

Development Management Sub-Committee Report

Wednesday 2 October 2024

**Application for Planning Permission
15 - 23 Hardwell Close, Edinburgh, EH8 9RX.**

Proposal: Change of use from garages and offices to guesthouse.

**Item – Committee Decision
Application Number – 24/02856/FUL
Ward – B15 - Southside/Newington**

Reasons for Referral to Committee

This application has been referred to the Development Management Sub-Committee because thirty-four letters of support to the proposals have been received 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 is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. It is compatible with and has special regard to the desirability of preserving the special character and appearance of the conservation area. However, the proposal is unacceptable, as it is contrary to LDP Policy Hou 7 due to the impact that the development would have on residential amenity. The proposal would have a materially detrimental impact on residential amenity by virtue of noise and disturbance from guests. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a two storey office building accessed via Hardwell Close, which runs east to west and is accessed from the Pleasance to the east and Howden Street to the west. Tenements are located to the east, south and west of the site, resulting in the property having a relatively enclosed character.

The site is located within the South Side Conservation Area.

Description of the Proposal

The application proposes the change of use from offices to a guesthouse. The proposals include eighteen guest bedrooms in total, with a range of single and double bed options, spread across two floors of accommodation. The application also proposes a shared resident's lounge, an internal space to accommodate smokers and an employee's office.

External changes to the property include the removal of an existing garage door which will be infilled and replaced by a new window opening. The existing entrance will be removed and replaced with a new front door and window opening. The application proposes further new window openings on the north, south and east elevations of the property, which will contain fire resistant opaque glass.

Relevant Site History

98/02771/CLU

15-23 Hardwell Close

Edinburgh

EH8 9RX

Application for a certificate of lawfulness for a proposed use or development in terms of planning permission A01512 91

Granted

18 November 1998

23/02584/FUL

15 - 23 Hardwell Close

Edinburgh

EH8 9RX

Change of use from offices to hostel.

Refused

23 October 2023

Other Relevant Site History

No other relevant planning history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Transport Authority.

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

Publicity and Public Engagement

Date of Neighbour Notification: 25 June 2024

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 28 June 2024

Site Notices Date(s): 25 June 2024

Number of Contributors: 46

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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 character or appearance of the conservation area?

The following HES guidance is relevant in the determination of this application:

- Managing Change: Conservation Areas.

The proposed works are considered acceptable in their form and design. By virtue of their size, location and suitable materials, the works would not have a detrimental impact on the character and appearance of the conservation area.

Conclusion in relation to the conservation area

The proposals will preserve the character and appearance of the conservation area. It is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material considerations that outweigh this conclusion.

b) 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:

- NPF 4 Policy 1.
- NPF 4 Policy 7.
- NPF 4 Policy 30.
- LDP Design Policy Des 1.
- LDP Housing Policy Hou 7.
- LDP Employment Policy Emp 10.
- LDP Transport Policies Tra 2 and 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering NPF 4 Policy 7.

Global Climate and Nature Crises

Policy 1 of the NPF4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions.

The proposal will have a neutral impact in terms of NPF4 Policy 1.

Conservation Area

Considerations relating to the proposal's impact on the conservation area have been addressed in the section above.

The proposal complies with NPF 4 Policy 7.

Principle of use

The application site is located within the designated city centre area. LDP Policy Emp 10 supports Class 7 proposals within the city centre area, where there is good access to public transport links. This application is compliant with LDP Policy Emp 10.

When considering NPF 4 Policy 30, the application does not propose private parking, encouraging the use of public and active travel options, already in place. The development would provide access and accommodation for disabled guests. The principle of the use is compliant with NPF 4 Policy 30, providing it does not negatively impact the residential amenity of the surrounding properties, which will be addressed below.

Scale, Form and Design

The application proposes several external alterations to the building, with many changes required to meet safety standards associated with the proposed use, including fire resistant opaque glass. The removal of the existing garage and main entrance door, to be replaced by windows and a door would not negatively impact the building and are acceptable. All proposed changes to the external appearance of the building are commensurate with its existing architectural character and would not have a negative impact on the Conservation Area.

The proposal complies with LDP Policy Des 1.

Residential Amenity

An application for a change of use to a hostel at the property was refused permission in 2023 (Planning reference: 23/02584/FUL). It is noted that this application has amended several aspects of the previous application.

The building is accessible primarily through Hardwell close, with the majority of surrounding buildings being residential, flatted tenement buildings. The rear elevations of these tenements, particularly those to the west, are in close proximity to the application site. It is noted that the current use of the building is for offices, likely to be in use during the day and vacant in the evening.

The applicant has proposed a number of changes to ameliorate concerns that were raised in the assessment of the previous application. These include reducing the total number of rooms, ensuring the premises are manned 24 hours a day and the introduction of an internal communal area.

