

Development Management Sub-Committee Report

Wednesday 30 March 2022

**Application for Planning Permission
46 Patriothall, Edinburgh, EH3 5AY.**

Proposal: Retrospective change of use from residential to short-term let apartment (Sui Generis).

**Item – Committee Decision
Application Number – 21/06792/FUL
Ward – B05 - Inverleith**

Reasons for Referral to Committee

Given the significance of the issue of short-term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposals comply do not harm the listed building or its setting and so are acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan.

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 will not harm the architectural character, setting or historical interest of the listed building. It is compatible with the mixed-use character of the wider area.

There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

SECTION A – Application Background

Site Description

The site is a ground and first floor residential property located on the north-west side of Patriothall. The property is part of red brick former warehouse and workshop buildings converted to residential accommodation by 2006. Originally, they were co-operative buildings constructed in the early 20th century that are category B listed (reference: LB48104, date: 12/08/2001).

It is accessed via a lane from Hamilton Place where the Stockbridge Town Centre is located. Commercial uses are evident along this street at ground floor with three-storeys of residential flatted properties above. Immediately, these face onto buildings in use as a library, church and primary school.

The site is located within the New Town Conservation Area.

Description of the Proposal

Retrospective change of use from residential to short term let apartment (sui generis)

The applicant has stated the property has been operated as a short term let since 2018.

No external or internal changes are proposed.

Supporting Information

- Planning statement
- Appeal decision information
- Response to representations report

Relevant Site History

No relevant site history.

Other Relevant Site History

24 December 2001 - Listed building consent granted to convert existing warehouse and workshops into 18 residential flats (application reference: 01/03975/LBC)

8 April 2002 - Planning permission granted to convert existing warehouse / workshop to 18 residential flats (application reference: 01/01229/FUL)

12 April 2002 - Planning permission granted to erect two additional flats on roof of existing workshop building (application reference: 02/00896/FUL)

13 August 2002 - Listed building consent granted for two additional flats on roof of existing workshop building (application reference: 02/00986/LBC).

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 10 January 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 14 January 2022;

Site Notices Date(s): 11 January 2022;

Number of Contributors: 6

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment - Use and Adaptation of Listed Buildings

No physical changes occur from the change of use.

The proposal does not alter the character, appearance or historical interest of the listed building.

All other listed buildings within the vicinity of the site are not materially impacted upon by this change of use.

The proposal is acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant HES guidance.

b) The proposals impact on the character or appearance of the conservation area?

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.

The impact on the appearance of the conservation area is neutral as no visible change has occurred.

The immediate character of the conservation area is mainly residential, however commercial uses are evident nearby on the main street of Hamilton Place.

The use of the property for this commercial use is not at odds with the wider character of the conservation area.

The proposal will have a neutral impact on the character and appearance of the conservation area therefore is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 4, Env 6
- LDP Housing policy Hou 7

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policy Env 6.

Impact on the character and appearance of the Listed Building and Conservation Area

This has been assessed in sections a) and b). The proposals comply with LDP policy Env 4 and Env 6.

Principle

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

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 such uses, the economic benefits are a material planning consideration.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to 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.

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. The applicant's submitted planning statement refers to recent appeal decisions on 7A and 7B Jamaica Street Lane.

The applications (reference: 21/03508/FUL and 21/03509/FUL) were refused by the Council as short term accommodation was considered contrary to LDP policy Hou 7 due to potential for high turnover of visitors causing disturbance to residents on a quiet residential street. The access lane being shared and noise from transient visitors may have less regard for neighbours' amenity than long standing residents.

The decisions were overturned at appeal (ref: PPA-230-2359 and PPA-230-2359) with the reporter commenting on matters including position of the property relative to commercial uses, potential existing ambient noise and the limited number of residential properties passed to access the accommodation.

The immediate area around the site is mainly residential in character. The property is accessed from a shared lane which connects to Hamilton Place. Visitors arriving and departing would pass the main door of one residential flatted property at 45 Patriothall.

There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents.

There are footways along the lane, however, these narrow in part and use of the road's cobbled surface may bring some noise from transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.

However, whilst the lane is primarily residential in character it is located near to the Stockbridge town centre on Hamilton Place where commercial uses are nearby. This includes a convenience store with staff parking in a courtyard area of Patriothall. In addition, an Artist Studio and Gallery near to this accessed via the lane which passes the property's main door and adjacent property. It is therefore considered that there is an existing level of ambient noise from the operation of these nearby commercial uses.

