

Development Management Sub-Committee Report

Wednesday 1 March 2023

**Application for Planning Permission
3F1 115 Warrender Park Road, Edinburgh, EH9 1EN**

Proposal: Change of use from 2 storey residential flat to commercial unit HMO.

**Item – Committee Decision
Application Number – 22/01643/FUL
Ward – B10 - Morningside**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than six material representations in objection and the recommendation is to approve planning permission.

Recommendation

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

Summary

The proposals comply with National Planning Framework 4, the Edinburgh Local Development Plan and non-statutory guidelines. The proposal is acceptable in principle and would not have a detrimental impact on residential amenity. The proposal is acceptable in terms of its impact on the listed building and conservation area. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The site forms the top two floors of a four storey tenement. The property is located within Marchmont. James Gilliespie's School is to the south, whilst Bruntsfield Links is a short distance to the north. The site is B listed (Alexander Macnaughton, 1880). Listing date: 19/03/1993; listing reference: LB30633.

Description of the Proposal

Planning permission is sought for the change of use from residential to an eight bedroom House in Multiple Occupancy (HMO).

Supporting Information

None submitted.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Environmental Protection

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

Publicity and Public Engagement

Date of Neighbour Notification: 11 April 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 April 2022

Site Notices Date(s): 26 April 2022

Number of Contributors: 15

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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 proposal does not involve any physical alterations to the property. There shall be no impact on the listed building.

Conclusion in relation to the listed building

The proposal will not impact on the special architectural or historic interest of the listed building and is acceptable with regards 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?

As above there will be no physical alterations. The proposal will not impact on the appearance of the conservation area. The use, although an HMO, will remain essentially in residential use and would have a neutral impact upon the character of the conservation area.

Conclusion in relation to the conservation area

The proposal has regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP policies to be considered are:

- NPF 4 Global Climate and Nature Crises Policy 1
- NPF 4 Historic Assets and Places Policy 7
- NPF 4 Housing Policy 16
- LDP Housing Policy Hou 7

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF 4 Policy 7. The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering LDP Policy Hou 7.

Principle

NPF 4 Policy 1 aims to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

NPF 4 Policy 16 seeks to promote compact urban growth and encourage local living and sustainable transport.

The use of this large flat would result in future residents occupying a property that has easy access not only to the city centre, but also the local facilities within Marchmont and Bruntsfield. It has good access to bus services and would reduce the need for residents to travel greater distances, particularly in private motor vehicles. The proposal would form a sustainable development that would comply with the objectives of the relevant policies within NPF 4.

LDP Policy Hou 7 of the adopted Edinburgh Local Development Plan (LDP) 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. LDP Policy Hou 7 is the only policy relevant to an HMO use. It does not seek to restrict the number of HMO properties in an area and is solely concerned with protecting the living conditions of nearby residents. The policy is supplemented by the non-statutory Guidance for Businesses which clarifies that planning permission is only required for HMO use when more than five unrelated people live together. There is no specific guidance on when HMO use might be acceptable or not.

The site is located within an area that is predominantly residential, although Gillespie's High School is in close proximity to the property. Moreover, the area is popular for student lets and the proposal would sit comfortably within that character.

The use of the property as an HMO does not raise any concerns given its location in such an area. As detailed below, HMOs require licences which would address noise, disturbance and anti-social behaviour.

The use of the property would potentially increase the number of people using the flat, which could lead to more vehicles being parked on the public road. However, in relation to this, it must be assessed in the context of an area which contains hundreds of flats. The potential increase in car use on the surrounding streets would be relatively insignificant when considered against this background.

The change to an HMO is acceptable in principle provided it does not have a detrimental effect on nearby residents (see below).

Amenity

HMO use is essentially a form of residential use where occupants generally rent a room and share facilities for extended periods of time.

