

Development Management Sub-Committee Report

Wednesday 22 November 2023

**Application for Planning Permission STL
29A Stafford Street, Edinburgh, EH3 7BJ**

Proposal: Retrospective change of use from office (Class 4) to short-term let (Sui Generis).

**Item – Committee Decision
Application Number – 23/04327/FULSTL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application is subject to a petition with 24 signatories in support of the application. Consequently, under the Council's Scheme of Delegation the application must be determined by the Development Management Sub-Committee as the recommendation is for refusal.

Recommendation

It is recommended that this application be **Refused** 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 change of use of this property to a Short Term Let (STL) will result in a loss of the residential accommodation. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF4 policy 30(e) part (ii). There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application site is a two-bedroom basement flat located on the northwestern side of Stafford Street. The property has its own access to the street.

Stafford Street is of mixed character featuring a number of commercial units as well as residential properties. Public Transport links are highly accessible from the site.

The application property is part of a category B listed building, 17-29 (Odd Numbers) Stafford Street, 34, 36 Alva Street, LB29829, 14/12/1970.

The application site is in the New Town Conservation Area, Edinburgh World Heritage Site and New Town Gardens and Dean Historic Garden Designed Landscape.

Description of the Proposal

The description of proposal seeks a retrospective change of use from Class 4 office to STL. As stated in the relevant site history, planning permission, and associated listed building consent were granted in July 2019 for the conversion of the office to form two residential properties, reference 19/02652/FUL and 19/02653/LBC, respectively. As stated in the supporting statement, works commenced in line with the approved applications and the conversion was completed in April 2020.

The supporting statement outlines that following completion of the works, the property has since been used exclusively as an STL, and that it therefore follows that the residential use consented by application 19/02652/FUL has not been taken up.

However, in accordance with Section 27(1) of the Town and Country Planning (Scotland) Act 1997, and the relevant case law, Caledonian Terminal Investments Ltd v Edinburgh Corp [1970] S.L.T. 362 and Doonin Plant Ltd v Scottish Ministers [2011] CSOH 3, the works associated with 19/02652/FUL have progressed sufficiently that the office use has ceased, and sufficient work and change has been done to achieve as a matter of fact the change of use to residential.

The existing lawful use of the property is as a flatted dwelling and a change of use to short term let is proposed. For the avoidance of doubt, no internal or external physical changes are proposed.

No internal or external physical changes are proposed.

Supporting Information

- Supporting Statement
- Applicant's Legal Advice

Relevant Site History

19/02652/FUL

27A - 29A Stafford Street

Edinburgh

EH3 7BJ

Change use from office to residential. Alterations to form two flatted dwellings.

Granted

30 July 2019

19/02653/LBC
27A - 29A Stafford Street
Edinburgh
EH3 7BJ
Alterations to form two flatted dwellings.
Granted
26 July 2019

22/04796/FUL
27A Stafford Street
Edinburgh
EH3 7BJ
Retrospective change of use from flatted dwelling to short term let.
Refused
24 March 2023

23/04324/FULSTL
27A Stafford Street
Edinburgh
EH3 7BJ
Change of use from office (Class 4) to short-term let (Sui Generis) (in retrospect).

22/04798/FUL
29A Stafford Street
Edinburgh
EH3 7BJ
Retrospective change of use from a flatted dwelling to short term let.
Refused
27 March 2023

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 25 September 2023
Date of Renotification of Neighbour Notification: Not Applicable
Press Publication Date(s): 29 September 2023
Site Notices Date(s): 26 September 2023
Number of Contributors: 5

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. 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 New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone-built terraces, broad streets, and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four-storey corner and central pavilions.

As stated previously, there are no external changes proposed. The change of use will not impact on the character or appearance of the conservation area. Therefore, the proposal does not conflict with the objective of preserving or enhancing the character or 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 (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

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a). 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 relate 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 has its own main door access and is located within an area of mixed character. There is a moderate to high degree of activity in the immediate vicinity of the property at any time, contributing to high ambient noise levels in the street during the day and at night.

