

Mr Andrew French.
Flat 1
1 Dicksonfield
Edinburgh
EH7 5ND

Decision date: 12 October 2022

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013

Change of use from residential to short term let, (in retrospect).
At Flat 1 1 Dicksonfield Edinburgh EH7 5ND

Application No: 22/02925/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 1 July 2022, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01,02,03, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Lesley Porteous directly at lesley.porteous@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Report of Handling

Application for Planning Permission Flat 1, 1 Dicksonfield, Edinburgh

Proposal: Change of use from residential to short term let, (in retrospect).

**Item – Local Delegated Decision
Application Number – 22/02925/FUL
Ward – B12 - Leith Walk**

Recommendation

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

Summary

The proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a two bedroom flat on the first floor, above a retail unit at 1 Dicksonfield, Leith. The property shares its access to Dicksonfield via a communal stair.

Dicksonfield is a contemporary development of four storey apartment blocks arranged around a central courtyard. Dicksonfield is entirely residential. This property is on the western edge of the development and fronts Leith Walk where there is a high concentration of shops, cafes, restaurants and hospitality venues. Public transport links are accessible from the site.

Description Of The Proposal

The application is for a change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the

property has been used as a short term but does not say when this started. Therefore, the application is retrospective.

Supporting Information

Supporting statement.
Photographs.

Relevant Site History

No relevant site history.

Other Relevant Site History

There is no relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 12 October 2022

Date of Advertisement: 15 July 2022

Date of Site Notice: 15 July 2022

Number of Contributors: 2

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 and Tra 3.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering policies Tra 2 and Tra 3.

Proposed Use and Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets 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.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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.

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 SVCA properties, the economic benefits are a material planning consideration.

The two-bedroom property is on the first floor above a retail unit fronting Leith Walk. The main access door is to the rear of the block. There is another flat (Flat 2) which shares this entrance and the communal stair.

The property is part of a 73-unit development. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat and in the residential area to the rear at unsociable hours. The proposed two bedroom short stay use would enable four or more visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect and may have a detrimental impact on the sense of community.

The location of the flat, being on the edge of a residential development, surrounded by a high number of residential units to the east, creates a situation where such a use could bring additional noise and disturbance immediately outside the flat in the residential area to the rear.

Anti-social behaviour can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

Parking Standards

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.

Each property in Dicksonfield has access to a car parking space but they are unallocated. The site is highly accessible by public transport and will be highly accessible by the new tram route between the city centre and Leith once completed. There is no cycle parking standards for SCVAs. 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 proposal does not comply with LDP policy Hou 7 as the change of use of this property to a short term visitor let would materially harm neighbouring amenity.

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 does not comply with Paragraph 29 of SPP. It would not protect the amenity of existing development nor contribute to a sustainable community and, therefore, will not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet 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

- Negative impact on residential amenity. Addressed in a) above.
- Does not comply with policy Hou 7. Addressed in a) above.
- Not supportive of SPP (Sustainable Planning Policy). Addressed in b) above.
- Negative impact on community. Addressed in a) above.
- Negative economic impact on local area. Addressed in a) above.
- Leads to overcrowding. Addressed in a) above.
- Encourages waste and litter. The applicant should have an agreed waste policy with CEC's Waste Services.

non-material considerations

- Drives up rent prices and general housing values. This is a commercial consideration not covered by planning policy.
- Encourages anti-social behaviour. Addressed in a) above.
- Negative impact on mental health of existing residents. This is not a material planning consideration but a public health issue,
- Attitude of short term let customers is negative towards other residents. This is not a material planning consideration.
- Negative impact on insurances. This is not a material planning consideration.
- Negative impact on traditional tourist accommodation. Each application has to be assessed on its merits.

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 does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute

towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 1 July 2022

Drawing Numbers/Scheme

01,02,03

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

Consultations

No consultations undertaken.

Comments for Planning Application 22/02925/FUL

Application Summary

Application Number: 22/02925/FUL

Address: Flat 1 1 Dicksonfield Edinburgh EH7 5ND

Proposal: Change of use from residential to short term let, (in retrospect).

Case Officer: Lesley Porteous

Customer Details

Name: Ms Katherine Chisholm

Address: 16 Carlyle Place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:

Tenement type properties on all floors are unsuitable for commercial short-term letting due to the high level of disturbance brought and the impact on the safety and security of neighbouring families. This is supported by scores of planning DPEA decisions and the testimony of neighbours.

