

Development Management Sub-Committee Report

Wednesday 15 June 2022

**Application for Planning Permission
1 Salisbury Mews, Edinburgh, EH9 1QL**

Proposal: Change of use of residential mews building to short term let (in retrospect).

**Item – Committee Decision
Application Number – 22/01415/FUL
Ward – B15 - Southside/Newington**

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 proposal harms neither the listed building, its setting or the conservation area. It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. It complies with the development plan. The proposal will preserve the special architectural and historical interests of the listed building and the setting of neighbouring listed buildings. The character and appearance of the conservation area will be preserved. There are no transport issues. There are no material considerations that outweigh this conclusion. The proposal is acceptable

SECTION A – Application Background

Site Description

The application property is a mews house situated off Salisbury Road and behind Newington Road. It is a one and a half storey element attached to a two-storey stone building which is a rear off-shoot of a stone terrace fronting Newington Road. There are two bedrooms, a main door access and no shared public or exclusive private garden. An allocated private parking space is available in Salisbury Mews.

A mix of uses are found in the immediate and surrounding area. Newington Road contains commercial uses, mostly but not wholly, at ground floor level, and is a busy main thoroughfare with frequent bus services. Salisbury Road also contains a few business/commercial uses Residential use is found above the shop units and makes up much of the land use being more predominant in the side streets. Some of the residential units function as student accommodation.

The property is in South Side Conservation Area. Blacket Conservation Area abuts South Side Conservation Area at the Salisbury Mews lane.

The building is attached to a B listed building on Newington Road and as such is classed as being listed. It is part of the block that includes 67-81 Newington Road which is listed under 39-47 (Odd Nos), 53-73 (Odd Nos) Newington Road and 4 East Newington Place (Ref: LB29406; date of listing: 14 December 1970). It is also adjacent to the B listed Building at 75-115 (Odd Nos) Newington Road and 55 Salisbury Road (Ref: LB29407; date of listing 14/12/1970).

Description Of The Proposal

The application seeks planning permission for a change of use from residential (Class 9) to a short term holiday let (sui generis use). The two bedrooms would provide for four guests to stay.

No external changes are proposed to the building.

The property is already operating as a short term let having operated as a short term let since summer 2016 and, therefore, this application is retrospective.

Supporting Information

Relevant Site History

No relevant site history.

Other Relevant Site History

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 1 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 8 April 2022;

Site Notices Date(s): 5 April 2022;
Number of Contributors: 12

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s), this report will first consider the proposals in terms of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development harming the listed building or its setting?
- 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):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

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 Historic Environment Scotland (HES) guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the Principles of Listed Building Consent
- Managing Change in the Historic Environment: Setting

- Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.
- Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

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."

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the listed building

The proposal will not harm the listed building, its setting or the setting of the adjacent listed buildings. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the 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."

South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area. Spatial Structure in this part of the conservation area is typified by larger block sizes and a degree of uniformity and solidity. This uniformity is broken on the east side of Newington Road by Georgian tenements set back from the pavement and a terrace of individual houses on the opposite side of the street. A key element of the architectural character is a continuing variety and diversity of architectural styles throughout this area. Newington Road is one of the conservation area's key shopping streets.

No external alterations are proposed and, therefore, the proposal will preserve and will not harm the appearance of the conservation area. The change of use from a two-bedroom domestic flat, albeit in retrospect, to a short term holiday let (STL) will not have any material impact on the appearance of the conservation area and, as such, would preserve its appearance.

The character of the conservation area is one of mixed uses and including busy shopping and trafficked streets. The application property sits behind such a road beside residential properties located in a lane. As the property has been operating as a short term let since 2016, it is currently contributing to the character of the conservation area. The change of use will have a neutral effect on the character of the conservation area and as such its character will be preserved and not harmed.

Conclusion in relation to the conservation area

The proposal does not harm the conservation area. Therefore, it is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) 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 policies Env 3, Env 4 and Env 6
- LDP Housing policy Hou 7
- LDP Transport policies Tra 2, Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6. The non-statutory Guidance for Businesses is relevant when considering policy Hou 7.

