

Development Management Sub-Committee Report

Wednesday 18 September 2024

**Application for Planning Permission STL
4 Hill Street, Edinburgh, EH2 3JZ**

Proposal: Short term let use.

**Item – Committee Decision
Application Number – 23/04194/FULSTL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to Development Management Sub-Committee because the application has attracted more than 20 letters of support, and the recommendation is for refusal. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

Recommendation

It is recommended that this application be **Refused** subject to the details below.

Summary

The proposal complies with 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 the appearance of the conservation area.

The change of use of this property to a short-term let (STL) is acceptable in terms of 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 loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) 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 terraced townhouse extending over three floors (with dormers) at 4 Hill Street in the city centre. The submitted drawings show the property will have seven double bedrooms. It has its own main door which accesses Hill Street directly. There is no shared garden or amenity space.

Hill Street is of mixed character, including both offices, residential and other uses. Good public transport links are easily accessible from the site.

The application site is an A listed building (ref: LB 29083, date of listing: 03.03.1966).

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

Description of the Proposal

The application seeks permission to change the residential use to a short term let dwelling. No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since June 2014. The application is therefore retrospective.

The application property obtained planning permission for a change of use to boutique bed and breakfast in December 2005 (05/02758/FUL). This permission was never taken up and the property has been used for residential purposes since that time.

Supporting Information

Planning Statement.

Relevant Site History

05/02758/FUL

4 Hill Street

Edinburgh

EH2 3JZ

Change of use to boutique bed and breakfast premises with owner's flat and new rooflight.

Granted

22 December 2005

Other Relevant Site History

23/04392/FUL

Use of property as a Guest House (Class7) (in retrospect) at 8 Hill Street.
Granted 06.03.2024.

22/01729/FUL

22/01736/FUL

22/01737/FUL

22/01738/FUL

22/01739/FUL

22/01740/FUL

22/01741/FUL

22/01742/FUL

Change of Use from residential to short-term let use at flats 1-8 5, Hill Street.

Granted 09.12.2022.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

HISTORIC ENVIRONMENT SCOTLAND

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

Publicity and Public Engagement

Date of Neighbour Notification: 15 September 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 22 September 2023

Site Notices Date(s): 19 September 2023

Number of Contributors: 26

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 June 2014. This is prior to 5 September 2022, when the Edinburgh short term let 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 commercial short term let 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: Interim Guidance on the principles of listed building consent.
- 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. Historic Environment Scotland (HES) have been consulted on the application and have no comments to make.

Conclusion in relation to the listed building

The proposal harms neither the listed building or its setting. It is therefore acceptable with regard to Sections 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.

There are no external changes proposed. The change of use from residential premises to a short term let use will not have any material impact on the character of the conservation area. The change of use will 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. This is an update of 'Guidance for Businesses' (2023).

Listed Building, Conservation Area, and Edinburgh's World Heritage Site

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. 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 relates to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

Amenity

The applicant has submitted a planning statement which addresses impact on neighbouring amenity. The statement asserts that the surrounding area is mixed use - predominantly commercial with some residential uses. It states that the application property has its own main door, guests have no access to shared amenity areas and there are no known complaints. The statement concludes that the STL use does not contradict LDP Policy Hou 7 or the Council's Guidance for Businesses in relation to STL use.

The application property has its own main door access and there is no garden ground to the front and rear. The overall character of Hill Street is a mix of residential and commercial uses, with a moderate degree of activity and ambient noise levels in the street at all times given its city centre location. There is a block of eight flats at no 5 Hill Street on the opposite side of the street which are authorised short term lets. Consent has also been granted for the use of a property as a guest house at 8, Hill Street (23/04392/FUL). In these circumstances, and despite this being a fairly large (seven-bedroom) property, there would not be a significant impact on neighbouring amenity as a result of the STL use, as similar uses are already granted in the street close to the application property.

The proposal complies with NPF 4 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 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.

