

Mr Richard Baxter.
8 Thornbury Rise
Darlington
DL3 9NG

Decision date: 13 October 2022

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

This is an application for change of use of from a residence to a Short Term Let (STL). It is a retrospective application as the flat has been used as an STL since December 2021.

At 2F1 55 Ashley Terrace Edinburgh EH11 1RX

Application No: 22/02720/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 20 May 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, 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 2F1, 55 Ashley Terrace, Edinburgh

Proposal: This is an application for change of use of from a residence to a Short Term Let (STL). It is a retrospective application as the flat has been used as an STL since December 2021.

**Item – Local Delegated Decision
Application Number – 22/02720/FUL
Ward – B09 - Fountainbridge/Craiglockhart**

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 at 55 Ashley Terrace. The property is on the first floor of a four storey block. The property shares it access to Ashley Terrace via a communal stair.

Ashley Terrace is within a predominantly residential area. The property is very close to the Ashley Terrace local centre as identified in the Local Development Plan 2016 (LDP). Public transport links are available within a five minute walk from the property.

Description Of The Proposal

The application is for a change of use from a flatted dwelling to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used for medium to short-term let since December 2021.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 13 October 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 5

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/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 property is a first floor flat accessed via a communal stairwell and main door on to Ashley Terrace. It is a two bedroom property with a box room.

The property is in a residential street in a residential area formed mainly of tenements with some local shops. 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 street 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.

The location of the flat, being on a main road surrounded by a high number of residential units, creates a situation where such a use could instead bring additional noise and disturbance immediately outside the flat in the residential street with the potential risk of eroding community spirit.

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

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. This property is very close to the local centre of Ashley Terrace as identified in the LDP. These local services are likely to be used no differently by short term let users than permanent residents.

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.

There is no off street car parking available within the site. The site is highly accessible by public transport. 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.
- Short term let users don't use local services. Addressed in a) above.
- Negative impact on parking. Addressed in a) above.
- Erodes the community. Addressed in a) above.
- Not in accordance with policy Hou 7. Addressed in a) above.
- Against SPP 'social sustainable places'. Addressed in b) above.

non-material considerations

- Against Scottish Government Housing Policy. The application must be assessed against the relevant policies of the Strategic and Local Development Plans. This is not included.
- Encourages anti-social behaviour. Anti-social behaviour is dealt with by Police Scotland.
- Will have a negative impact on general housing supply. This is not a material consideration under the current LDP. 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.

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: 20 May 2022

Drawing Numbers/Scheme

01,02

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 22/02720/FUL

Application Summary

Application Number: 22/02720/FUL

Address: 2F1 55 Ashley Terrace Edinburgh EH11 1RX

Proposal: This is an application for change of use of from a residence to a Short Term Let (STL). It is a retrospective application as the flat has been used as an STL since December 2021.

Case Officer: Lesley Porteous

Customer Details

Name: Mr Robert Brown

Address: FLAT 5 55 ASHLEY TERRACE Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Until December this was a purely residential stair. 4 of the properties were owner occupied and 2 (including the property in the application) long term lets of more than 5 years. I have the flat above the property in the application and since December have noted :

The renters make no effort to keep noise down in the flat or stair, slamming all the doors both day and night.

Some of the renters leave their rubbish bags in the stair.

Some of the renters are very noisy in the flat in the early hours of the morning.

There is the smell of cigarette smoke in the stair - which was not there before.

On several occasions the cleaners have left a trail of liquid waste in the stair and common passages which were never cleaned up.

Holiday rentals like this take away property which should be used for local people. They also contribute nothing to local businesses as most seem to go into the city centre.

They tend to come by car which adds to the pressure on limited local parking.

Holiday renters are out socialising most evenings, where as long term renters only do this occasionally.

Comments for Planning Application 22/02720/FUL

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Case Officer: Lesley Porteous

Customer Details

Name: Mrs Anna Centola

Address: 55 Ashley Terrace Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the application for planning on the following grounds.

Noisy tenants, smoking on the landing and outside, Cleaners should clean the entrance and stairs.

Comments for Planning Application 22/02720/FUL

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Proposal: This is an application for change of use of from a residence to a Short Term Let (STL). It is a retrospective application as the flat has been used as an STL since December 2021.

Case Officer: Lesley Porteous

Customer Details

Name: Mr Derek Christie

Address: 55/1 Ashley Terrace Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I feel that this tenement area is not a holiday home accommodation. There are tenants living here who rise before 5am to go to their work; and noise at night from this flat, upsets them. Not always, but several times front door is banged closed at night time.

Comments for Planning Application 22/02720/FUL

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Proposal: This is an application for change of use of from a residence to a Short Term Let (STL). It is a retrospective application as the flat has been used as an STL since December 2021.

Case Officer: Lesley Porteous

Customer Details

Name: Lord Cockburn Association

Address: 1 Trunks Close, 55 High Street, Edinburgh EH1 1SR

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: It is our view that in this residential shared access context the proposed change of use is not in accordance with Policy Housing 7 'Inappropriate Uses in Residential Areas' as it would have a materially detrimental effect on the living conditions of other residents sharing common external spaces and access areas, and so should not be permitted.

In addition, the proposed change of use is not supportive of either Scottish Government Housing policy on More homes - "everyone has a quality home that they can afford and that meets their needs" or Scottish Planning Policy on "socially sustainable places" and "supporting delivery of accessible housing".

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Case Officer: Lesley Porteous

Customer Details

Name: Dr Philip Carter

Address: 10 Ashley Terrace Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We wish to object to planning permission for change of use of 2F1 55 Ashley Terrace to a Short Term Let.

The City of Edinburgh Council recently set out a response to the Scottish Government entitled 'The City of Edinburgh Council's response to the Scottish Government consultation on short term lets'.

In this document it set out a wide range of concerns relating to short term lets in Edinburgh. We share these concerns, which include the "erosion of sense of community in areas with dense concentrations of short term let's" and that "regular use of any tenement flat as a short term let is inconsistent with tenement living and often leads to anti-social behaviour and undue nuisance to other residents". We are aware of the noise and anti-social behaviour problems other areas of Edinburgh suffer as a result of having a high concentration of short term lets, and the negative impact the high turnover of tenants has on social bonds between neighbours and on community responsibility. We would not wish Shandon to suffer the same problems other Edinburgh residents have had to endure.

Furthermore, in a time of increasing pressures on the cost of living and affordability of housing to buy and rent, it is important to take into consideration the Council's findings that "analysis of the housing market in 2018 in Edinburgh showed the rapid growth of short term lets over a short term period was having a detrimental impact on both supply and rent levels" with "an estimated loss of 10% of the private rented sector attributed to short term lets" and "rising rents occurring in those areas bordering a high concentration of Airbnb, suggesting a displacement of demand".

We feel that allowing additional short term lets in this area will have a detrimental impact on the local community, and on the availability of long term, affordable residential accommodation in Edinburgh, which is badly needed.

Thank you for taking our objection into consideration.