The unsuitability of flats for short-term letting incentivises main door properties for this use. This will have an impact on the availability of accessible homes if they are not protected. All main door or Colony/Mews type properties should not be used for short-term letting for all the reasons contained within.

Edinburgh is recognised as a city of high housing costs, so affordable homes need extra protection to support our businesses and services by ensuring that lower paid workers can afford to live in the city.

Negative impacts

Economic costs - The Economic Policy Institute finds that the economic costs imposed by short-term letting likely outweigh the benefits. Property owners may benefit but the beneficiaries are disproportionately high-wealth individuals who can own more than one property. Claimed increases in economic activity are often vastly overstated because the spending would have occurred anyway by travellers staying in other accommodations. The Economic Policy Institute finds that there is little evidence that cities with an increasing supply of short-term Airbnb rental accommodations are seeing a large increase in travellers. Instead, accommodations supplied via Airbnb seem to be a nearly pure substitution for other forms of accommodation. Furthermore, the

shift from traditional hotels to Airbnb lodging leads to less-reliable tax payments to cities[1]. Scottish Government figures report that there has been no significant increase in income from tourism since 2011. In fact, 2018 had the second lowest total tourist spend since 2011.[2]

Privacy - Residents of flats or properties with shared gardens are forced to share communal but still private areas of their homes with fee-paying strangers who they have never met before and are unlikely to meet again. This had been found unacceptable in planning and civil law. Colony type housing is particularly subject to horrific impacts of private gardens being directly outside lower doors bedrooms/sittingrooms. This is not acceptable.

Security - The security of communal spaces and gardens/outdoor area is completely lost. Neighbours cannot tell who is supposed to be in the property and who is not, or who has keys to shared areas. The insecurity of a shared building is advertised by key safes which are installed without permission from neighbours or listed building consent. Anecdotally there is evidence that short-term let customers are more likely to leave shared entrance doors open, which has resulted in residents coming home to unknown people using drugs, and engaging in other antisocial or threatening activities in their mutual shared areas.

Anti-social behaviour - Neighbours of short-term lets are almost guaranteed to experience anti-social behaviour from customers. Alcohol is a regular contributing factor which makes these situations particularly unpredictable and intimidating to deal with. Have first hand issues relating to waste disposal, parking issues, noise, people returning late at night or arriving early in the morning, customers ringing the wrong doorbells or trying to enter the wrong doors, banging on doors, setting off fire alarms, barking dogs when animals are not allowed, friends of "guests" attending the property, parties, over-occupation, verbal abuse, damage to property, intoxication, intrusion into private space, drinking and smoking in communal spaces, and tampering with residents' property.

Disturbance and noise - It is well established through planning and civil law that short-term lets bring an increased level of noise and disturbance. The groups occupying the property on a short-term basis are almost always on holiday with the associated holiday mindset seven days a week. Due to there being no personal belongings in short-term let businesses there is nothing to soak up sound resulting in an echo chamber being created where previously there would have been no noise pollution to neighbours, every scrape of a chair and conversation can be heard. Likewise, most properties in Scotland do not have carpeted entrances and hallways as hotels do, so the banging of suitcases at all hours and the excited chatter of customers echoes at entrances and in hallways. There is additional noise and disturbance as groups bring their belongings in and out of properties, including dragging suitcases and banging them off walls and doors, damaging the paintwork. Cleaners and greeters attend to turn over each property between every short-term let, which can mean banging and vacuuming past midnight. Cleaners and laundry companies may leave trip hazards in shared areas such as large laundry bags. Some letting agencies offer "luggage drop off" services where suitcases are then left in common stairs to be retrieved by

customers later.

Mental health impacts - Residents draw huge comfort from a home which has a basic level of familiarity, stability and security. The regular intrusion of transient pleasure-seeking strangers is deeply unsettling. Neighbours of short-term lets regularly describe feeling stress, anxiety and other mental health impacts. This disproportionately impacts on disabled people, people with long term health conditions, people who live alone, children and young people. During the pandemic neighbours of short-term lets found themselves in ghost towns, with no neighbours to rely on or have any connection with. As so many of the short-term let properties use key boxes for picking up the keys that mean that there is no one to complain to for the neighbours. Having key boxes attached to shared buildings also adds to a feeling of a loss of control of a person's home environment. In addition, the uncertainty that a stream of customers that are in charge of utilities, that they may not understand, creates additional risk that is not a risk in hotels or B&Bs. This may impact on a neighbour's mental health.

