

Development Management Sub-Committee Report

Wednesday 8 November 2023

**Application for Planning Permission STL
81 Rose Street, Edinburgh, EH2 3DT**

Proposal: Change of use from coffee shop (retail) to studio (short-term letting).

**Item – Committee Decision
Application Number – 23/00868/FULSTL
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 proposal complies with sections 64 and 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The proposal is acceptable with regard to impact on residential amenity and the character of the area. It complies with NPF 4 policy 30 and LDP policy Hou 7. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application property comprises a ground floor cafe unit (40 sqm) located at 81 Rose Street on the corner of Rose Street Lane North and to the west of Fredrick Street. The property has private main door access fronting Rose Street. A retail unit is located directly to the east of the property and a short-term letting (STL) unit above.

The site is located on a busy city centre thoroughfare with high levels of pedestrian activity in the immediate vicinity of the property. A wide mix of commercial uses are located nearby including shops, cafés, restaurants, bars, and a late-night takeaway.

The property forms part of a Category B listed building - 77-81 (odd numbers) Rose Street and 52 Rose Street North Lane, LB29637, 28/03/1996. The site 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 seeks planning permission for a change of use from a café (class 3) to short term let (sui generis). The proposal includes minor internal alterations, no external works are proposed. The proposed STL unit would accommodate a maximum of two guests.

Scheme 1:

The originally submitted scheme included new positioning of the entrance door. This was altered as part of Scheme 2 with the existing entrance arrangement retained.

Supporting Information

National Planning Framework 4 Statement

Relevant Site History

No relevant site history.

Other Relevant Site History

No other 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: 30 March 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 7 April 2023

Site Notices Date(s): 31 March 2023

Number of Contributors: 2

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.

The proposal will not have an adverse impact on or cause harm to the listed building. The proposal comprises of internal alterations only. These are minor in nature; it is considered that planning permission is not required for these alterations.

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 New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews, and gardens and in the quality of the buildings themselves.

The change of use from a cafe 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.

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 policies to be considered are:

- NPF4 Sustainable Places Policy 1.
- NPF4 Historic Assets and Places Policy 7.
- NPF4 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 works will not have a detrimental impact on historic assets and places. The proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the proposals do not involve operational development and therefore, 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 net zero and nature commitments, and inspire 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 (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 application property is located on the ground floor and accessed via a private main door entry. The surrounding area has a mix of commercial uses with a high degree of pedestrian activity in the immediate vicinity of the property.

The applicant's supporting planning statement asserts that there will be minimal impact on residential amenity given the mixed-use character of the surrounding area, the private access and the small size of the property (1 bedroom).

The property is located on Rose Street, a busy city centre thoroughfare. There is considerable pedestrian footfall passing along the street directly outside the property. The proposed STL accommodation is located in close proximity to a wide variety of existing retail, leisure and night-time uses which contribute to a high degree of activity and ambient noise level in the immediate vicinity of the property during the day and at night.

Although there are residential units located on Rose Street, given that the application property has private main door access and the surrounding area is of a busy and commercial nature, it is not considered that the proposed STL use would have a significant detrimental impact on neighbouring amenity or the character of the wider area. The STL use is therefore considered acceptable with regards to neighbouring amenity and the character of the area. The proposal complies with NPF 4 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation:

As the existing use of the property is a cafe (class 3) there is no loss of residential accommodation resulting from this application.

Parking Standards

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

The proposal is acceptable with regard to impact on residential amenity and the character of the area and does not result in the 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

Two letters of representation (one objection and one neutral comment) were received. A summary of the representations is provided below:

material considerations

- Negative impacts on residential amenity relating to noise and disturbance. Addressed in part c).

non-material considerations

- There are too many short terms lets in the local area. Every proposal is assessed on its own merit.

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 complies with sections 64 and 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The proposal is acceptable with regard to impact on residential amenity and the character of the area. It complies with NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations which 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.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 27 March 2023

Drawing Numbers/Scheme

01, 02A

Scheme 2

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Summary of Consultation Responses

No consultations undertaken.

Location Plan



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