

Development Management Sub Committee

Wednesday 8 September 2021

**Application for Planning Permission 21/03191/FUL
At Drylaw House, 32 Groathill Road North, Edinburgh
Section 42 application for Drylaw House. Variation of
Condition 1 of application 20/04410/FUL to allow use of the
building by all class 7 uses.**

Item number

Report number

Wards

B05 - Inverleith

Summary

The proposal to vary condition 1 of planning consent 20/04410/FUL to permit the building to be utilised under all class 7 uses is acceptable and complies with the policies in the Edinburgh Local Development Plan.

Links

[Policies and guidance for this application](#)

LDPP, LEN03, LEN04, LEN18, LHOU07, LTRA02, LTRA03, LTRA04, NSG, NSLBCA, HES, HESSET, HESUSE,

Report

Application for Planning Permission 21/03191/FUL At Drylaw House, 32 Groathill Road North, Edinburgh Section 42 application for Drylaw House. Variation of Condition 1 of application 20/04410/FUL to allow use of the building by all class 7 uses.

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 Drylaw House, No. 32 Groathill Road North, Edinburgh.

Drylaw House was constructed in 1718. It is a substantial 2 storey, 15 bedroom, category A listed building set in large wooded grounds with its own private access off Groathill Road North. More modern residential properties have been constructed around the grounds of the House.

The west elevation of the house is unaltered with 6 windows and a central door. It has a big piended roof with twin chimneys. The front of the building facing east was remodelled in the late 18th century. Drylaw House also has a notable interior.

The building was listed on 27 October 1965. LB reference 28060

2.2 Site History

28 January 2020 - Listed building consent granted for proposed installation of partitions to form two en-suite rooms with associated sanitary provision installations for each room formed (in retrospect)(Application reference: 19/05683/LBC).

13 March 2021- Planning permission granted at Development Management Sub Committee for change of use from class 9 (Domestic) to class 7 (Hotel)(Application reference: 20/04410/FUL).

Application currently under assessment for the change of use of Drylaw House to short-term let visitor accommodation (Sui Generis) (Application Number 21/02664/FUL).

Main report

3.1 Description Of The Proposal

This is an application under S42 of the Planning Act for a variation of condition 1 of planning consent 20/04410/FUL to allow the use of the building by all class 7 uses. Class 7 uses include use as a hotel or hostel or as a boarding or guest house.

3.2 Determining Issues

Section 42 of the Town and Country Planning (Scotland) Act 1997 requires that the planning authority must consider only the question of conditions to which planning permission should be granted.

Should planning permission be granted subject to conditions different from those imposed on the previous permission?

Should planning permission be granted unconditionally?

Should planning permission be granted subject to the same conditions resulting in a refusal of planning permission to develop the land without complying with the conditions subject to which planning permission was previously granted?

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 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.

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) Condition 1 attached to planning permission 20/04410/FUL should be varied;
and
- b) Representations raise issues to be addressed.

(a) Variation of condition 1 of 20/04410/FUL.

This application is made under Section 42 of the Town and Country Planning (Scotland) (Act) 1997. On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and-

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly;

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Planning permission was granted for the change of use from Class 9 (domestic) to Class 7 (hotel) under planning consent 20/04410/FUL.

Condition 1 was applied to consent 20/04410/FUL. It states that the use of this building shall be restricted to hotel use only within class 7 of The Town and Country Planning (Use Classes) (Scotland) Order 1997. The reason given for the condition being attached was in the interests of residential amenity. The application was determined under the current adopted LDP and supplementary guidance.

It is now proposed that this condition be varied in order to permit the building to be utilised under all class 7 uses. This is assessed below.

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."

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"

No changes internally or externally to the building are proposed. HES was consulted as part of the assessment of the application. It confirmed that it had no objections, although it noted that changes may be required in the future to adapt the building to its new use. If in the future works are proposed then these may require listed building consent. The proposal complies with Historic Environment Scotland's Managing Change in the Historic Environment guidance notes.

