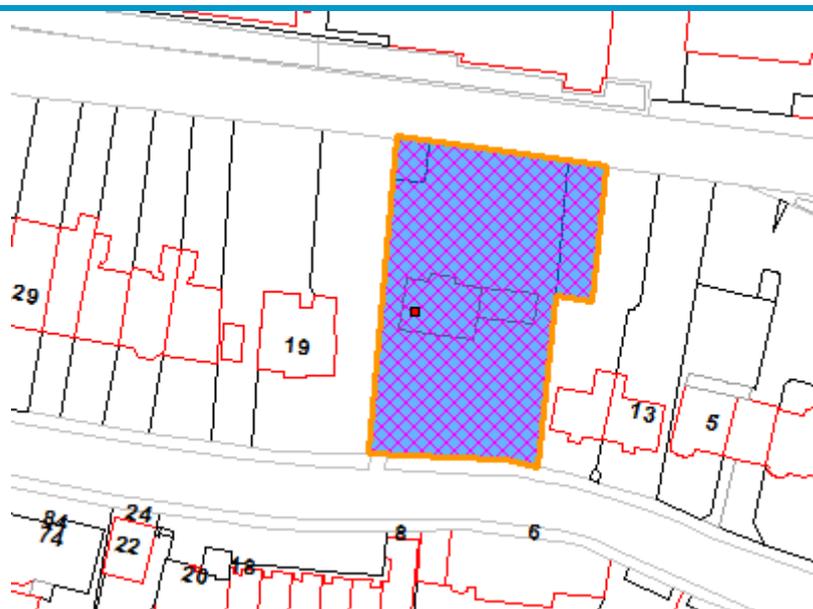
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#### *Environmental Protection*

*The application for the change of use to a short-term let is a cause for concern. Its such a large property with extensive grounds and in a residential area it could be used for very large bookings that could lead to problems with impacts on the neighbouring amenity. It is noted that the current owner has a management plan in place and does not allow certain types of bookings due to negative experiences in the past. A management plan is not something we can condition and if the property changes hands then it would be possible for the property to be used more intensely and cause problems.*

### Location Plan

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