

Full Planning Application 08/00749/FUL
at
3 Windsor Street
Edinburgh
EH7 5LA

**Development Management Sub-Committee
of the Planning Committee**

14 May 2008

Supplementary Report

This application was previously considered by Committee on **14 May 2008**.

An addendum is included at the end of Section 3 of this report.

1 Purpose of report

To consider application 08/00749/FUL, submitted by M Smith + F McMiken..
The application is for: **Change of use from dwelling to guest house**

It is recommended that this application be **GRANTED** subject to the conditions below.

2 The Site and the Proposal

Site description

The application site comprises the ground floor and basement level within a four bay fronted, three storeys with basement, town house. The properties above are residential. The property is set at the end of a terrace of such

properties that comprises the eastern side of Leopold Place and its corner with Windsor Street. The street as a whole is comprised of a mix of residential properties, guest houses, a hotel and some office accommodation.

The eastern side of the street is predominantly residential in character. There are two properties in authorised hotel use at Nos 9, an annex to the Cairn Hotel opposite, and 17, the Dukes Hotel.

The application property and No 23 are already in use as guest house accommodation, both owned and operated by the applicant, without the necessary planning permission. A planning application has also been submitted, in retrospect, for the use of the property at No 23.

The frontage to Leopold Place (part of London Road (B1350)) is also predominantly in residential use; there is a hotel use at No 20, the Richmond House Hotel.

W H Playfair, designed 1820-1825. Category A listed building comprising 12-21 (inclusive Nos) Leopold Place and 1-3A (odd Nos) Windsor Street; Part of the Calton A-Group. The block forms part of Playfair's Eastern New Town (or Calton) scheme, and as such is an important example of the work of one of Scotland's leading early 19th century architects.

Near-symmetrical classical range with 6-bay elevation to Windsor Street; 3-storey and basement (with attic storey to Windsor Street).

Listed on 16 December 1965; Ref: 29258.

This property is located within the New Town Conservation Area.

Site History

08 January 2008 - Enforcement investigation instigated regarding the unauthorised operation of the property as a guest house. Case closed following submission of this application (Ref 08/00016/ECOU).

Relevant Neighbouring Site History

No 23

08 January 2008 - Enforcement investigation instigated regarding the unauthorised operation of the property as a guest house. Pending consideration awaiting the decision of the planning application (Ref 08/00015/ECOU).

24 December 2007 - Planning permission submitted, in retrospect, for the material change of use from a dwelling to form a guest house use. The application is for determination elsewhere on this agenda (Ref 07/05309/FUL).

Nos 20-24

31 July 2007 - Planning application for the conversion of offices to form an extension of the adjoining hotel with internal alterations was withdrawn by the applicant prior to determination (Ref 07/02365/FUL).

02 February 2006 - Planning permission was refused for a change of use from office to a bed and breakfast hotel on the grounds of its location within a predominantly residential area and its detriment to residential amenity (Ref 05/03145/FUL).

18 April 1995 - Planning application for the conversion of offices to form a hotel was withdrawn by the applicant prior to determination (Ref 94/02730/FUL).

Description of the Proposal

The application is made in retrospect for a material change of use of a residential dwelling to form a guest house. The proposal identifies no alterations to the existing property either to the existing room sizes and layout or to the exterior of the property.

It would appear that the premises are presently being used as a guest house by the applicant, and have been since the start of 2007, providing accommodation in association with another property at No 23 Windsor Street; under the trading name of the Lantern Guest House.

The accommodation comprises six bedrooms over two floors, four with en-suite facilities, together with a kitchen, bathroom and a living room.

Supporting Statement - This is available to view on the Planning and Building Standards Portal.

3 Officer's Assessment and Recommendations

Determining Issues

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of permission.

Do the proposals preserve the building or its setting or any features of special architectural or historic interest which it possesses? If not, there is a presumption against the granting of permission. For the purposes of this issue, "preserve", in relation to the building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

ASSESSMENT

To address these determining issues, the Committee needs to consider whether:

- a) The principle of guest house use is acceptable in this location;
- b) The proposals preserve or enhance the character and appearance of the conservation area;
- c) There are any implications for road safety; and
- d) There will be any loss of residential amenity as a result of the proposals.

a) Policy H6 of the Central Edinburgh Local Plan does not allow proposals which would result in the loss of residential accommodation either through change of use or redevelopment. Policy Hou 6 of the finalised Edinburgh City Local Plan seeks to prevent the loss of residential accommodation unless it can be demonstrated that either; the property provides a poor living environment which could not readily be improved, or the proposal is for a use that will benefit the local community without loss of amenity for neighbouring residents.