The variation of condition 1 of 20/04410/FUL will not impact upon the character, special interest or setting of the listed building.

It is acknowledged that enabling the property to be utilised under all class 7 uses will increase the future viability of the building as a commercial enterprise and this could bring benefits in terms of jobs and employment opportunities. However, there is no suggestion that the building is at risk if it cannot be utilised under all class 7 uses.

Neighbouring amenity

LDP policy Hou 7- (Inappropriate Uses in Residential Areas) states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

The property is located on a residential street. The property is detached, has large garden grounds and its own private access. The dwelling is substantial in size currently with 15 bedrooms.

Environmental Protection was consulted on the application. It stated "*The property already has consent to operate as a hotel within Class 7 and sits in extensive walled grounds however residential properties are situated around 36 metres away. The property and curtilage are reasonably self-contained and accessed by their own private driveway. Environmental Protection would therefore not envisage surrounding residential amenity being affected by any of the uses within Class 7. The applicant has confirmed that the premises, when run as a hotel, guest house or a hostel will include staffed check-in and 24-hour CCTV so any noise or disturbance associated with the premises' operations can be addressed reasonably quickly*".

Environmental Protection offers no objection to the application.

Given the above, permitting the building to be utilised under all class 7 uses will not result in a material impact upon residential amenity. The proposal complies with LDP policy Hou 7.

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. LDP policy Tra 4 -(Design of Off-Street

Car and Cycle Parking) states that where off street car parking is required or considered to be acceptable, certain design considerations will be taken into account.

The property has its own private access which is long established. No alterations to the entrance to the site or existing parking layout are proposed. The site already has consent to be utilised as a hotel. Permitting the property to be utilised under all class 7 uses will not materially increase vehicular use in and out of the site.

The grounds of the site are expansive and there are currently parking spaces within the property's grounds for cars or motor bikes. There is ample space within the building itself or within its grounds for the storage of bikes for visitors to navigate the city. The property is also within walking distance of local bus routes.

The Roads Authority provided no comment on the application.

The proposal complies with LDP Policy Tra 2, Tra 3 and Tra 4.

Trees

The application site falls within a defined Tree Preservation Order (TPO) zone (TPO 105).

LDP policy Env 12 (Trees) states that development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order unless for good arboricultural reasons.

The applicant has confirmed that no works to the trees within the site are proposed. The application complies with LDP Policy Env 12.

Open Space Protection

LDP policy Env 18 (Open Space Protection) aims to protect all open spaces, both public and privately owned, that contribute to the amenity of their surroundings and the city, provide or are capable of providing for the recreational needs of residents and visitors or are an integral part of the city's landscape and townscape character and biodiversity.

The site also falls within a defined open space protection area. There is no development proposed within the gardens of the site. The open space will continue to contribute to the city's landscape, biodiversity and the recreational needs of visitors. Permitting all class 7 uses within the site will not materially impact on how the defined open space shall be utilised. The application complies with LDP policy Env 18.

Conclusion

Condition 1 of consent 20/04410/FUL should be varied to permit the building to be utilised under all class 7 uses.

b) Representations

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)

Non Material Comments - Objections:

- Not everyone has a computer to object- The Planning Service accepts representations in the form of written letters.
- 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. Stops unsociable behaviour if the dwelling being used. This is addressed in section 3.3 a.
- The proposed use will have no greater potential impact on neighbouring amenity than the approved hotel. This is addressed in section 3.3a.
- Will help local jobs and employment. This is addressed in section 3.3a.
- Help maintain the listed building and stop it falling into disuse. This is addressed in section 3.3a.

Conclusion

In conclusion, the proposal to vary condition 1 of planning consent 20/04410/FUL to permit the building to be utilised under all class 7 uses is acceptable and complies with the policies in the adopted Edinburgh Local Development Plan.

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

3.4 Conditions/reasons/informatives

Conditions:-

Reasons:-

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

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application received two objection comments and two letters of support. 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 10 June 2021

Drawing numbers/Scheme 01,

Scheme 1

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

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.

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

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 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.

