

Development Management Sub-Committee Report

Wednesday 29 June 2022

Application for Planning Permission
6 Rutland Court Lane, Edinburgh, EH3 8ES

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

Item – Committee Decision
Application Number – 22/00881/FUL
Ward – B11 - City Centre

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because it is a short stay let and is recommended to be granted.

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The proposal complies with the policies in the Edinburgh Local Development Plan. The change of use to a short stay let is acceptable in this location as it will not have a materially detrimental effect on the living conditions of nearby residents. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

The application site is a two-bedroom, lower ground floor flat and is located on Rutland Court Lane with its own main door access. The property forms part of a three-storey over basement with attic tenement block on the south west side of Rutland Square. The property is part of a category A listed building (listing reference: LB29689, date of listing: 14/12/1970).

The surrounding area is mainly in office use, with a mix of traditional and modern buildings. A footbridge between Rutland Square and Conference Square overhangs the site.

The site is within the New Town Conservation Area.

Description Of The Proposal

The proposal is for retrospective planning permission for a change of use from residential to short stay let (STL).

No external or internal physical alterations are proposed.

Supporting Information

- Planning Statement

Relevant Site History

No relevant site history.

Other Relevant Site History

None.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 1 March 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 0

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: Guidance on the principles of listed buildings

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.

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

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.

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

In 1830, John Learmonth feued a small area of land between Shandwick Place and Lothian Road. He used an adaptation of an 1817 plan by Thomas Elliot, drawn up for the previous owner, to form a short street and Rutland Square, a neat rectangle of porticoed houses.

In Rutland Square, Melville Street, Coates and Atholl Crescent the majority of buildings are now in office use. Office use remains a significant function throughout the area to the west of Palmerston Place, although the original residential use becomes more predominant further north and west.

Conclusion in relation to the conservation area

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 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.

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 4 and Env 6
- LDP Housing policies Hou 7

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

Principle

The main policy that is applicable to the assessment of short-stay lets (STL) 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 (STL) in the current Local Development Plan (LDP).

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

The supporting statement indicates that the property has been used as a short-term let since April 2019. However, there is no record of planning permission for this and the use requires be considered as a new proposal under current policies.

The proposed two-bedroom short stay use would enable four or more related or unrelated 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 a self-contained, lower ground floor flat on Rutland Court Lane with the benefit of a main door access from the pavement. The main door is located on the gable elevation of the existing building and its location on the lower ground floor means that the flat is isolated from other parts of the building. The property has no private outdoor space.

The surrounding area is mainly in office use. Rutland Court Lane is accessed off Canning Street from the Western Approach Road, a high traffic area. A footbridge between Rutland Square and Conference Square overhangs the property. Directly across from the property is a modern office building. The location of the property means that it has limited interference with nearby residential uses. Therefore, given the character of the area and the size of the property with its own main door access, the frequently of guests coming and going throughout the day and evening is unlikely to result in significant disturbance to nearby residents.

It is expected that a turnover of four or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.

Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.

Listed Building

There are no external or internal alterations proposed. The proposal complies with LDP policy Env 4.

Conservation Area

There are no external alterations and the development preserves both the character and appearance of the conservation area. The proposal complies with LDP policy Env 6.

Conclusion in relation to the Development Plan

The principle of a change of use to a short stay let is acceptable as it will not have a materially detrimental effect on the living conditions of nearby residents. The proposal complies with LDP policy Hou 7.

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 in terms of net economic benefits.

Emerging policy context

NPF 4 - Draft National Planning Framework 4 has been consulted on but has not yet been adopted. Therefore, 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

No comments were received.

Conclusion in relation to identified material considerations

The other material considerations have been addressed and there are no new material issues to resolve.

Overall conclusion

The proposal complies with the policies in the Edinburgh Local Development Plan. The change of use to a short stay let is acceptable in this location as it will not have a materially detrimental effect on the living conditions of nearby residents. There are no material considerations that outweigh this conclusion. It is recommended that Development Management Sub Committee approves this application.

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: 23 February 2022

Drawing Numbers/Scheme

01

Scheme 1

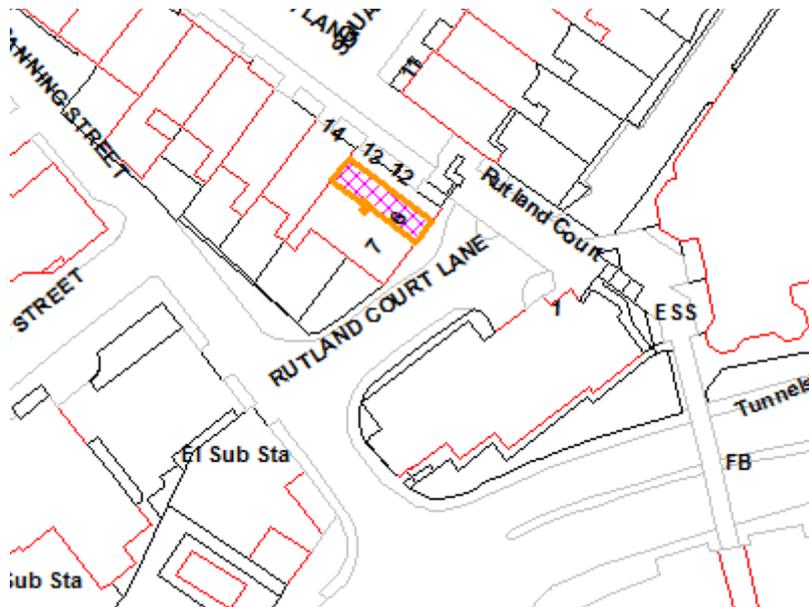
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Summary of Consultation Responses

No consultations undertaken.

Location Plan



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