

Development Management Sub Committee

Wednesday 22 September 2021

**Application for Planning Permission 21/03508/FUL
at 7A Jamaica Street South Lane, Edinburgh, EH3 6HG.
Change of use dwelling to commercial short term holiday let.**

Item number

Report number

Wards

B11 - City Centre

Summary

The proposed use as short term visitor accommodation does not comply with the Local Development Plan due to the quiet residential nature of Jamaica Street Lane and the potential for a high turnover of visitors causing disturbance. The access lane is shared and noise from transient visitors may have less regard for neighbours' amenity than long standing residents. There are no material considerations which outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LEN01, LEN04, LEN06, LHOU07, NSG, NSBUS, CRPNEW, HES, HESUSE,

Report

Application for Planning Permission 21/03508/FUL at 7A Jamaica Street South Lane, Edinburgh, EH3 6HG. Change of use dwelling to commercial short term holiday let.

Recommendations

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

Background

2.1 Site description

The application property is a basement flat below 23 Heriot Row, a category A listed building (listed 24 May 1966, reference LB29026)

It has a living room and two bedrooms and is accessed off Jamaica Street South Lane.

The surrounding area is largely residential with mews housing in the lane including a new two storey mews house to the north of the application site and sharing the lane access.

The property lies within the World Heritage Site.

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

2.2 Site History

There is no planning history for the application site.

Adjacent site

25 February 2011 - Planning permission granted to remove existing garage and create new dwelling (planning reference: 10/03601/FUL)

Main report

3.1 Description Of The Proposal

It is proposed to change the use of the property 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 (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.

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 property is located on a residential area. The proposed use would enable a large number of visitors 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 property is accessed from a shared access lane with visitors having to pass by a domestic property. The lane is setted and the possibility of noise from suitcases is more evident on these surfaces and likely to cause disturbance.

There is a private amenity space behind the high boundary wall so the use of this space is unlikely to affect residential properties in Jamaica Street Lane but the enclosed nature of the space suggests noise could disturb neighbours in the Heriot Row tenement above and this is verified by the objector. However, it is a matter controlled by the Police working with other Council departments to mediate on noise issues and is not a substantive reason for refusal in this case. Visitors have a right to use that amenity land provided the applicant ensures they do not cause disturbance to neighbours.

The supporting statement states the property has been in use as a short term let since 2014. However, there is no record of planning permission for this and it therefore has to be considered as a new proposal under current policies.

Due to the quiet residential nature of Jamaica Street Lane and the potential for a high turnover of visitors causing disturbance, the proposed use does not comply with policy Hou 7.

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 sets 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. 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. 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.

The proposal complies with LDP Policy Env 1.

e) Public comments

Material comments - objection

- noise from visitors - addressed in section 3.3a)

Conclusion

The proposed use as short term visitor accommodation does not comply with the Local Development Plan due to the quiet residential nature of Jamaica Street Lane and the potential for a high turnover of visitors causing disturbance. The access lane is shared and noise from transient visitors may have less regard for neighbours' amenity than long standing residents. There are no material considerations which outweigh this conclusion.

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

3.4 Conditions/reasons

Reasons:-

1. The proposed use as short term visitor accommodation is contrary to Policy Hou 7 (Inappropriate Uses in Residential Areas) due to the quiet residential nature of Jamaica Street Lane and the potential for a high turnover of visitors causing disturbance. The access lane is shared and noise from transient visitors may have less regard for neighbours' amenity than long standing residents.

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 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

15 July 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

Relevant Policies:**Relevant policies of the Local Development Plan.**

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.

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.

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.

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.

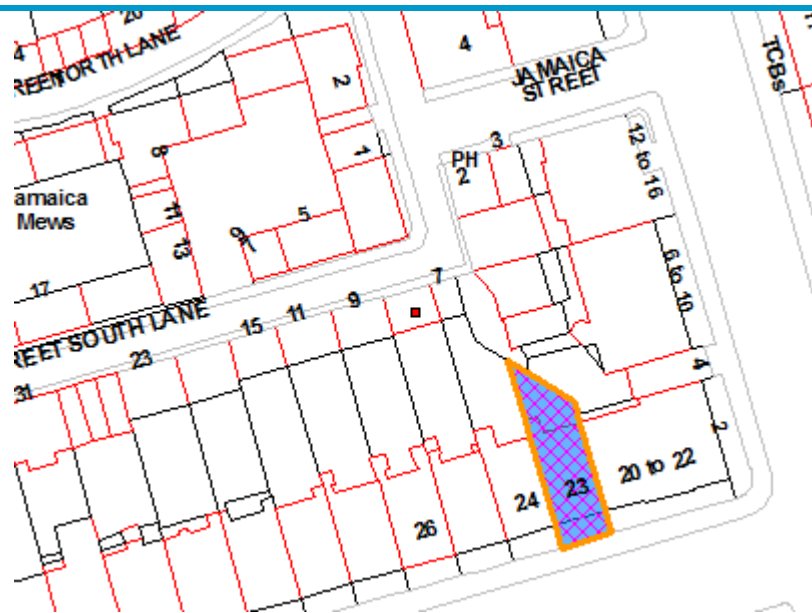
Appendix 1

**Application for Planning Permission 21/03508/FUL
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Consultations

No consultations undertaken.

Location Plan



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