

Development Management Sub Committee

Wednesday 8 September 2021

**Application for Planning Permission 21/03226/FUL
At 3B Dundas Street, Edinburgh, EH3 6QG
Change of use of from flatted dwelling to use for short-term letting.**

Item number

Report number

Wards

B11 - City Centre

Summary

The change of use to short stay commercial visitor accommodation (SSVA) 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. 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, LEN01, LEN04, LEN06, HES, HEPS, NSG, NSBUS, CRPNEW,

Report

Application for Planning Permission 21/03226/FUL At 3B Dundas Street, Edinburgh, EH3 6QG Change of use of from flatted dwelling to use for short-term letting.

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 first floor residential flat which has its own main door entrance and private hallway from Dundas Street. It has three-bedrooms, lounge, kitchen and a bathroom and separate shower room. There is no access to any shared amenity ground.

The neighbouring uses include two restaurants, two art galleries, an estate agency, and residential flats at 5 Dundas Street on the upper floors. These flats have a separate entrance and stairwell from ground level. The only conterminous property that is in residential use is 5/1 Dundas Street, which is directly above.

The immediately neighbouring uses include a restaurant directly beneath the property (El Paso Latino 3a1 Dundas Street), a restaurant at 3a Dundas Street (The Table), and two art galleries at 1 and 3 Dundas Street (Open Eye Gallery and &Gallery respectively).

As a principal thoroughfare from the City Centre to the north of Edinburgh, Dundas Street is characterised with a pattern of predominantly commercial/retail/hospitality uses on the ground floors, with mainly residential uses in the floors above.

The application property is category B listed (Listing reference: 28702, date of listing 18 August 1964). The site is within the World Heritage Site.

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

2.2 Site History

18 January 2012 - planning permission granted for change of use from housing to office use (application reference 11/03929/FUL)

23 November 2020 - listed building consent granted for double glazing (application reference 20/04068/LBC).

Main report

3.1 Description Of The Proposal

It is proposed to change the use from residential to short stay visitor accommodation (SSVA).

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; and
- e) comments raised have been addressed.

a) Principle of Proposal

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SSVA) 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 in the current LDP. Hou 7 only focuses on neighbouring amenity and not 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 SSVA 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 shown for a maximum of six persons would be no greater than what the existing residential flat could currently accommodate. The property has its own private access to the front. It is located on a busy thoroughfare and local residents will be used to some degree of noise and disturbance from the commercial uses and vehicles/traffic.

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.

It is acknowledged that that the flat is typical of the New Town and the rooms are spacious so more than six people could be accommodated. However, this is not something the planning authority can restrict by condition as it would not be possible to enforce. The location of the property on the street edge and the lack of rear garden 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 and there are other environmental controls available if necessary. 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 and would support the local economy.

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. This also applies to any Scottish Government research which may show the links between short stay lets and reduced quality of life.

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. There is no evidence that the care and maintenance of the built heritage is diminished by the increase of short-term occupants.

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 three-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 preserve the appearance 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 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) Public Comments

Material Comments - Objections:

- unsustainable growth of the short term let (STL) sector in Edinburgh threatens the sense of place and community - addressed in 3.3a);
- links between STLs and reduced quality of life through noise and disturbance - addressed in 3.3a); and
- the responsibility for the care and maintenance is diminished by the increase of short-term occupants - addressed in 3.3a).

Conclusion

The change of use to SSVA 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. 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:

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. 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.
3. 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

One objection comment has been received

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**

Urban Area

Date registered

23 June 2021

Drawing numbers/Scheme

01, 02,

Scheme 1

David Givan
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PLACE
The City of Edinburgh Council

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

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.

Relevant Government Guidance on Historic Environment.

The Historic Environment Policy for Scotland 2019 outlines Government policy on how we should care for the historic environment when taking planning decisions.

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.

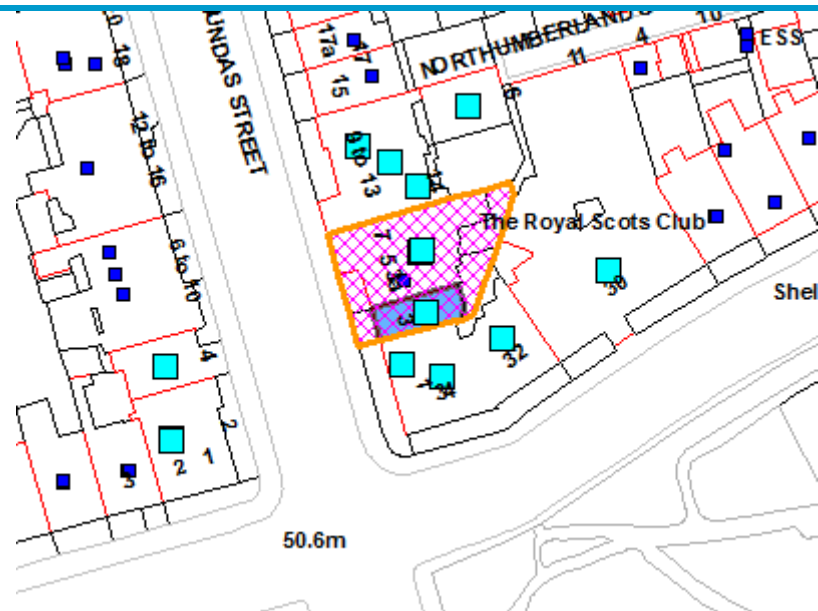
Appendix 1

**Application for Planning Permission 21/03226/FUL
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Consultations

No consultations undertaken.

Location Plan



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