

Development Management Sub-Committee Report

Wednesday 8 November 2023

**Application for Planning Permission
Former, 33 - 34 Castle Terrace, Edinburgh**

Proposal: Conversion from restaurant and alterations to form 7x serviced apartments including removal of plant and bars from windows and installation of new windows.

**Item – Committee Decision
Application Number – 23/02200/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

Given the significance of the issue of short term lets (STLs) 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 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 and appearance of the Conservation Area.

The proposal is acceptable with regard to impact on residential amenity and the character of the area and does not result in loss of residential accommodation. It complies with NPF 4 policy 30(e) and the Edinburgh Local Development Plan (LDP).

SECTION A – Application Background

Site Description

The application site is on the ground and lower ground floors of a four-storey tenement at 33-34 Castle Terrace in the West End. The application property has its own accesses from Castle Terrace, two serving the ground floor and two serving the lower ground floor. On the upper floors of the tenement are residential properties. There is a restaurant on one side of the property and an office on the other.

This section of Castle Terrace is a short section which extends southwards to become Spittal Street. The surrounding area is mixed in character. Opposite the application site there is a large office and a health clinic. The east side of Spittal Street is primarily residential whilst on the west side there are two shops. Bread Street is approximately 200 metres to the south. It has bars, hotels, clubs, and nighttime activity.

The application property is a category A listed building (LB 47856, 14/12/1970).

The application site is in the Old and New Towns of Edinburgh World Heritage Site and the West End Conservation area.

Description of the Proposal

The application is for the conversion from restaurant and alterations to form seven serviced apartments including removal of plant and bars from windows and installation of new windows.

The proposed external alterations on the rear elevation include: - the removal of redundant service runs and external window bars, replacement of a single window with a new, timber slimline double glazed, sash and case unit, new cast iron soil and waste pipes, existing window openings blocked up in stone to match the existing wall and reinstatement of one blocked up door opening with a window.

The proposed external alterations on the front elevation include: - reinstatement of six over six sash and case windows, reinstatement of traditional timber panelled doors, repainting of existing painted section of stonework, installation of a frameless glass balustrade to the external face of the central windows to 0.8 metres above floor level and removal of external bars from windows.

Supporting Information

Planning and Design Statement.

Legal Opinion.

These are available to view on the Planning and Building Standards Online Service.

Relevant Site History

22/01286/FUL

33 - 34 Castle Terrace

Edinburgh

EH1 2EL

Conversion of restaurant to form 7x flats (as amended).

Granted

20 May 2022

22/01287/LBC

33 - 34 Castle Terrace

Edinburgh

EH1 2EL

Conversion and alterations to form 7x flats inc. removal of plant and bars from windows and installation of new windows.

Granted

20 May 2022

23/02268/LBC

Former

33 - 34 Castle Terrace

Edinburgh

Conversion from restaurant and alterations to form 7x serviced apartments including removal of plant and bars from windows and installation of new windows.

Other Relevant Site History

No other relevant site history.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Historic Environment Scotland

Transport

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

Publicity and Public Engagement

Date of Neighbour Notification: 15 September 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 22 September 2023 30 June 2023

Site Notices Date(s): 19 September 2023 27 June 2023

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 or its setting.

Setting of Listed Buildings

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."

Historic Environment Scotland's document 'Managing Change in the Historic Environment - Setting' states.

"Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced."

The document states that where development is proposed it is important to:

- *"identify the historic assets that might be affected.*
- *define the setting of each historic asset; and*
- *assess the impact of any new development on this".*

The proposals do not harm the listed building. The external proposals will result in significant gains for the special interests of the listed building.

Conclusion in relation to the listed building

The proposal harms neither the listed building nor its setting. It is therefore acceptable with regard to Sections 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

The proposals do not conflict with the objective of preserving or enhancing the character or appearance of the conservation area. The proposed works will reinstate the traditional character and appearance of the existing building that will result in conservation area gains.

Conclusion in relation to the conservation area

The proposals do 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.

National Planning Framework 4 (NPF 4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF 4 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. There are several policies in the Edinburgh Local Development Plan (LDP) that are equivalent to policies within NPF 4. The relevant policies to be considered are:

- NPF 4 Sustainable Places Policy 1.
- NPF 4 Historic Assets and Places Policy 7.
- NPF 4 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering historic assets.
The non-statutory 'Guidance for Businesses' (2023) is a material consideration that is relevant when considering change of use applications.

Listed Building, Conservation Area, and World Heritage Site

The proposed external works to the property are acceptable and there will not be a significant impact on historic assets and places. The proposal complies with NPF 4 Policy 7.

Proposed Use

Policy 1 of the NPF 4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The proposals will have a neutral impact in terms of NPF 4 Policy 1.

