

Development Management Sub-Committee Report

Wednesday 7 December 2022

**Application for Planning Permission
5 Melville Street Lane, Edinburgh, EH3 7QB.**

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

**Item – Committee Decision
Application Number – 22/01939/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Recommendation

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

Summary

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposal will not harm the character or the appearance of the conservation area and will have no adverse effect on the Edinburgh World Heritage Site. The proposal complies with the relevant policies within the local development plan (LDP). There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site relates to 5 Melville Street Lane. A one-bedroom studio flat, fronting Melville Street Lane on the first floor. Access is gained via a private entrance from Melville Street Lane.

The property is located within the New Town conservation area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for planning permission for the change of use (retrospective) from residential to short term let (sui generis).

Supporting Information

Planning Statement

Relevant Site History

11/01196/FUL

5 Melville Street Lane

Edinburgh

EH3 7QB

Proposed change of use from existing ground floor workshop and upper floor office/store to residential flat and ancillary garage accommodation.

Granted

9 June 2011

11/01196/LBC

5 Melville Street Lane

Edinburgh

EH3 7QB

Proposed change of use from existing ground floor workshop and upper floor office/store to residential flat and ancillary garage accommodation.

Granted

7 July 2011

Other Relevant Site History

No further relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 29 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 13 May 2022.

Site Notices Date(s): 10 May 2022.

Number of Contributors: 1

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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:

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."

The New Town Conservation appraisal states *"The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, world-class, neo-classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a commercial premises 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.

Conclusion in relation to the conservation area

The proposals are 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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Environment Policies, Env 1 and Env 6.
- Housing Policy, Hou 7.
- Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy, Del 2

The non-statutory Listed Building and Conservation Area Guidance and the non-statutory guidance for businesses are material considerations that are relevant when considering LDP policy Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). It was concluded that the change of use would not 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.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Principle of development

The application site is situated in the Urban Area as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA 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 application site is located in close proximity to the junction of Melville Street Lane and Drumsheugh Gardens which has a range of residential and commercial uses. The lane itself has a mix of garages, car parking and residential uses. The application site is located close to the junction mitigating the effect that guests could have on the residential amenity of the street. Furthermore, the site is located directly behind a large hotel, which is associated with high levels of visiting guests. An objection has raised concerns regarding noise and anti-social behaviour in the lane. A STL Licensing Scheme is now in place which can investigate and manage noise disturbance and anti-social behaviour associated with the STL use. The nature of this vicinity is one in which STL use can be supported in principle.

The additional servicing that operating a property as a short term let requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street. However, as this is likely to be conducted during the day, this will not have a significant impact on neighbouring amenity.

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 proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use and will have no adverse effect on residential amenity. It will not adversely affect the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The proposal complies with LDP Policies Hou 7 and Del 2.

Parking standards

There is off street car parking available within the site, however, no immediate on street parking available nearby. The site is highly accessible by public transport via tram, train and bus.

The proposals comply with the LDP policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to a STL will not be materially detrimental to neighbouring amenity and is acceptable in this location within the city centre. It will not harm the listed building or its setting and will preserve the character and appearance of the Conservation Area. The proposal complies with the Development Plan. There are no material considerations that outweigh this conclusion.

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 all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

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

The Planning Committee considered the objections received to City Plan 2030 on 30 November 2022. At this time 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

The application received one objection.

material considerations

- Located next to a new hotel, will only exacerbate the noise in the lane at antisocial hours. The lane is a cul-de-sac enclosed by terraced housing perpetuating the noise causing disturbance to the local amenity. The effect of the residential amenity has been discussed in section C

non-material considerations

- No non-material considerations were made.

Overall conclusion

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 relevant policies within the LDP and the SPP as it will contribute to sustainable development. 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;

Reasons:-

1. No conditions attached to this permission.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 11 April 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420