Listed Buildings and setting

LDP Environment policy Env 3 (Listed Buildings - Setting) states that development affecting the setting of a listed building will be permitted only if not detrimental to the appearance or character of the building, or to its setting.

LDP Environment policy Env 4 (Listed Buildings - Alterations and Extensions) seeks to ensure that proposals to alter or extend a listed building are justified; that there will be no unnecessary damage to historic structures or diminution of its interest; and those additions are in keeping with other parts of the building.

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed, and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with LDP policies Env 3 and Env 4.

Conservation 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 impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

Principle of development

The main policy that is applicable to the assessment of short-stay lets (STLs) 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 loss of housing stock or the control of short stay lets in the current LDP.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to short stay lets 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 letting 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 STL properties, the economic benefits are a material planning consideration.

In this case the property has its own access and does not have any private outdoor amenity space. The front door takes access almost directly from the kerbside in Salisbury Mews.

Any outside noise conflicts will be from the main thoroughfare of Newington Road and the parking area in the Mews lane. Due to the location of the property near a busy key city route consisting of mixed uses including commercial and entertainment and leisure uses, there is already a degree of background activity and ambient noise levels. Salisbury Mews is a quiet street situated behind busier and noisier streets. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.

This is a two bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2016. Access to neighbouring gardens has been raised in the public comments. Gardens in Salisbury Mews include a few which are open to the street and where there are no boundary treatments to restrict access. The proposal will not change the existing situation in terms of the adjacent garden which is open to the street and where access to the garden is not restricted by a boundary wall, fence or hedge.

There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.

Neighbouring Amenity

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.

This has been considered above under heading Principle of Development and it was concluded that there would be no adverse impact on residents.

Anti-social behaviour such as noise disturbance can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

Transport and Parking

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

There is one dedicated vehicle parking space and no cycle parking. The parking space is an existing parking space and there is no requirement for cycle parking for short term lets. Bicycles could be parked inside the property if required.

The proposal complies with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal complies with the development plan. It will preserve the special architectural and historical interests of the listed building, its setting and the setting of neighbouring listed buildings. The character and appearance of the conservation area will be preserved. The principle of the development is acceptable as it contributes to Edinburgh's strategic and regional role as a capital city and will not result in an unreasonable impact on neighbouring amenity. There are no transport issues.

d) 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 complies with Paragraph 29 of SPP. It will contribute to the economy and will make efficient use of existing infrastructure including supporting the Nicolson Street/Clerk Street Town Centre.

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 - objections

- loss of housing stock. Addressed in section c) under heading Principle of Development.
- neighbouring and residential amenity. Addressed in section c) under heading Principle of Development and Neighbouring Amenity.
- inappropriate use in residential area. Addressed in section c) under heading Principle of Development and Neighbouring Amenity.

material considerations - support comments

- economic benefit to businesses and employment. Addressed in section c) under heading Principle of Development.
- neighbouring amenity - behaviour of guests. Addressed in section c) under headings Principle of Development and Neighbouring Amenity.

non-material considerations

- under provision of homes in Edinburgh. There is a five year land supply for housing in the City's planning authority area. Therefore, this is not a material planning consideration for this application.
- homelessness. This is not a material planning consideration.
- housing costs. This is not a material planning consideration.
- transient population. This is not a material planning consideration.
- Edinburgh residents want homes to be priorities over holiday lets. This is not a material planning consideration.
- Security - background checks of guests/visitors. This is not a material planning consideration.
- costs of tourist accommodation. This is not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal harms neither the listed building, its setting or the conservation area. It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. It complies with the development plan. The proposal will preserve the special architectural and historical interests of the listed building and the setting of neighbouring listed buildings. The character and appearance of the conservation area will be preserved. There are no transport issues. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

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.

Background Reading/External References

To view details of the application go to the Planning Portal

Further Information - [Local Development Plan](#)

Date Registered: 22 March 2022

Drawing Numbers/Scheme

01.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Jackie McInnes, Planning officer
E-mail: jackie.mcinnnes@edinburgh.gov.uk

