

Development Management Sub-Committee Report

Wednesday 13 March 2024

Application for Planning Permission
79 Dundas Street, Edinburgh, EH3 6SD

Proposal: Use of part of residential dwelling for the purposes of short-term letting.

Item – Committee Decision
Application Number – 22/04195/FUL
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.

The partial change of use of the basement area within the property to a Short Term Let (STL) will not have an unacceptable impact on neighbouring amenity, nor will it result in the loss of residential accommodation. The application is acceptable with regard to transport matters. The application is in accordance with the development plan and there are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is an area within the basement of a four-storey townhouse on the eastern side of Dundas Street. The site is accessed via steps from the street level down to the basement and has its own main door. The area is connected to the main town house via a door.

Dundas Street is a busy street comprising predominantly residential accommodation and a mix of commercial uses. Public Transport links are relatively accessible from the site.

The application site forms part of a category B Listed Building, 79-85 (Odd Nos) Dundas Street And 34b Cumberland Street, Including Railings, LB28711, 13/09/1964.

The application falls within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application proposes a change of use of part of the basement within the dwellinghouse from residential to Short Term Let (STL) accommodation. The size of the STL unit is approximately 24 square metres and comprises an en-suite bedroom and a kitchen/sitting area. No internal or external physical changes are proposed. The application is in retrospect.

Supporting Information

- Planning Statement.
- Register of guests.
- Photos 01, 02, 03.

Relevant Site History

01/04450/LBC
79 Dundas Street
Edinburgh
EH3 6SD
Internal alterations
Granted
1 February 2002

13/05322/FUL
Walton Hotel
79 Dundas Street
Edinburgh
EH3 6SD
Alterations to hotel to form dwelling house, demolition of former kitchen, extension to the rear of the property. (as amended)
Granted
3 March 2014

13/05323/LBC
Walton Hotel
79 Dundas Street
Edinburgh
EH3 6SD
Internal alterations to form dwelling house, demolition of former kitchen, extension to the rear of the property. Replacement of glazing within existing windows with double glazing slim lite units.

Granted
21 February 2014

14/00024/FUL
Walton Hotel
79 Dundas Street
Edinburgh
EH3 6SD
Change of use from hotel to dwelling house.
Granted
28 February 2014

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: 2 September 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 9 September 2022

Site Notices Date(s): 6 September 2022

Number of Contributors: 6

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:

The application has been submitted in retrospect. The applicant indicates on the application form that the operation of the property as a short stay let commenced in 2015. This is before the 5 September 2022, which is when the Edinburgh short-term let control designation came into effect. As the designation does not have a retrospective effect it is necessary to consider whether the use of the property as a commercial short stay let is a material change of use.

The effect of granting planning permission would be to change the use from residential to STL. The proposal results in the creation of a new planning unit which constitutes a material change in use of the property under Section 26 of the Town and Country Planning (Scotland) Act 1997.

a) The proposals harm the listed building or 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, its setting, or the setting of neighbouring listed buildings. 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. Therefore, the impact on the character and appearance of the conservation area is acceptable.

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 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.
- Local Development Plan Housing Policy, Hou 7.

- Local Development Plan 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 Business (2024) is a material consideration that is relevant when considering LDP Policy Hou 7 and NPF4 policy 30.

The Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Buildings, Conservation Area, and World Heritage Site

There are no external or internal works proposed and as such there will not be a significant impact on historic assets or 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. 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.

Amenity

The proposal will result in a small section of the basement within the townhouse being subdivided and used as STL accommodation. The STL accommodation has its own access, as well as bed, bathroom, and kitchen facilities. There is an internal door between the STL use and the rest of the townhouse which is locked and restricts guest access to the rest of the property. Given this, the proposed STL unit will create a new planning unit.

The site is located on a busy street comprising predominantly residential accommodation and a mix of commercial uses. There is a moderate degree of activity in the immediate vicinity of the property at any time.

The use of the property as a STL would introduce an increased frequency of movement to the application site as visitors would be able to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. However, in this instance, given the location, small size of the application area and the retention of the link between the application area and the townhouse, the change of use will not result in the deterioration of the living conditions of nearby residents or impact on the character of the area. Therefore, the proposal complies with policy Hou 7 and NPF 4 policy 30(e)(i).

Loss of residential accommodation

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

The proposal would not result in the loss of residential accommodation as the residential use of the main dwelling will be retained. As such, NPF 4 30(e) part (ii) does not apply.

Parking Standards

No parking is proposed. This is acceptable as there are no parking requirements for STLs.

The proposal complies with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The partial change of use of the basement area to an STL is acceptable with regards to residential amenity and the character of the area. The application is acceptable with regard to transport matters. The application is in accordance with the development plan.

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

Emerging policy context

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.

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

6 representations were received in support of the application. A summary of the representations is provided below:

material considerations in support

- The property owners use the main dwelling as their principal residence. Addressed in Section C.
- Insufficient visitor accommodation in the city. Addressed in Section C.

non-material considerations

- The application is retrospective. The retrospective nature of the application does not impact on the acceptability of the application.
- Relationship with the applicant.
- Planning permission should not be required.

Conclusion in relation to other material considerations

The proposals do not raise any issues in relation to other material considerations identified.

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.

The partial change of use of the basement area within the property to a Short Term Let will not have an unacceptable impact on neighbouring amenity, nor will it result in the loss of residential accommodation. The application is acceptable with regard to transport matters. The application is in accordance with the development plan and there are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

Conditions

1. The Planning Permission relates only to the area outlined in red and detailed in drawing 02A - Lower Ground Layout Plan.

Reasons

1. In order to safeguard the amenity of neighbouring residents.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 31 August 2022

Drawing Numbers/Scheme

01A, 02A, 03

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

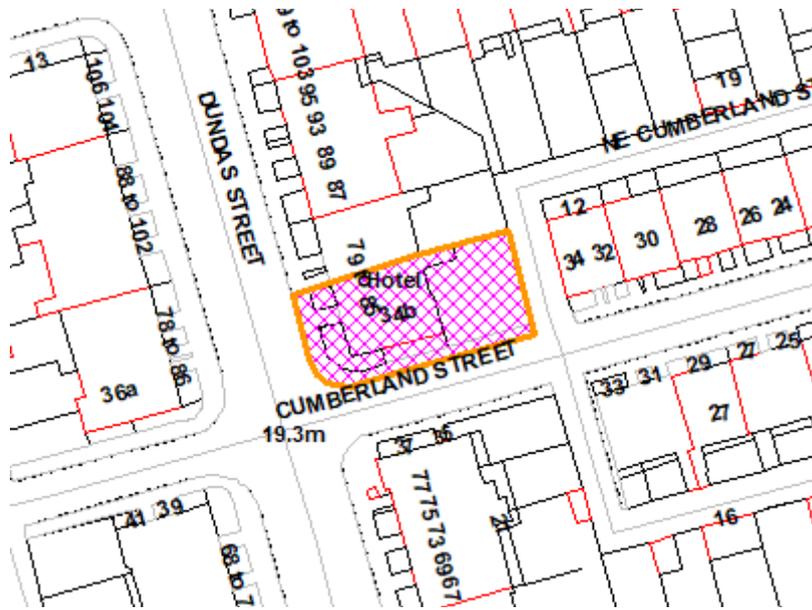
Contact: James Armstrong, Planning Officer
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Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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