

Development Management Sub-Committee Report

Wednesday 21 August 2024

**Application for Planning Permission STL
17 Blackfriars Street, Edinburgh, EH1 1NB**

**Proposal: Retrospective change of use to 10 serviced apartments
(Sui Generis).**

**Item – Committee Decision
Application Number – 23/04234/FULSTL
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 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 to short term let (STL) is acceptable with regards to residential amenity and will not result in a loss of residential accommodation, complying with LDP policy Hou 7 and NPF4 Policy 30(e). The application is acceptable with regard to heritage and transport matters. The application is in accordance with the development plan. It is therefore recommended that the proposal be granted.

SECTION A – Application Background

Site Description

The application site is a former church, located on the eastern side of Blackfriars Street. Part of the ground floor of the church is a restaurant, however this falls out with the site boundary. Blackfriars street is located within an area of mixed character, featuring a numerous commercial uses as well as residential properties. The nearby commercial uses and the high quantity of passing foot and vehicular traffic result in 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. Public Transport links are highly accessible from the site.

The application property is part of a category B listed building, 117-21 (Odd Nos) Blackfriars Street (Former United Presbyterian Church), LB28323, 10/04/1986.

The application site is in the Old Town Conservation Area and Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The application is for the retrospective change of use of the church to short term let (sui-generis) (STL). No internal or external physical changes are proposed.

Supporting Information

Planning Statement

Relevant Site History

15/01281/LBC

17 - 21 Blackfriars Street

Edinburgh

EH1 1NB

Alterations to building to facilitate use as a restaurant at basement and ground floor levels and residential apartments at first and second floor.

Granted

19 May 2015

15/03351/FUL

17 - 21 Blackfriars Street

Edinburgh

EH1 1NB

Change of use of ground floor to residential apartments and cafe/restaurant and alterations to ground floor windows.

Granted

20 October 2015

15/03350/LBC

17 - 21 Blackfriars Street

Edinburgh

EH1 1NB

Internal alterations to create residential flats and cafe/restaurant on ground floor and alterations to ground floor windows.

Granted

28 September 2015

15/01278/FUL

17 - 21 Blackfriars Street

Edinburgh

EH1 1NB

Change of use of vacant building to restaurant at basement and ground floor level and residential apartments at first and second floors.

Granted

26 June 2015

Other Relevant Site History

No other relevant site history was identified.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Transport

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

Publicity and Public Engagement

Date of Neighbour Notification: 20 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: 1

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 Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

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 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 NPF4 Policy 7.

The non-statutory Guidance for Business (2024) is a material consideration when considering LDP Policy Hou 7, 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

The impact on the listed building, on setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above, which concluded that this would be preserved.

The impact on the conservation area has been assessed in section b) above, which concluded that this would be preserved.

There are no external or internal works proposed and as such there will not be a significant impact on historic assets and places, including the Old and New Towns of Edinburgh World Heritage Site.

The proposal complies with NPF4 Policy 7.

Proposed Use

With regards to NPF4 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.

NPF4 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 (2024) 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

With regard to the considerations set out in the Guidance for Businesses when assessing changes of use to short term lets, the proposal is unlikely to result in a negative amenity impact to people living in nearby residences. The noise generated by the 10 STL units proposed is unlikely to be significantly different from currently high level of ambient background noise in the area, which features hotels and other forms of visitor accommodation, as well as late night uses.

The proposal complies with NPF4 policy 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.

The proposed change of use from a church to Short Term lets does not result in the loss of residential accommodation.

Whilst consent was granted for a change of use of the church to residential and to form a restaurant in 2015 (refs: 15/03351/FUL and 15/01278/FUL), and works have been carried out in line with these and other associated consents (ref: 15/01281/LBC and 15/03350/LBC), the residential use consented by 15/03351/FUL and 15/01278/FUL was never implemented as residential use. The hallway, upper floors and rear ground floor of the church passed directly into STL use on 01/01/2015, and this current application seeks to regularise the change of use. It has therefore been assessed that no loss of residential development will take place as a result of this proposal.

The proposal complies with NPF4 policy 30(e) part (ii).

Cycle Parking

No cycle parking is proposed. The Edinburgh Design Guidance requires one space to be provided, however this is considered to be a limited and acceptable infringement of the guidance given the heritage constraints of the site.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use to STL is acceptable with regards to residential amenity and will not result in a loss of residential accommodation, complying with LDP policy Hou 7 and NPF4 Policy 30(e). The application is acceptable with regard to heritage and transport matters. The application is in accordance with the development plan.

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

The following material planning considerations have been identified:

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.

Economic benefits

Public representations state that the proposal is likely to result in local economic benefits. It is recognised in paragraph 220 of the LDP 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.

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 petition in support of the application with 40 signatories was received. A summary of the contents of the petition is provided below:

material considerations

- Short Term Lets benefit the tourism industry, the local economy and provide employment. Assessed in section d).
- Blackfriars Street is a noisy commercial area featuring a range of commercial uses. Assessed in section c).
- The proposal will not impact neighbouring amenity. Assessed in section c).

non-material considerations

- The proposed use will support the continued maintenance of a listed building. Obligations regarding the maintenance of the listed building are not altered by the proposed STL use.
- Serviced apartments provide good quality accommodation.

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 to STL is acceptable with regards to residential amenity and will not result in a loss of residential accommodation, complying with LDP policy Hou 7 and NPF4 Policy 30(e). The application is acceptable with regard to heritage and transport matters. The application is in accordance with the development plan. It is therefore recommended that the proposal be granted.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

Informatives

It should be noted that:

1. The applicant should consider developing a Travel Plan including provision of public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 7 September 2023

Drawing Numbers/Scheme

01, 02

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

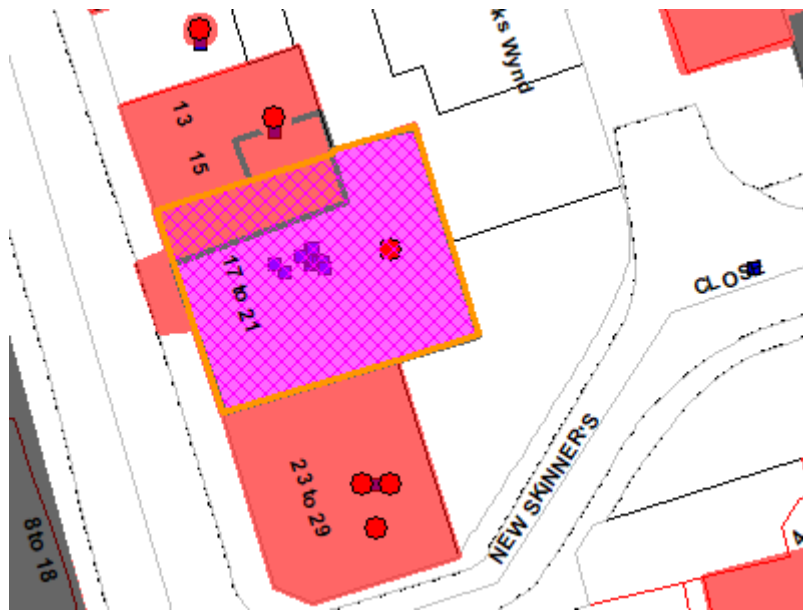
NAME: Transport

COMMENT: Acceptable subject to the provision of one cycle parking space, and informative specified.

DATE: 8 January 2024

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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