There are residential properties on Stafford Street, however due to the character of the area being busy and of a mixed nature, the STL use will not have an unacceptable impact on neighbouring amenity or the character of the area.

The proposal complies with NPF 4 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

NPF4 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.

It is important to recognise that having the property within residential use also contributes to the economy, using local services and fulfilling employment opportunities across the City. Long term residents can also make consistent and long-term contributions to the local community.

The proposed change of use would result in a loss of residential accommodation, which as there is a recognised need and demand for housing in Edinburgh, it is critical to retain the existing supply of where appropriate. In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

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.

Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only 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

Three comments in objection and one comments in support of the application were received. A petition in support of the application with 24 signatories was also received. A summary of the contents of the representations is provided below:

material considerations in support

The listed building will be better maintained. Obligations regarding the maintenance of the listed building do not change should the property be in short term let use.

Positive impact to local businesses. Assessed in section c).

Positive impact to the local economy, employment, and tourist industry. Assessed in section c).

Impact to neighbouring amenity is mitigated as the property has it's own main door access to the street. Assessed in section c).

There is no loss of residential accommodation. Assessed in section c).

material considerations in objection

The area is residential and short term lets are inappropriate in residential areas. Assessed in section c).

The listed building will be insufficiently maintained. Obligations regarding the maintenance of the listed building do not change should the property be in short term let use.

- Negative Impact to the character of the Listed Building. Assessed in section a).
- Negative Impact to the character of the Conservation Area. Assessed in section b).
- Negative Impact to the local community. Assessed in section c).
- Negative impact to local businesses. Assessed in section c).
- Tourists are more likely to use a car than residents. There is little evidence to suggest this would be the case in this circumstance.

non-material considerations

Sufficient Short Term Lets in the local area already.
Tourists are better accommodated in hotels.

Conclusion in relation to identified material considerations.

The 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 change of use of this property to an STL will result in a loss of the residential accommodation. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF4 policy 30(e) part (ii). There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

Conditions

Reasons

Reason for Refusal: -

1. The proposal is contrary to National Planning Framework Policy 30(e) (ii) in respect of Loss of Residential Accommodation, as the use of this dwelling as a short term let will result in the loss of a residential property that has not been justified.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 21 September 2023

Drawing Numbers/Scheme

01, 02

Scheme 1

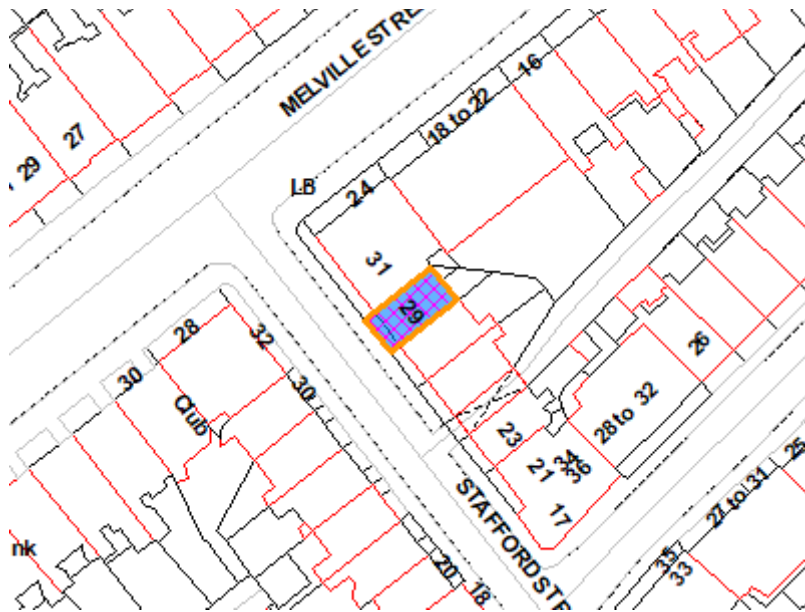
David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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