

Development Management Sub-Committee Report

Wednesday 15 June 2022

**Application for Planning Permission
78 Spring Gardens, Edinburgh, EH8 8HX**

Proposal: Change of Use (retrospective) from residential to short-term let.

**Item – Committee Decision
Application Number – 22/00884/FUL
Ward – B14 - Craigentenny/Duddingston**

Reasons for Referral to Committee

Given the significance of the issue of short -term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

Recommendation

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

Summary

The proposal is in accordance with the development plan in terms of use and residential amenity. There are no material considerations which indicate that the proposals should be refused. Therefore, the proposal is acceptable.

SECTION A – Application Background

Site Description

The application property is a main door ground floor flat on Spring Gardens which is a 10 minute walk from Abbeyhill. It has two bedrooms and no direct access to any communal or private garden ground. The property is at the western end of a three storey block.

The street is predominantly residential and the surrounding area is mainly residential. London Road is 300 metres away and is a key thoroughfare on a bus route served by a frequent service.

Description of the Proposal

The application seeks planning permission for a change of use from residential to a short term let apartment. It is a retrospective application because the short term let use has been operating since 2014.

Supporting Information

Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 2 March 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 3

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- 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 comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Housing Policy Hou 7
- LDP Transport Policies Tra 2, Tra 3.

The non-statutory Guidance for Business is a material consideration that is relevant when considering policy Hou 7.

Principle of Development

The main policy that is applicable to the assessment of short-stay lets (STLs) is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted. There are no policies relating specifically to the loss of housing stock or the control of short stay lets in the current LDP.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to short stay lets 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.

In connection to short stay lets it states - "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

There has been a number of appeal decisions which have helped to assess whether short stay letting is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;

- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

In this case the property has its own front entrance access and no direct access to garden/communal ground. Although the property is in a predominantly residential area, it is approximately 300 metres from a main thoroughfare and an area of mixed uses including commercial and retail uses. Consequently there is already a degree of activity nearby. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.

This is a two bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.

Neighbouring Amenity

Policy Hou 7 (Inappropriate Uses in Residential Areas) states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

This has been considered above under heading Principle of Development and it was concluded that there would be no adverse impact on residents.

Anti-social behaviour such as noise disturbance or behaviour which would make the community more unsafe can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

Transport and Parking

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

The property has its own dedicated parking space in the private courtyard to the rear of the property. This is acceptable. There is no cycle parking at the property but there is no requirement for cycle parking for short term lets.

The proposal complies with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal complies with the development plan. The proposed change of use to short term letting will not adversely impact on residential amenity and the principle of the development is acceptable. There are no transport issues.

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

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP. It will contribute to the economy and will make efficient use of existing infrastructure including supporting the nearby Abbeyhill shopping area.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

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 summary of the representations is provided below:

material considerations - objections

- loss of residential stock. Addressed in a) above:.
- residential amenity. Addressed in a) above.
- make neighbourhoods unsafe. Addressed in a) above.

non-material considerations- comments

- destroy neighbourhoods. This is not a material consideration for this planning application.
- leave permanent residents without a community. This is not a material consideration for this planning application.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is in accordance with the development plan in terms of use and residential amenity. There are no material considerations which indicate that the proposals should be refused. Therefore, the proposal is acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Informatives

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

Background Reading/External References

To view details of the application go to the Planning Portal

Further Information - [Local Development Plan](#)

Date Registered: 23 February 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

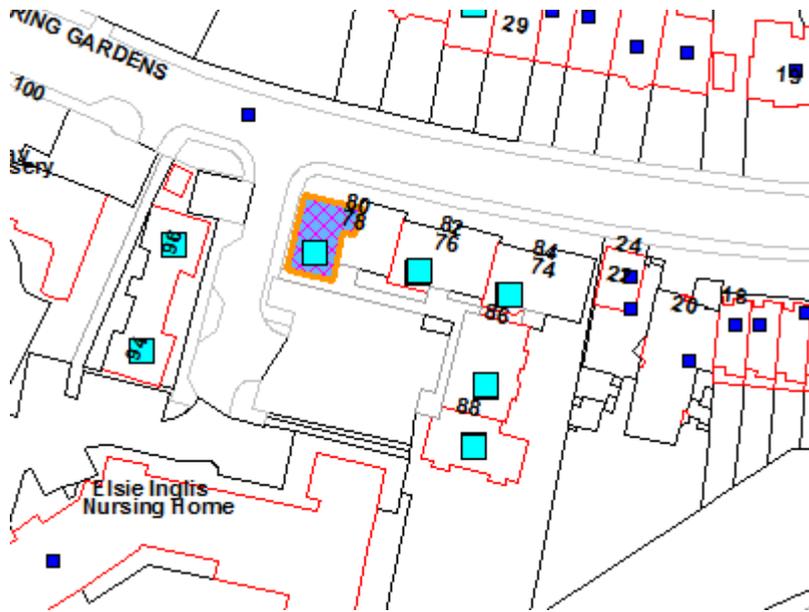
Contact: Lesley Porteous, Planning Officer
E-mail:lesley.porteous@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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