

Development Management Sub-Committee Report

Wednesday 7 August 2024

**Application for Planning Permission STL
9 Marchmont Road, Edinburgh, EH9 1HY**

Proposal: Change of use to short term let accommodation (in retrospect).

**Item – Committee Decision
Application Number – 23/01398/FULSTL
Ward – B10 - Morningside**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-Committee as it has received more than twenty material supporting comments and the recommendation is to refuse planning permission.

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 have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity or loss of residential accommodation.

The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application property comprises a one bedroom, ground floor flatted dwelling at 9 Marchmont Road, Marchmont. The property has private main door access and is located next to a row of commercial units at the northern end of Marchmont Road. There are other residential properties located next to and above the proposed STL accommodation.

Although Marchmont supports a variety of commercial uses, the area is predominantly residential and is characterised by its high proportion of tenement housing. There is medium level of pedestrian and vehicle activity along this section of Marchmont Road.

The property forms part of a Category B listed building 1-9 (odd numbers) Marchmont Road and 1 Marchmont Crescent, Edinburgh, LB30539, 19/03/1993. The site is located within the Marchmont, Meadows and Bruntsfield Conservation Area.

Description of the Proposal

The application is for the change of use of a flatted dwelling to short term let (sui generis). No internal or external physical changes are proposed. The applicant advises that the short term let use has been operating since May 2022, therefore the application is retrospective.

Supporting Information

Supporting Planning Statement.

Relevant Site History

22/01749/FUL

9 Marchmont Road

Edinburgh

EH9 1HY

Change of use from flat to short term let visitor accommodation.

withdrawn

30 August 2022

Other Relevant Site History

1010/89

9 Marchmont Road

Alter and change of use from shop to dwellinghouse.

Planning permission granted 07.06.89.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 5 April 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 14 April 2023

Site Notices Date(s): 11 April 2023

Number of Contributors: 24

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 is in retrospect. The application form states that the operation of the property as a short term let commenced in May 2022. This is prior to 5 September 2022, when the Edinburgh STL control area 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 STL is a material change of use.

Granting planning permission would change the use from a residential dwelling to STL. The use of the property as a STL, as a result of the granting of planning permission, would constitute a material change in the use of the property under section 26 of the Town and Country Planning (Scotland) Act 1997, given the associated characteristics of STL use in this location and property type.

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 Marchmont, Meadows and Bruntsfield Conservation Area is characterised by tenement housing, mostly in the Scots Baronial style.

There are no external changes proposed. The change of use 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' (2024) is a material consideration that is relevant when considering change of use applications.

Listed Building and Conservation Area

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 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 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.

Amenity

The application property is located on the ground floor of a tenement block and has private main door access. There are residential properties adjacent to and above the application unit.

The applicant's planning statement asserts that the use of the property will have a limited impact on local residential amenity due to the existing mixed-use character of the surrounding area, coupled with the property's small size (one bedroom), private main door entry and lack of access to any shared external spaces.

Although there are commercial uses located nearby, the surrounding area is predominantly residential. It is acknowledged that although there can be a relatively high degree of both vehicle and pedestrian activity during daytime hours, this is reduced during the evening, with low levels of activity at night. The existing commercial properties adjacent to the proposed STL unit are currently only in operation during daytime hours and do not generate activity in the evening.

The use of the property as an STL would introduce an increased frequency of movement to the property. The proposed STL use would enable visitors 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. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home.

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

This would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have an unacceptable effect on the living conditions and amenity of nearby residents. The proposal does not comply 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 property 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 applicant's planning statement asserts that the use of the property as a STL would result in both local and city-wide economic benefits, in terms of visitor spend and through the employment of local business to maintain the property. The applicant has cited figures demonstrating an increased level of spend associated with STL guests compared to longer term residents.

It is also stated that the property is not suited for long term residential use due to its limited size (49m²) and poor daylighting to the rear. It is recognized that the property's floor space falls slightly below that recommended within the Edinburgh Design Guidance (52m²) and the proximity of the neighbouring tenement block to the rear of the application property likely limits daylighting to the bedroom. However, the existing lawful use of the property is for residential, having been granted permission in 1989. The continued use of the property for residential purposes is therefore considered acceptable.

