

█

To:
Subject:
Date:

█
[Local Review Body](#)

Reference: 23/03161/FUL
09 December 2022 08:56:23

To whom it concerns

Yesterday, we were made aware that a Notification of Notice of Review has been sent to those who commented on this matter when planning permission was being sought. We have not received this notification and, as we share a party wall with number 18, we would like to comment and offer our support for the Crans' application.

Mike and Cheryl Cran use their Edinburgh home a considerable amount. We know, for example, that they spent two weeks in October in the house plus three long weekends in November. Like last year, they will be spending Christmas and New Year in the house. The Christmas and New Year period would be particularly lucrative if they wished to let out the property and the fact that they choose to spend that time in the house demonstrates that they are not running this as a purely commercial activity. Their short term letting is on a relatively small scale and when they do have guests it is mostly family groups. You only have to read the reviews to gain an understanding of the type of people who stay there.

We must emphasise that the guests who use the house do not cause any disturbance; as we share a party wall we would hear if there were raucous gatherings or excessive noise and this has never been the case. Like the other properties in the development, we have two bedrooms, a dining room and a top floor studio overlooking the courtyard and have never experienced any noise or other disturbance from number 18's guests. There is definitely no loss of amenity as a result of guests staying at number 18.

There has been a suggestion that there is interaction between guests and residents in the courtyard. We have never seen anyone congregating in the courtyard; there is no reason to. As number 18 is directly opposite the entrance/exit to the development, anyone visiting the property does not have to pass in front of the other properties.

The Crans have our full support to continue using their home for short term lets.

Jan and Steve Fisher (16 Spring Gardens)

From: [REDACTED]
To: [Local Review Body](#)
Subject: 18 Spring Gardens Your Ref: 22/00179/REVREF
Date: 02 December 2022 14:07:39

Your Ref: 22/00179/REVREF - 18 SPRING GARDENS

Dear Sir/Madam

I am writing to support the application concerning 18 Spring Gardens. The short term letting has never caused a disturbance to us and has not had a detrimental affect on our living conditions and amenities. Their guests are generally family groups and the house is rarely at full capacity. I know that the owners frequently stay at the house themselves and owner occupation and empty nights outweigh guest stay occupancy by a fair margin.

*Yours faithfully
R McFarland*

6 Spring Gardens, Edinburgh EH8 8HX

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Planning appl. 22/03161/FUL M Cran , 18 Spring Gdns EH8 8HX
Date: 06 December 2022 16:26:58

Dear Sirs,

My family property, 20/3 Spring Gardens, is in close proximity to Number 18 and whilst we as a family are aware that Mike and Cheryl Cran run short term lets we understand that their guests are mostly family groups who do not cause any disturbance, and certainly no loss of amenity to neighbours. Having spoken to Mike Cran we know that he liaises very closely with the guests and as a result there are no guest difficulties.

Mike and Cheryl use the property a considerable amount themselves and as far as I am aware their letting is on a relatively small level.

Can I conclude by saying that I fully support their application.

Yours faithfully,
Julie La Roche.
(Owner, 20/3).

From: [REDACTED]
To: [Local Review Body](#)
Subject: Support for no 18 Spring Gardens.
Date: 02 December 2022 05:24:57

would like to offer my complete support to Mike and Cheryl for the continued use of their home, 18 Spring Gardens, for short term letting. My home overlooks their home and their guests have never caused a disturbance to the neighbouring properties. They normally have family groups staying who are quiet and respectful and they certainly don't cause any problems. Mike and Cheryl use their home a great deal and their letting is done on a fairly small scale. Any guests I have ever met as I walk my dog, are respectful and friendly.

David keegan... 20/4 spring gardens

8 Spring Gardens
Edinburgh
EH8 8HX

e: 

Planning Committee
Local Review Body
City of Edinburgh Council
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

7th December 2022

Ref: 22/03161/FUL (18 Spring Gardens, Edinburgh EH8 8HX)

To whom it may concern

Application for the change of use for this property was previously objected to and I wish to make further submissions in regard to the referral to the Local Review Body. Ref: *22/00179/REVREF*

The owners of No. 18 Spring Gardens have stated they live in the property and any short-term letting is a consequence to when they are not resident. This is not accurate. The owners of the property do not use this property as their primary residence and the pattern of residency by themselves is irregular and infrequent. They arrive with their chattels and depart with their chattels no different from a fee-paying 'Guest' to the short term let.

There has been an emphasis by the appellants on unanimous support to the operating of the property as a short-term let. During initial submissions of application, the context of the question used was not disclosed to obtain this "support". It further transpired the appellants had emailed the other townhouse residents within the development asking specifically if they had problems with visiting guests. The responses were mixed saying there were occasional issues however those responses were then used by the applicants to support their application for change of use to permanent commercial use. There were further open communications between the townhouse owners in which a number of them stated they wished any support to be removed, when it became apparent these responses were being used to support an application for change of use to commercial.

During the Neighbourhood notification process, there were supportive responses. It transpired of these support responses, only two were from individuals who have full-time residency with the immediate vicinity, one of whom also offers short-term letting. The remainder of the people who responded offering support do not live locally and some are resident overseas.

Figures provided on the occupancy and usage of the property by the applicants are significantly inaccurate. The appellants stated within their records they resided themselves within the property for 85 nights, it was empty for 183 nights and there has been 97 nights of short term letting. This is not accurate. I included a log with my original objection to the planning application which shows an accurate pattern of the commercial use of the property.