Relevant Non-Statutory Guidelines

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

Relevant Government Guidance on Historic Environment.

Managing Change in the Historic Environment: Setting sets out Government guidance on the principles that apply to developments affecting the setting of historic assets or places.

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 21/03191/FUL At Drylaw House, 32 Groathill Road North, Edinburgh Section 42 application for Drylaw House. Variation of Condition 1 of application 20/04410/FUL to allow use of the building by all class 7 uses.

Consultations

Historic Environment Scotland

Drylaw House is an early-eighteenth century mansion with a notable interior.

After a series of recent applications, we note the current intention is to vary conditions to allow use by all class 7 uses. No plans have been provided showing any changes to the listed building, our locus.

As we have noted before, the use is likely to involve a future intensification of works within the building, including providing en-suites for bedrooms currently without such. There is also likely to be alterations to meet current building regulations, including fire protection, window guards and means of escape.

Such works could have a harmful impact on the special interest of the historic building. We would therefore suggest the change of use is likely to impact adversely on the listed building, but that harm wouldn't necessarily be significant, and might be controlled adequately through the LBC process.

Police Scotland

No response.

Environmental Protection

I refer to the above and would advise that Environmental Protection has no objections to the proposed development.

The application proposes the change of use of a residential property to any use listed within Class 7 of the Town and Country Planning (Use Classes) (Scotland Order 1997. Class 7 uses are described as the following:

"Class 7 Hotels and hostels: Use as a hotel, boarding house, guest house, or hostel where no significant element of care is provided, other than premises licensed for the sale of alcoholic liquor to persons other than residents or to persons other than persons consuming meals on the premises and other than a use within class 9 (houses)"

The property already has consent to operate as a hotel within Class 7 and sits in extensive walled grounds however residential properties are situated around 36 metres away. The property and curtilage are reasonably self-contained and accessed by their own private driveway. Environmental Protection would therefore not envisage surrounding residential amenity being affected by any of the uses within Class 7. The applicant has confirmed that the premises, when run as a hotel, guest house or a hostel will include staffed check-in and 24-hour CCTV so any noise or disturbance associated with the premises' operations can be addressed reasonably quickly.

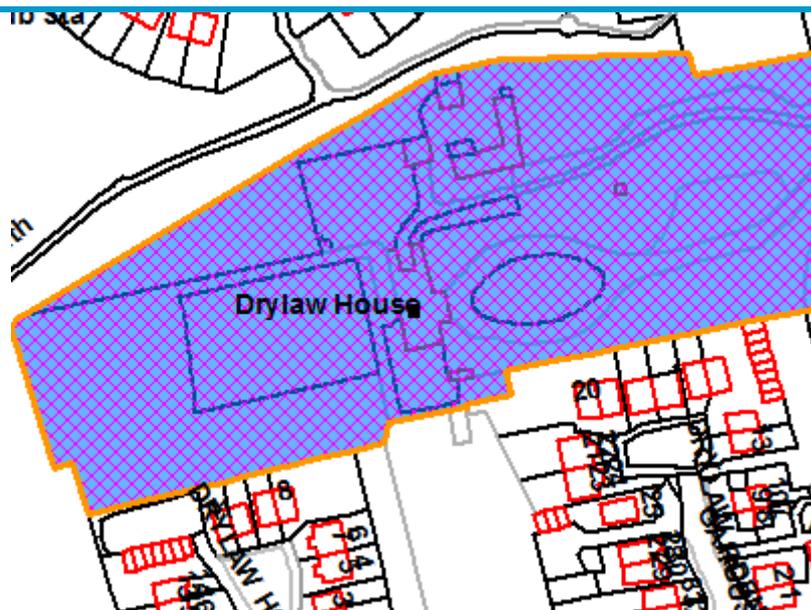
There may also be additional licensing obligations on the premises should it be run as a hostel (e.g. HMO regulations) and so such regimes are best placed to regulate such premises.

Therefore, Environmental Protection offers no objection to the application.

Roads Authority

No comment.

Location Plan



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