The applicant's planning statement includes a brief review of the independent economic assessment commissioned by the Planning Service and reported to Planning Committee in June 2023. The statement asserts that as there has been a very small number of short-term lets approved and less are therefore available, occupancy rates will increase for each STL property and the economic circumstances surrounding the value of short-term lets will change. It continues that although it is recognised that NPF 4 Policy 30 (e) (ii) forms part of the Development Plan, the likely significant loss of STL accommodation across the city over the next 12 months will have such an impact on the economic context that the independent economic assessment should be set aside in the determination of this application.

As explained in the summary of this assessment below, limited weight has to be attached to it in the determination of this application, as the assessment considered generalities more than specifics.

Notwithstanding the applicant's submissions in the planning statement, the current established planning use of the property is for residential accommodation. Consequently, the use of the property as an STL would result in a loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh, particularly in this central, sought-after location, is important to retain, where appropriate.

Further, it is important to recognise that residential occupation of the property 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 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. As such, the proposal does not comply with NPF 4 30(e) part (ii).

Car Parking

There is no off street car parking available within the site. The site is accessible to public transport. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. The proposals comply with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to an STL is acceptable with regard to neighbouring amenity. However, 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 loss of residential accommodation. The proposal complies with NPF 4 policy 30(e) part (i) and LDP policy Hou 7 but does not comply with NPF 4 policy 30(e) (ii).

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.

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.

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.

Public representations

Twenty-six representations have been received. One objection and 25 letters of support.

A summary of the representations is provided below:

non-material considerations -objections

-Not in favour.

material considerations -in support

- Is located in a mixed-use area. Addressed in c) above.
- Has its own entrance door. Addressed in c) above.
- Would not impact on residential amenity. Addressed in c) above.
- Would not impact on housing stock. Addressed in c) above.
- Is in accordance with LDP Policy Hou 7. Addressed in c) above.
- Complies with Guidance for Businesses (2023). Addressed in c) above.
- Complies with NPF 4 Policy 30 (e). Addressed in c) above.

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 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 the appearance of the conservation area.

The change of use of this property to an STL is acceptable in terms of 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 loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) 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 4 Policy 30(e) (ii) in respect of Loss of Residential Accommodation, as 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: 6 September 2023

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
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Appendix 1

Summary of Consultation Responses

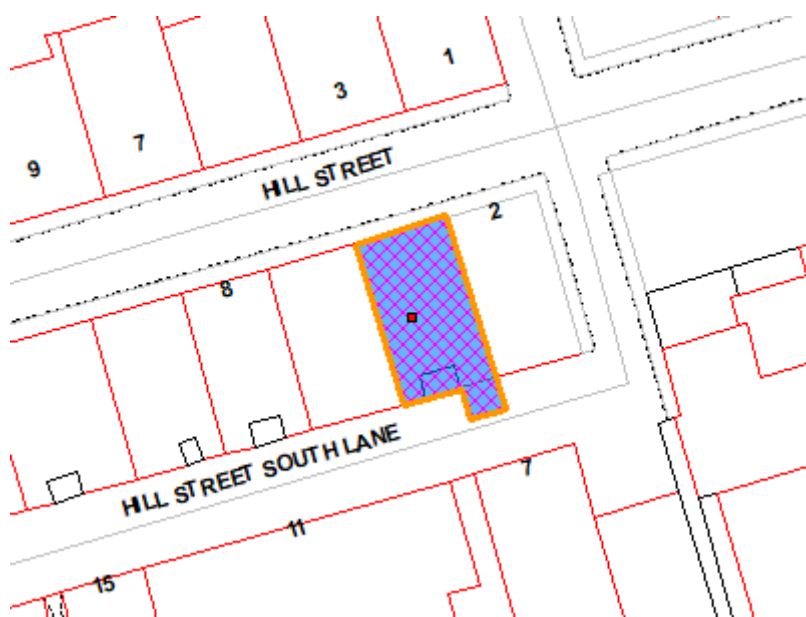
NAME: HISTORIC ENVIRONMENT SCOTLAND

COMMENT: No comments

DATE: 11 October 2023

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

Location Plan



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