Although policy H6 would appear to prevent any change of use, that would result in the loss of a residential dwelling, the fact that the adopted local plan includes policy L8, which allows changes of use from residential to hotel or guest house use, in specific circumstances, indicates that there is an acceptable exception to that provision.

Policy Hou 6 more clearly identifies those exceptions. Accordingly, subject to compliance with policies L8 and Emp 5, below, then the proposal would also be acceptable in terms of policies H6 and Hou 6.

The site is located within Windsor Street, close to its junction with Leopold Place. Leopold Place is defined as a principal tourist traffic route in the Central Edinburgh Local Plan. Policy L8 seeks to permit a change of use from a dwelling house to a hotel or guest house only where the dwelling house fronts onto a defined route or a street immediately adjacent to such a route

provided that commercial uses would not exceed 20%. The Council's non-statutory guidance also states that on such a street the property should be no further than a distance of 100 metres from the junction of such a route so that the property is reasonably visible from it and the principal traffic route has some effect on existing residential amenity.

Policy Emp 5 of the finalised Edinburgh City Local Plan replicates these restrictions.

Representations have identified that the proposal is contrary to policy provisions and draw attention to a recent refusal of planning permission on 31 July 2007 (Ref 07/02365/FUL) for properties at Nos 20-24 Windsor Street. In that instance the policy provisions centred on policy L7 of the Central Edinburgh Local Plan, Hotel Developments. As the property was in use as offices the acceptability of the change of use centred on the prevailing character of the immediate area. In that instance the whole of Windsor Street was taken as the immediate area and the refusal was based on a conflict with the existing residential character of the area.

The policy position in this instance is different and the area that is required to be assessed in terms of the policy and the guidance is the eastern side of Windsor Street only.

Here there are sixteen properties in the terrace framed by the junctions with Leopold Place to the south and Montgomery Street to the north. Of those properties two (Nos 9 and 17) have consent for commercial use; 12.5%. If this application and that at No 23 Windsor Street (under the same ownership and control as this property) were permitted that would alter to four commercial premises; 25%. As an adjoining street to the principal tourist traffic route the policy limit is 20%.

Accordingly, both would be contrary to policy but one, 19%, would be acceptable subject to other provisions.

No 3 is located at the junction with Leopold Street, whereas No 23 is located further along, closer to Montgomery Street. When measured at its closest distance from Leopold Place No 23 is approximately 100 metres from a line across the opposing facades of Leopold Place either side of its junction with Windsor Street. The amenity of the northern part of Windsor Street, given the angle of the junction and this distance, is not impacted by the traffic on Leopold Place. Accordingly, No 23 does not comply with the criteria of the policy.

The applicant has written stating that if only one of the application properties were to be approved he would prefer No 23 and that as a result he would cease trading from No 3. He has stated a number of operational reasons for this request; however, none of those reasons are material to an assessment of the policy considerations. These matters are more fully assessed as part of the report for the application at No 23.

The non-statutory guidelines states that the use of a flat as a guest house will not normally be permitted. However, in this case, the property has its own entrance and there would be no loss of amenity through shared entrances.

As a result, the proposal at No 3 on its own is acceptable in terms of the Council's policy and guidelines subject to compliance with other material provisions.

b) New Town Conservation Area Character Statement

A planned urban concept of European significance, the New Town has an overriding character of Georgian formality. The First New Town, built to James Craig's 1767 plan, has experienced significant redevelopment, while the Second, Third and Fourth New Towns, which were laid out on estates to the north, east and west retain most of their original buildings. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area therefore lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves. Many of the New Town's buildings are listed category 'A' of national importance and the area contains some of the city's finest interiors.

The proposal does not include any proposed alterations to the interior or exterior of the building. Accordingly, there is no impact on the building as a listed building in this instance.

Equally, given that the principle of the use is acceptable there would be no detrimental impact on the character of the conservation area.

c) Transport has no objection in terms of the implications for road safety to the proposed use.

d) The principle of hotel or guest house use located within a residential area is accepted in the provisions of policies L8 and Emp 5. Issues of noise, disturbance and unruly behaviour committed by the patrons of an individual property are a matter for control under other legislation. The specific management of particular premises is not an issue for the Council, as the Planning Authority.

Accordingly, although the neighbouring residents have identified concerns resulting from the existing, but unauthorised, use of the premises these are more appropriately related to the management of the premises by the applicant. The planning process seeks to ensure that different uses are acceptable in close proximity to one another and does not, ordinarily, seek to control the management of the premises other than in general terms (opening hours, etc.).

Environmental Health has raised no objections to the proposal and has also advised that there have been no complaints concerning the operation of the premises made to them since the beginning of 2007.

