

Development Management Sub Committee

Wednesday 27 October 2021

**Application for Planning Permission 21/03890/FUL
At 13 Dewar Place Lane, Edinburgh, EH3 8EF
Change of use to short term letting.**

Item number

Report number

Wards

B11 - City Centre

Summary

The proposed change of use to short term letting will not adversely impact on residential amenity and will preserve the character and appearance of the conservation area. It is compatible with the mixed-use character of the area. There are no material considerations which outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LEN06, LDEL02, LHOU07, NSG, NSBUS, CRPWEN,

Report

Application for Planning Permission 21/03890/FUL At 13 Dewar Place Lane, Edinburgh, EH3 8EF Change of use to 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 the upper floor of a two storey mews building currently in residential use with a living room and two bedrooms. It has its own access from the lane and the rear elevation is the boundary of the site. There is no rear garden or parking associated with the unit.

The lane has a mixed-use character. Prior to the recent appeal decision at 4/4a Dewar Place Lane, 14 of the 24 statutory addresses were residential. This will reduce to 10 if that consent is taken up. The conterminous properties are in residential use.

This application site is located within the West End Conservation Area.

2.2 Site History

9 March 2020 - planning permission granted to remove masonry stone to front elevations. Additional rooflights. Replace existing windows (application reference: 20/01147/FUL).

Other relevant applications

4/4a Dewar Place Lane

Four planning applications for short term lets at 4 Dewar Place Lane (Flats 1, 2, and 3) and flat 4A Dewar Place Lane were refused by the Development Management Sub-Committee between 28 September and 29 October 2020. On appeal, the Reporter from the DPEA served a notice of intention to grant planning permission provided a legal agreement was put in place restricting the possibility of flats 1, 2 or 3 remaining in residential use when the others are being used for short terms lets. The Reporter also wished a restriction on occupant numbers to be applied. The Reporter opined that the council would not be required to monitor compliance, so long as the development operated in a satisfactory manner. She advised it would give them a means of enforcement if there were complaints or problems, and the development was found to be operating in a manner which did not comply with the obligation.

The Council was asked to sign up to this legal agreement. However, the Council declined to be party to the legal agreement as it could not be monitored or enforced. The Council has no powers of entry to investigate who is staying in such units and no rights to interrogate occupants on their status. Signing up to the legal agreement would have meant an expectation that the Council as planning authority would be able to take action if there were adverse impacts. An unilateral agreement was therefore agreed between the DPEA Reporter and the appellants.

Whilst the Council declined to enter into the legal agreement, the appeal decision did have conclusions on amenity in the lane which are material to the determination of the current application.

Main report

3.1 Description Of The Proposal

It is proposed to change the use from residential to short term letting.

The new rooflights shown as added to the front and rear roof slopes were approved under planning application 20/01147/FUL.

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 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; and
- b) the development preserves or enhances the special character or appearance of the conservation area;

a) Principle of development

Policy Del 2 states that development which lies within the area of the City Centre will be permitted which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city.

The proposals would provide additional visitor facilities in an area of the city centre which is dominated by commercial uses and already well established for hotel use, with more such uses in prospect. It is in a highly accessible location for visitors, close to Haymarket station, the trams terminus, and to the airport bus route. It complies with policy Del 2.

However, 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.

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.

Dewar Place Lane has a mixed character and residential use no longer predominates. In the appeal decision on 4/4A Dewar Place Lane, the Reporter acknowledged that the area surrounding the appeal site, bounded by the main thoroughfares of Morrison Street, Torphichen Place, Dewar Place and Torphichen Street, is now substantially commercial in overall character. However, there are still residential properties in the lane, including adjacent to the application property, and their amenity must be considered.

In this case the property has its own access and there is no garden ground to the front or rear. Any potential noise conflicts will be from the lane outside or from within the property. In the appeal decision for 4/4A Dewar Place lane the Reporter stated

In this case I would observe that any resident of Dewar Place Lane already lives in an area subject to a considerable degree of transient activity associated with the comings and goings of visitors to the city, and other activity. This observation is material to the determination of the current application. A number of traffic movements occur in the lane with servicing of the hotels in Torphichen Street and Police Scotland West End Station with its associated vehicle parking, garaging and storage. The applicant has pointed out that this detrimental effect on the character of the lane is exacerbated by associated low quality urban paraphernalia for the hotels and offices. These include a smoking shelter, bin stores and external sheds, all located on the north side of the lane amongst the parking areas which are opposite the application premises. The conversion of this small mews property to short term lets is unlikely to further impact on residential amenity in terms of external noise and residential amenity. Any anti-social behaviour which may be associated with the use is a matter for the police.

In terms of internal noise, the unit is small and the impact is unlikely to be any different from a residential use.

Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity.

The proposal complies with policies Del 2 and Hou 7.

b) 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 West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

The only external changes are new rooflights but these were approved as part of a previous application. The change of use from a two-bedroom domestic flat to a short-term holiday let 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.

Conclusion

The proposed change of use to short-term letting will not adversely impact on residential amenity and will preserve the character and appearance of the conservation area. It is compatible with the mixed-use character of the area. There are no material considerations which 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

No representations have 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

19 July 2021

Drawing numbers/Scheme

01-06,

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

LDP Policy Del 2 (City Centre) sets criteria for assessing development in the city centre.

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 West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

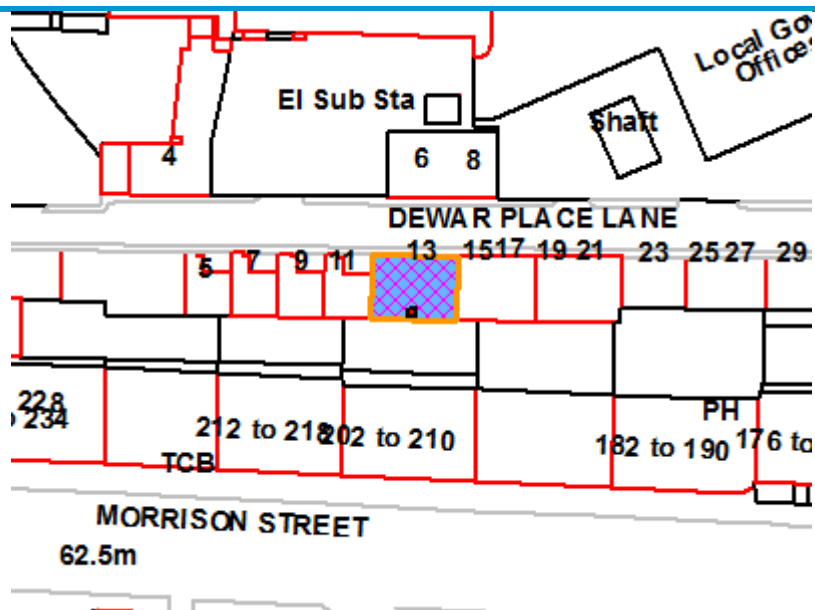
Appendix 1

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Consultations

No consultations undertaken.

Location Plan



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