Concerns have been raised regarding the intensification of HMO use within the building as a whole. LDP Policy Hou 7 seeks to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas. However, given the area has a considerable number of HMOs currently operating, which influences the character of the area to a considerable extent, there is no basis to conclude that granting planning permission for this development would lead to an unacceptable diminution of residential amenity.

In addition, the change of use of the property to an HMO would require it to be licensed under the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000. This would allow the Council, as licensing authority, to impose controls to safeguard neighbouring residential amenity from instances of noise, disturbance and anti-social behaviour.

A number of comments received relate to the potential use of the property as a short term let. However, it should be noted that an HMO is a different use to that of a short term let and a change to the latter would require the benefit of planning permission.

Given the above, the proposed change to an HMO would not result in any activities which would have a detrimental effect on the living conditions of nearby residents and it complies with LDP Policy Hou 7.

Conservation Area and Listed Building

This has been addressed above. The proposal complies with NPF 4 Policy 7.

Conclusion in relation to the Development Plan

The proposal complies with policies within NPF 4 and the LDP.

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

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.

City Plan 2030

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

Public representations

A total of fifteen representations have been received. Of these, fourteen object to the proposal and one makes neutral comments. A summary of the representations is provided below:

material considerations

- principle: this has been addressed above.
- amenity: this has been addressed above.
- parking: public and permit parking is available.

non-material considerations

- commercial use: the use as an HMO is not classified as a residential use. A further application would be required for a use outside of an HMO.
- use as short term let: this has been addressed above. A further application would be required for this use.
- property values: this is not a material planning consideration.
- recycling and bin provision: provision is already in place for the size of the property as no physical alterations are proposed.

Conclusion in relation to identified material considerations

The proposal is acceptable with regards to the above.

Overall conclusion

The proposals comply with National Planning Framework 4, the Edinburgh Local Development Plan and non-statutory guidelines. The proposal is acceptable in principle and would not have a detrimental impact on residential amenity. The proposal is acceptable in terms of its impact on the listed building and conservation area. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.

Reasons

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

Informatives

It should be noted that:

1. 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.
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.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 31 March 2022

Drawing Numbers/Scheme

01-03

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Murray Couston, Planning Officer
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Appendix 1

Summary of Consultation Responses

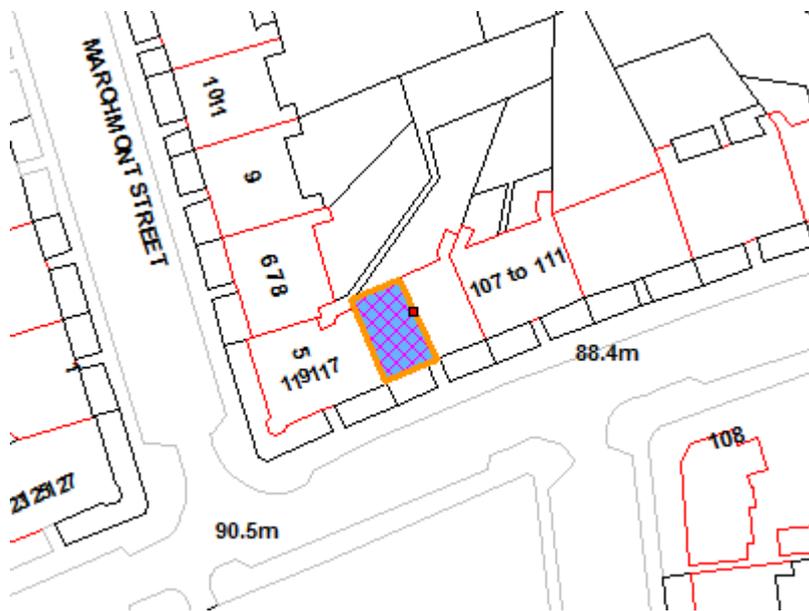
NAME: Environmental Protection

COMMENT: No objection to the proposal.

DATE:

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

Location Plan



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