Attitudes of customers - Although most customers are not ill-intentioned, they simply have their own priorities and expectations about how they can use their "short-term let". They have paid handsomely to occupy the space and understandably wish to use it to maximise their enjoyment. The payment of money to what appears to be a reputable company seems to banish any conscience with regard to the invasion of privacy of any neighbours. They have no awareness of their impact or that of the scores of groups who have preceded and will follow them. Indeed their behaviour is encouraged by the advertisements of profiteering websites and absentee hosts, who beseech them to "live like a local" and "belong anywhere" without any of the responsibilities that brings.

Overcrowding - Short-term rentals often bring more than the advertised number of customers. Groups will also often invite their friends to visit and enjoy their short-term let bringing additional disturbance. Short-term let businesses often advertise for far more customers to stay than would normally reside in a property in relation to its size.

Waste disposal - Recycling is rarely carried out. Communal bins are often used and permanent residents are expected to manage putting out and collecting bins on behalf of the absent owners. Rubbish bags are often left out in communal stairs. Cleaners usually clean inside the short-term let properties but do not usually clean any shared areas. Sometimes, the cleaners drag the refuse bags down the stairs, they rip open, and leave a mess. This leaves the residents to clear up after the customers or live in a poorer quality environment. More waste can be created in short-term lets as they buy food that cannot be eaten in the time of their stay, unlike permanent residents.

Effect of multiple lets - Where multiple lets are operating, the issues are multiplied similarly and the burdens are shouldered by even fewer residents. This effect is most intense during July and August - a time when families most wish to enjoy the peace and privacy of their homes and gardens.

Displacement of community - Our places need to be inhabited to stay habitable. As more and more dwellings are turned into short-term lets, an area loses its community. The burden of reporting issues with antisocial behaviour, disturbance or noise falls to fewer and fewer people who eventually give up and move on. The long term impact is to see no one noticing or addressing the maintenance of the fabric of the building.

Displacement of workers - There is high levels of concern about stifling economic development due to lack of labour caused by housing shortages.

Safety - There is no requirement for any safety checks putting visitors and neighbouring properties at risk.

Insurances - Short-term letting requires specialist insurance which many do not have, especially where title deeds prohibit commercial usage. The voiding of communal insurances has been the matter of a court case in London.

Impact on rents and housing prices - A property which is used solely for short-term letting is no longer part of the housing stock. Dwindling numbers of properties will obviously impact housing availability, house prices and rents. It is suggested by Shelter that this forces people into accommodation that they cannot afford, leading to homelessness and people living in unsuitable housing. For every commercial short-term let that is changed from being a home, another household is displaced to live in hotels and other temporary accommodation, or pushed into poverty. The social and economic impacts of this are likely to cost public services more in the long term. There appears to be a growing pattern of previously long term rented accommodation being changed to student lets for Oct-May and for the remainder of the year being short-term let businesses. This provides owners with short-term letting opportunities over all the holiday periods while making it harder for students to develop long term relationships with their neighbours. Four months of intensive holiday letting over the summer will certainly have unlawful impacts on amenity for close neighbours.

Impact on traditional guest houses, bed and breakfasts and other lawful accommodation providers - There is evidence that traditional accommodation providers are being significantly disadvantaged by the proliferation of unlawful short-term letting businesses. Lawful accommodation providers struggle to compete with unlawful lets who can often offer lower prices by avoiding the costs of compliance.

Reduced spending by tourists - Research commonly finds that visitors staying in properties with self-catering facilities spend a third less than those in hotel-type accommodation, often buying supermarket meals rather than using local cafes and restaurants. We do not believe that tourism should be limited to high-wealth individuals, however, where residential accommodation is being repurposed for holiday lets under the auspices of boosting tourism, a clear knowledge of the true

benefits and costs is essential.

Comments for Planning Application 22/02925/FUL

Application Summary

Application Number: 22/02925/FUL

Address: Flat 1 1 Dicksonfield Edinburgh EH7 5ND

Proposal: Change of use from residential to short term let, (in retrospect).

Case Officer: Lesley Porteous

Customer Details

Name: Mr Matt McGovern

Address: 9/4 Dicksonfield EDINBURGH

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to another short term let being operated in the Dicksonfield development. They generate a high volume of noise which disturbs neighbors in the immediate block and all the blocks around them (such as mine block 9) as groups of guests and cleaners are coming and going at all times of day and night. Short term lets are like hotels, except they don't employ reception staff, so we the local residents have to act as receptionists for free by helping the guests get into the block and dealing with them if they are drunk.