Whilst these changes may reduce the impact of the proposal on residential amenity, there is little effective control that could be imposed by the Council, as planning authority, to enforce any mitigating measures; guests could still cause noise and disturbance outside the premises, despite the provision of the internal communal area and there is no practical way in which a grant of planning permission could require a continual on-site management presence.

In these circumstances, it is considered that the change of use from offices to a guest house would result in higher levels of use than at present, particularly later in the evening as the premises would be operational 24 hours a day. It is anticipated that guests would access the property far more frequently than office users, and whilst the wider area is busy, with high ambient noise levels, the immediate vicinity is relatively quiet, with the tenements forming a buffer to the busier streets, such as the Pleasance. This would result in the rear of the tenements, where residents may have their bedrooms to avoid road noise, being subjected to high levels of noise disturbance late in the evening.

Despite the proposed measures to control noise and disturbance, the potential for nuisance caused by the use would have the potential to have a materially detrimental effect on the living conditions of nearby residents.

This application does not comply with LDP Policy Hou 7.

Transportation

There are no changes to the existing car parking arrangements and the site is accessible by public transport. Transport Planning was consulted and concluded that the proposal would not adversely affect road safety, subject to informatives that would include the provision of cycle parking space.

The proposal complies with LDP Policies Tra 2 and 3.

Conclusion in relation to the Development Plan

The proposed development fails to comply with the local development plan as it does not comply with LDP Policy Hou 7 due to the proposals potential impact on residential amenity.

c) 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.

On 10 September 2024 Scottish Ministers issued a Direction under section 20(5) of the Town and Country Planning Scotland Act 1997 that City of Edinburgh Council consider modifying the proposed City of Edinburgh Local Development Plan 2, City Plan 2030 as detailed within the annex to the direction. The required modifications are being reviewed and will be considered at a further meeting of the Planning Committee and then further Full Council.

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

46 representations have been received with 34 supporting and 10 objecting to the application. There were also two neutral comments. A summary of the representations is provided below:

Supporting Comments

material considerations - addressed in section b).

- Project will enhance the surrounding area.
- Proposals will make good use of the building.
- The change of use will reduce noise in the area.
- The application will benefit the local economy and businesses.
- The application will visually improve the building.
- The proposal may increase safety on the street.

non-material considerations - addressed in section b).

- The proposal is preferable as opposed to other potential uses for the site.
- The change of use will reduce littering and graffiti on the street.

Objecting Comments

material considerations

- Insufficient space to allow operation as a guesthouse.
- No difference from the previously refused application.
- Proposals will negatively impact the nearby residential properties.

non-material considerations

- Smoking area and shared lounge is too small.

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 is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. It is compatible with and has special regard to the desirability of preserving the special character and appearance of the conservation area. However, the proposal is unacceptable, as it is contrary to LDP Policy Hou 7 due to the impact that the development would have on residential amenity. The proposal would have a materially detrimental impact on residential amenity by virtue of noise and disturbance from guests. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

Reason for Refusal: -

1. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the change of use to a guest house would have the potential to negatively impact residential amenity.

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 20 June 2024

Drawing Numbers/Scheme

01-06.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Craig Zirmer, Assistant Planning Officer
E-mail: craig.zirmer@edinburgh.gov.uk

Summary of Consultation Responses

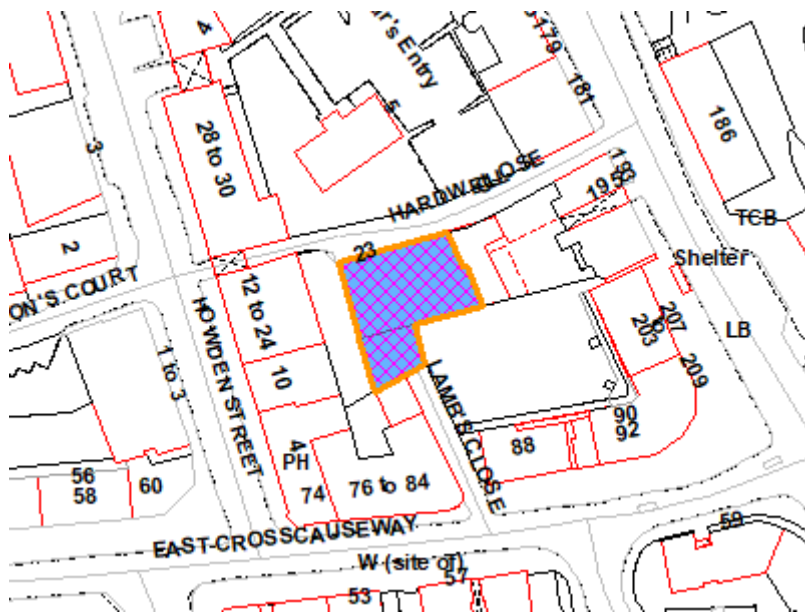
NAME: Transport Authority.

COMMENT: No objections subject to informatives.

DATE: 26 June 2024

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

Location Plan



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