

Development Management Sub-Committee Report

Wednesday 21 June 2023

Application for Planning Permission STL

Flats 1 - 9 31A Chambers Street, Edinburgh, EH1 1HU.

Proposal: Change of use of the entire property at 31A Chambers Street for use a short term let accommodation including 9 apartments operated and managed as one unit with independent / main door access from the street.

Item – Committee Decision

Application Number – 22/05381/FULSTL

Ward – B11 - City Centre

Reasons for Referral to Committee

Given the level of public interest in relation to the issue of short term lets, it is considered appropriate that this application be determined by Committee.

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.

A change of use of these properties to Short Term Lets (STL) will not have unacceptable impact on neighbouring amenity. The proposal complies with the Development Plan and NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Though the application does not comply with NPF 4 policy 30 (e) part (ii), the site's location, in close proximity to a number of commercial, tourist, cultural and hospitality uses, including late-night entertainment venues, supports its use as STLs. Furthermore, it is recognised that there is an economic benefit in the STL use and in this instance, the use is compatible with the surrounding area. Overall, on balance, the proposal complies with the provisions of the Development Plan.

SECTION A – Application Background

Site Description

The application site relates to nine one-bedroom units, at 31 A Chambers Street, eight of the units are located on the first floor, with one at ground level. The application property forms part of the former Edinburgh Dental Hospital and School which is a four-storey building set between the Sherriff Court and commercial uses.

The application property is located at the west end of Chamber Street opposite the National Museum of Scotland and is in close proximity to the George IV Bridge. The immediate area has a mix of uses with high levels of commercial activity. Access to the property is via a doorway which sits, between a late-night bar/club (Revolutions) and restaurant (Nando's).

Existing residential accommodation is located on the third and fourth floors (30B and 30A). There are no physical changes proposed and the units are accessed via a separate entrance that is not associated with any residential properties.

The application property forms part of a category B listed building (27622), listed on 29/04/1977. The site is within the Old Town Conservation Area and Edinburgh's World Heritage Site.

Description of the Proposal

The proposal seeks the change of use of nine apartment units at 31A Chambers Street for use as short term let accommodation (retrospective).

Supporting Information

- Planning Statement
- NPF4 Planning Statement

Relevant Site History

19/01581/FUL

31A Chambers Street

Edinburgh

EH1 1HU

Change of use from offices to dwellings. Alterations to form 9 No. studio flats (as amended).

Granted

15 August 2019

19/01582/LBC

31A Chambers Street

Edinburgh

EH1 1HU

Conversion and alterations to form 9No. studio flats (as amended).

Granted

31 July 2019

Other Relevant Site History

No further 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: 15 November 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 18 November 2022

Site Notices Date(s): 15 November 2022

Number of Contributors: 3

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 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 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 with the previous internal works already granted listed building consent. 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 does not harm the character of the listed building, or its setting. 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."

The Old Town Conservation Area Character Appraisal states *"The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community."*

There are no external alterations. The change of use from a residential 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 comply with 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 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- NPF4 Historic Assets and Places Policy 7.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering NPF 4 Policy 7.

The non-statutory Guidance for Business (updated April 2023) 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.

Listed Buildings, Conservation Area and Edinburgh World Heritage Site

There are no external or internal works proposed and as such there will not be a significant impact on historic assets and places. The proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (e) specifically relates to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

The non-statutory Guidance for Businesses (update April 2023) states that an assessment of a change of use of dwellings to a short term let 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.

Amenity

The proposed site is accessed via a private entrance located on the ground floor between a late-night bar/club and restaurant. Eight of the nine units are situated on the first floor directly between commercial properties below and residential properties above, with the remaining unit on the ground floor. The residential properties located above on the second and third floor are accessed via a separate entrance and stair. This minimises the effect that STL users could have on the immediate neighbouring properties residential amenity.

The application property is located within a busy urban context with high levels of commercial use and elements of late-night activity. The area is also characterised by tourist and cultural activities. The proposed use would not increase the ambient background noise above levels that existing residents would reasonably expect within the neighbourhood and local area.

The proposal will not have an unacceptable impact on the living conditions and amenity of nearby residents. The proposal complies with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential accommodation, this will only be supported where the loss is outweighed by demonstrable local economic benefits.

The applicant submitted a planning statement in response to NPF4 that stated in 2019 the site was granted permission for a change of use from office to dwellings. After the works were completed, the properties were sold and immediately used for commercial purposes as short term lets, meaning the change of use to residential was never initiated. The applicant has also provided information that demonstrates the economic benefits these units provide, through high occupancy rates, with the units accommodating 2,488 guests over a 15-month period.