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 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 applicant has submitted a planning statement which addresses the NPF 4 issues. In terms of amenity, the statement asserts that although it is accepted that there are residential uses in the local area there is a clear dominance of commercial uses making the area more mixed in character. The property has its own main door accesses and will not have a negative impact on the nearby residential properties.

This section of Castle Terrace is mixed in character. There is a restaurant adjacent to the property, several offices nearby and residential properties above. It is close to Bread Street where there is a high level of night-time activity and pedestrian footfall.

The application property has its own main door entrances from Castle Terrace. There is no access to the rear garden area. The application site is located adjacent to a restaurant and is in close proximity to a range of leisure and night-time uses at the southern end of Spittal Street. There are a number of residential properties in Castle Terrace including directly above the application property. The impact of this STL use would not have a further detrimental impact on neighbouring residential amenity given the noise levels created by the uses and resultant activities that exist within the vicinity of the application property.

The additional servicing that operating a property as an STL requires compared to that of a residential use could result in an increase in disturbance, impacting on neighbouring amenity. However, this would be of lesser impact as it is likely that servicing would be conducted during the daytime.

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.

Paragraph 220 of the LDP 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.

The property operated as a restaurant until 2020. Planning permission was granted in May 2022 for change of use from restaurant to seven residential flats. Work started in March 2023; however, work has not progressed significantly for there to be evidence of the planning permission having been implemented. Consequently, it is considered that the existing lawful use is a Class 3 restaurant use and there is no loss of residential. Therefore NPF 4 policy 30 (e) part (ii) is not applicable to this application.

Transport

There is no off-street car parking available within the site and this is acceptable as the application property is in the city centre where car use is discouraged. The site is accessible by public transport. There are no cycle parking standards for STLs. The proposals comply with LDP policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal is acceptable with regard to impact on residential amenity and the character of the area and does not result in loss of residential accommodation. It complies with LDP policy Hou 7 and NPF 4 policy 30(e).

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

A summary of the representations is provided below:

Three contributors: Two objections.
One petition with 30 signatures in support of the application.

material considerations- objections

- STL guests make no contribution to the local economy. Addressed in c) above.

non-material considerations- objections

- Contributes to loss of long-term housing. There is no loss of residential use in this instance.
- STL guests are not concerned about local issues. This is not a material planning consideration.

material considerations- in support

- They are separate from residential properties nearby. Addressed in c) above.
- -Will enhance the appearance of the listed building. Addressed in a) above.
- -Will make a positive contribution to the conservation area. Addressed in b) above.
- -Will bring economic benefits to the local economy. Addressed in c) above.

non-material considerations- in support

- Serviced apartments are well managed. This is a matter for Licensing.
- Will bring life back to the property. This is not a material planning consideration.

Conclusion in relation to identified material considerations.

Identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to 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 and appearance of the Conservation Area.

The proposal is acceptable with regard to impact on residential amenity and the character of the area and does not result in loss of residential accommodation. It complies with NPF 4 policy 30(e) and the Edinburgh Local Development Plan (LDP).

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.
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: 23 June 2023

Drawing Numbers/Scheme

01-07

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

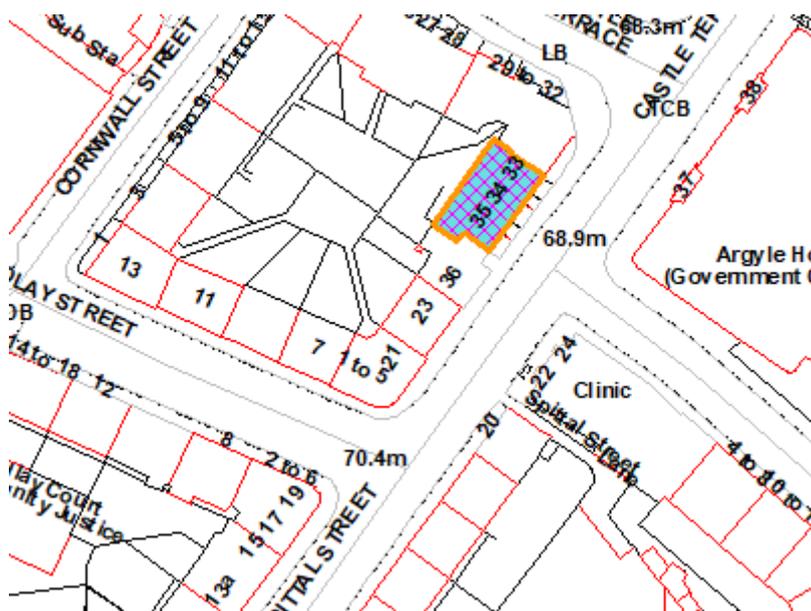
Summary of Consultation Responses

NAME: Historic Environment Scotland
COMMENT: No comments.
DATE: 23 July 2023

NAME: Transport
COMMENT: No objections.
DATE: 6 July 2023

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