In conclusion, the proposal is in accordance with the Development Plan, it preserves the character and appearance of the conservation area and it will not have any adverse implications for road safety or residential amenity.

Addendum

This application was continued by the Committee on 14 May 2008. The Committee was minded to refuse planning permission on the grounds that the non-statutory guidance states that changes of use will only be permitted when the size and style of the property is such that it is no longer appropriate for occupation by a single family and is incapable of sub-division at reasonable costs. This is not the case here.

The suggested reason for refusal is:

"The proposal is contrary to Central Edinburgh Local Plan Policy H6, in respect of Housing Retention, and to the finalised Edinburgh City Local Plan Policy Hou 6 in respect of Loss of Housing as the loss of the residential dwelling is contrary to the Council's stated aims of preserving and enhancing the existing housing stock within the city. The application provides no acceptable case for the loss of the dwelling for a beneficial purpose, a property that is in a good state of repair and capable of residential occupation."

Alan Henderson

Alan Henderson
Head of Planning and Strategy

Contact/tel	John Maciver on 0131 529 3918
Ward affected	A12 - Leith Walk (NEW)
Local Plan	Central Edinburgh Local Plan
Statutory Development Plan Provision	Housing And Compatible Uses
Date registered	28 February 2008
Drawing numbers/ Scheme	01-02 Scheme 1

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Control Portal : www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Graham Dixon on 0131 529 3519. Email: graham.dixon@edinburgh.gov.uk.

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail gavin.king@edinburgh.gov.uk or carol.richardson@edinburgh.gov.uk

Application Type Full Planning Application
Application Address: 3 Windsor Street
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Proposal: Change of use from dwelling to guest house
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Consultations, Representations and Planning Policy

Consultations

Services for Communities (Environmental Assessment)

Advise that as there are no hot food operations on site there is no requirement for food odour ventilation and extraction at the premises.

Also there have been no complaints received regarding the operation of these premises since January 2007.

Transport

No objections.

Representations

The application was advertised as development within a conservation area and as a potential departure to the adopted development plan on 7 March 2008 and attracted seven letters of representation. All seven letters, from Councillor Blacklock, Leith Central Community Council, the Cockburn Association, the Gayfield Association and three neighbours are objections.

The material points of objection/concern are:

- a. Issues of principle, taken account of in assessment (a):
 - The use is contrary to the local plan.

- b. Conservation and Design issues, taken account of in assessment (b):
 - out of character with the conservation area.

c. Transport issues, taken account of in assessment (c):
- parking problems and road safety.

d. Residential amenity issues, taken account of in assessment (d):
- noise and disturbance.

Other points raised are not material.

Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.

Planning Policy

Central Edinburgh Local Plan - The site is within an area allocated for Housing and Compatible Uses and the New Town Conservation Area.

Finalised Edinburgh City Local Plan - Urban Area and conservation area.

Relevant Policies:

Relevant policies of the Central Edinburgh Local Plan.

Policy CD2 (LISTED BUILDINGS) sets out criteria for assessing proposals affecting listed buildings and seeks to safeguard their character and setting.

Policy CD4 (CONSERVATION AREAS) requires that developments in a conservation area retain all features which contribute to the area's character and appearance.

Policy H6 (HOUSING RETENTION) establishes a presumption against proposals for change of use or redevelopment which would result in a loss of residential accommodation.

Policy H11 (HOUSING AMENITY) establishes a presumption against new development and changes of use likely to introduce increased levels of traffic or activity to the detriment of residential amenity or to the reasonable prospects of further residential development where this is an objective of the Local Plan.

Policy L8 (HOTEL AND GUEST HOUSES) sets out criteria for assessing proposals for the change of use of a dwelling house to a hotel or guest house.

Policy T15 (PRIVATE CAR PARKING) requires all new development to comply with car parking standards set out in the Development Control Handbook, including provision for people with disabilities, and requires car parking to be designed to minimise visual intrusion.

Relevant policies of the Finalised Edinburgh City Local Plan.

Policy Env 2 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

Policy Env 5 (Conservation Areas – Development) sets out criteria for assessing development in conservation areas.

Policy Hou 6 (Loss of Housing) identifies the circumstances in which the change of use of an existing dwelling to another use will be permitted.

Policy Hou 8 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Policy Emp 5 (Hotel Development) sets criteria for assessing sites for hotel development.

Policy Tra 3 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in supplementary planning guidance, and sets criteria for assessing lower provision.

Relevant Non-Statutory Guidelines

Non-statutory guidelines on 'GUEST HOUSES' provides guidance which supplements local plan policies on the location of guest houses.

Other Relevant policy guidance

The New Town Conservation 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.

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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **GRANTED** subject to the conditions below.

Conditions

Reasons

End