Having the properties within residential use contributes to the economy, through the use of a variety of local services and employment opportunities across the City. Long term residents also have the ability to make consistent and long-term contributions to the local community.

However, paragraph 220 of the LDP also acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

Although planning permission was granted for the change of use from offices to dwellings to form 9 studio flats, their use as long-term residential units were not initiated after the physical works were completed, a change of use has occurred as the physical composition was altered from Class 4 to residential .

The proposals therefore result in a technical loss of residential accommodation. In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. However, it is recognised that there is a degree of economic benefit to the City from having STL accommodation and the location is appropriate. Therefore, whilst the proposal does not fully comply with NPF 4 30(e) part (ii), it is acceptable in this instance.

Parking Standards

Zero parking is acceptable as there are no parking requirements for STLs. Cycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

A change of use of these properties to Short Term Let will not have unacceptable impact on neighbouring amenity. The proposal complies with the Development Plan and NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Though the application does not comply with NPF 4 policy 30 (e) part (ii), the site's location, in close proximity to a number of commercial, tourist, cultural and hospitality uses, including late-night entertainment venues, supports its use as STLs. Furthermore it is recognised that there is an economic benefit in the STL use and in this instance, the use is compatible with the surrounding area. Overall, on balance, the proposal complies with the provisions of the Development Plan.

On balance, whilst the proposal does not fully comply with NPF 4 policy 30 (e) part (ii), it is recognised that there is an economic benefit in the STL use and in this instance, the use is compatible with the surrounding area. Overall, on balance, the proposal complies with the provisions of the Development Plan.

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

The following material planning considerations have been identified:

Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited 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 three representations all objecting to the proposals. This included representations from the Old Town Community Council and the Old Town Association.

A summary of the representations is provided below:

material considerations in objection

- Concerns that a change of use will have a detriment to residential amenity to the local community. This has been discussed within section c).
- A change of use would diminish long term residential housing stock within Edinburgh which is within a current housing crisis. This has been discussed within section c).

non - material considerations in objection

- Concerns regarding cost recovery of council servicing.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals non-compliance with the Development Plan.

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.

A change of use of these properties to Short Term Let will not have unacceptable impact on neighbouring amenity. The proposal complies with the Development Plan and NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Though the application does not comply with NPF 4 policy 30 (e) part (ii), the site's location, in close proximity to a number of commercial, tourist, cultural and hospitality uses, including late-night entertainment venues, supports its use as STLs. Furthermore, it is recognised that there is an economic benefit in the STL use and in this instance, the use is compatible with the surrounding area. Overall, on balance, the proposal complies with the provisions of the Development Plan.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

1. No conditions are attached to this consent.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 25 October 2022

Drawing Numbers/Scheme

01 - 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

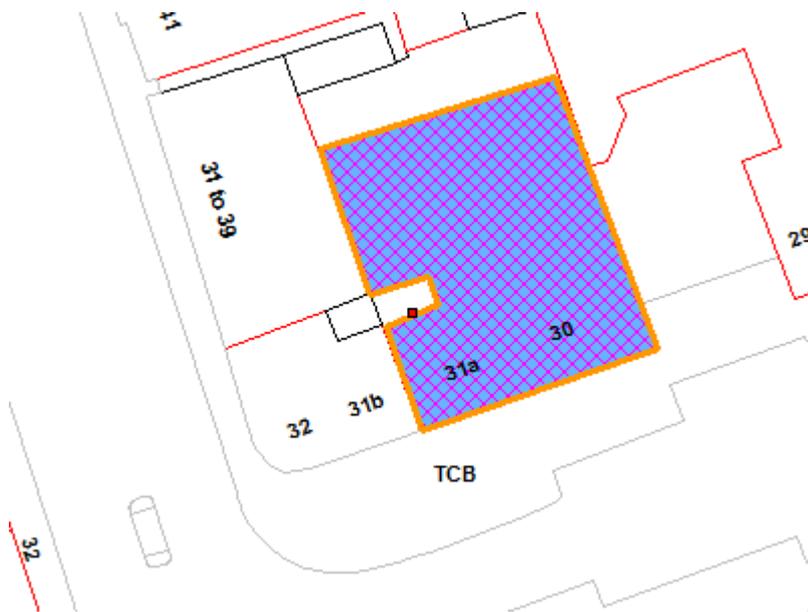
Contact: Benny Buckle, Assistant Planning Officer
E-mail:benny.buckle@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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