The size of the unit is relatively small containing two bedrooms and has its own private access. Its location near to Hamilton Place minimises the level of interaction with other residential properties.

In light of the above, whilst a level of noise is likely from guests arriving and leaving the property it is not anticipated that this gives rise to a significant disturbance to residents.

The submitted planning statement details guests have access to the underground communal car park and rear courtyard on the rooftop above via external gates. Access to the car park is shared with other residential properties and it is not anticipated that the commercial use results in any material increase in noise or disturbance from parking of cars.

There is access to the communal rear courtyard, the roof of the underground car park via a staircase. The applicant has stated this area is managed by Scotmid and provides a fire exit for commercial and residential properties on Hamilton Place. There is outside seating evident and appears to be used as recreational space. It is located near to residential property windows and there is potential for its use to be a source of some noise. However, the property is relatively small scale and it does not have direct access to this area. It is therefore not anticipated that there is any material increase in noise from potential use of this space from the lawful residential use.

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

The proposal complies with policy Hou 7.

Transport

There are no specific parking standards for short-term lets in the Edinburgh Design Guidance (EDG). However, the site is located within Zone 1 in the Edinburgh Design Guidance with good access to public transport. Therefore, the limited car parking provision is appropriate in this accessible location.

There is adequate space within the internal layout of the flats to accommodate cycle provision.

No specific road or pedestrian safety issues will occur as a result.

Conclusion in relation to the Development Plan

The proposal complies with the Local Development Plan.

The 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.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal protects the character of the historic environment.

It is a sustainable land use, located near to sustainable modes of transport therefore encourages reduced reliance on car usage.

It is recognised this commercial use is located within a mainly residential area. However, given the size, characteristics and location of the property the amenity of existing development is not unreasonably affected.

Overall, the proposal complies with the relevant sustainability principles set out in SPP.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Amenity - Addressed in section (b) - principle
- Unsuitable use of residential property - Addressed in section (b) - principle

non-material considerations

- Over provision of short term lets - there is currently no policy restricting use of short term lets therefore this matter is not material.
- Shortage of affordable homes - Currently the LDP does not include any policies against the loss of residential use therefore the impact on housing stock cannot materially be assessed.
- Impact on house prices, homelessness and alternative accommodation - these matters cannot materially be assessed under this application.
- Security - The applicant has confirmed that access to communal areas is via a pedestrian or vehicular access gate. The issue of gates being left open cannot materially be assessed under this application.

Conclusion in relation to identified material considerations

The proposal protects the character of the historic environment. It is a sustainable land use, located near to sustainable modes of transport therefore encourages reduced reliance on car usage.

The commercial use of the property is compatible with the mixed character of the wider area.

Overall, the proposal complies with the relevant sustainability principles set out in SPP.

d) Overall conclusion

The proposals are acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan.

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 will not harm the architectural character, setting or historical interest of the listed building. It is compatible with the mixed-use character of the wider area.

There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 31 December 2021

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

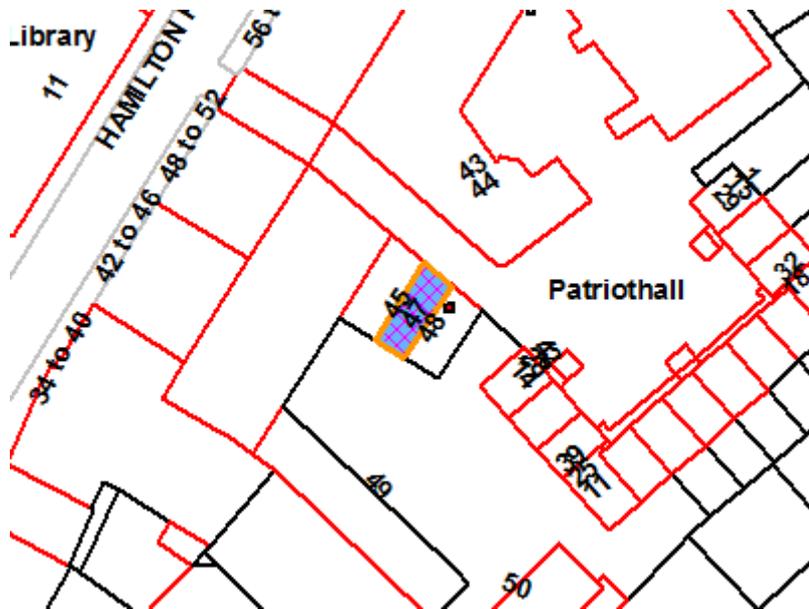
Contact: Lewis McWilliam, Planning Officer
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Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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