It is acknowledged that the applicant has provided evidence of the economic benefits associated with the STL use. However, the figures stated are for average rates of visitor spend and do not relate directly to the application property. It is not considered that the potential economic benefits referenced in the applicant's statement outweigh the wider benefits associated with retaining the accommodation for residential use. The use of this property as an STL would result in the direct loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh, is important to retain where appropriate.

Furthermore, residential occupation of the property also contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of various local services and resultant employment, as well as by making contributions to the local community.

In this instance it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits arising from the STL use. As such, the proposal does not comply with NPF 4 30(e) part (ii).

Parking

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.

Previous Planning Decisions

The submitted planning statement cites previous planning decisions in support of the application, both of which pre-date the introduction of NPF4. Notwithstanding this, each application is assessed on individual merit and context.

Conclusion in relation to the Development Plan

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

The following material planning considerations have been identified:

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.

Emerging policy context

On 5 April 2024, the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. On 27 June 2024, the Council accepted the recommendations and modifications required to the Proposed City Plan 2030. The Proposed City Plan 2030 has now been submitted to Scottish Ministers for their final consideration. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the adoption of the plan

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

24 representations were received in relation to this application. This included 22 comments of support and 2 objections. A summary of these comments is provided below:

material considerations

- The STL use will have a limited impact on residential amenity due to the mixed-use character of the area, the property's private entry and the lack of shared spaces. Addressed in part c).
- The STL use will have limited impact on local residential amenity due to the property's previous use as a commercial unit. The property has been in use as residential accommodation since 1989.
- The STL use will bring economic benefits through visitor spend at local businesses. Addressed in part c).
- Negative impact on city-wide housing availability/leads to loss of residential accommodation. Addressed in part c).
- Negative impact on local services and neighbouring amenity. Addressed in part c).

non-material considerations

- The STL use adds to the variety of tourist accommodation in Edinburgh. Not a material 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 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 STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity or loss of residential accommodation.

The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. 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 Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact of local amenity and the loss of a residential property 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: 29 March 2023

Drawing Numbers/Scheme

01 - 02

Scheme 1

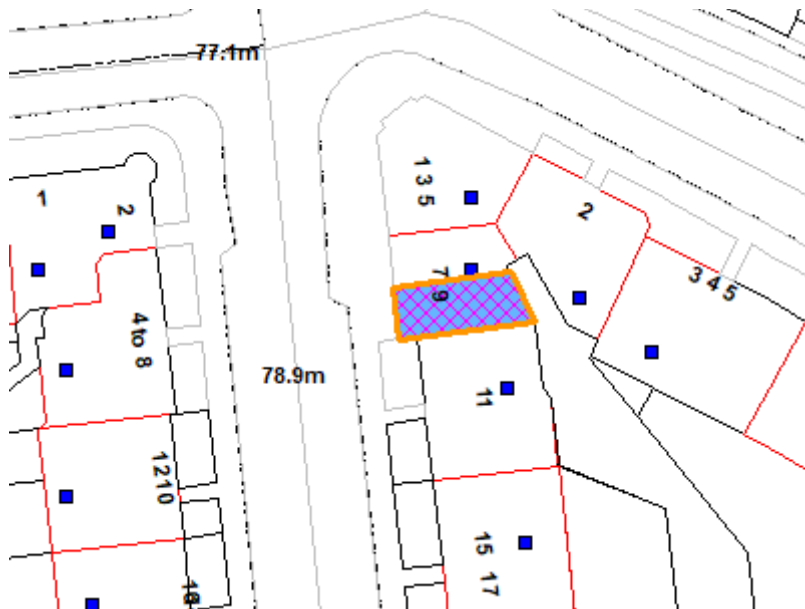
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Summary of Consultation Responses

No consultations undertaken.

Location Plan



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