There is evidence of the capacity and disruption the level of use and function of the property causes to our household. Evidence to support this has previously been provided and further submissions are available. There have been various anti-social behaviour situations which have caused disruption.

Planning permission being granted is against the Local Development Plan Hou7. Change to Commercial use also goes against Guidance for Business based on the use of the property in respect of inappropriate use in residential areas and this short-term let has evidence that it does have an impact on neighbouring amenity. All of this still remains relevant. Granting of permission of change of use for this property will also go against any emerging policies.

During the DPEA case, the allocated reporter had been invited to view evidence such as CCTV footage of the disruption and invited to enter my property to view the aspect internally, including the shared courtyard, this offer was not undertaken.

There were inaccuracies within the report stating my property only had one inhabited room facing onto the shared courtyard, there are four habitable rooms.

The shared courtyard means there are regular interactions due to the shared access, between visitors to the short-term let and permanent residents. Most of these interactions are asking large groups of congregated people to move aside to alleviate entry and egress issues. This has a material harm on neighbouring amenity. There has been a history of complaints for valid reasons and not vexatious as suggested. Background noise and the comings and goings are different from what permanent residents would come to expect due to the scale and capacity of the short term letting.

The operating of the property as a short term let at this scale and capacity cannot be controlled by planning conditions. There is unsupervised entry and exit allowed by the owners for guests.

While the property functions as short-term letting, use of my property as my home can become challenging day to day. There have been continued complaints and reports regarding No.18 Spring Gardens as any direct complaint to the owners were fruitless. It is evident they are working hard to protect a commercial profit making business, however I am simply trying to provide a safe and secure liveable environment for a family in a home

which was built for families for residential use not for commercial use, with title deeds reflecting same.

Granting permission for this property to operate commercially is contrary to current policy and guidance as this short term let brings no enhancement to the character and appearance of the general area. The overall character of the area is residential. The current management of the property is via an absentee landlord and cannot be conditioned. Additionally future change of ownership could permit further and increasing difficulties. Should this be approved, it may displace families from full-time residency within the area.

Your sincerely



Richard Blades

From:

To:

[Local Review Body](#)

Cc:

[REDACTED]

22/03161/FUL M Cran , 18 Spring Gdns EH8 8HX

Date:

06 December 2022 16:26:58

Dear Sirs,

My family property, 20/3 Spring Gardens, is in close proximity to Number 18 and whilst we as a family are aware that Mike and Cheryl Cran run short term lets we understand that their guests are mostly family groups who do not cause any disturbance, and certainly no loss of amenity to neighbours. Having spoken to Mike Cran we know that he liaises very closely with the guests and as a result there are no guest difficulties.

Mike and Cheryl use the property a considerable amount themselves and as far as I am aware their letting is on a relatively small level.

Can I conclude by saying that I fully support their application.

Yours faithfully,

Julie La Roche.

(Owner, 20/3).

Report of Handling

Application for Planning Permission
18 Spring Gardens, Edinburgh, EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Item – Local Delegated Decision
Application Number – 22/03161/FUL
Ward – B14 - Craigentenny/Duddingston

Recommendation

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

Summary

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a four-storey townhouse on an end terrace plot at 18 Spring Gardens, Abbeyhill. The property has its own main front door, private back garden and integral garage. There is a shared courtyard to the front of the property.

Spring Gardens is the central section of a main road which connects Abbey Mount in the west to Queens Park in the east. The application property is located around a 15 minute walk from the main shopping centre at Abbeyhill / London Road. The property is in a predominantly residential area some distance from the city centre. Public transport links are available on London Road. Abbeyhill/Meadowbank is the nearest area where there are mixed uses including cafes, shops, restaurants and hospitality venues.

Description Of The Proposal

The application is for a change of use from a house to short stay visitor accommodation (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used for short term let since 2016.

The property is the subject of an enforcement notice served by the Council stating that the property breaches planning legislation through use of the dwelling as a short term let. The notice states that the applicant should submit a planning application for change of use from residential to short term let. The applicant appealed the notice to the Scottish Government, who has agreed to sist the appeal until the outcome of any planning application is known. This sets out the context for this planning application.

Supporting Information

Planning statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

22/00045/ENFORC

21/00596/ESHORT

19/00476/ESHORT

18/00584/ECOU

21/01541/FUL.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 28 June 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 15

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 LDP policy Hou 7.

Proposed use/Principle of Development

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

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 states that an assessment of a change of use of dwellings to SCVA 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.

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 application property is a four storey townhouse which has a main door, a private garden to the rear and a shared courtyard to the front. The supporting statement confirms that the property to which the application relates has been used for the purposes of short term lets since 2016. Although the property has its own main door, there is a shared courtyard to the front which is used by the residents of the other four townhouses in the terrace. This will result in direct interaction between users of the short term letting accommodation and long term residents of the surrounding residential properties.

The property is located on Spring Gardens which is a predominantly residential street. The use of the property as a short term let would likely introduce an increased frequency of movement to the house at unsociable hours. The proposed four bedroom short stay use would enable eight or more related or unrelated 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. Any restriction on the number of people residing at the property at any one time is not enforceable through planning legislation. 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 proposed change of use could also bring additional noise and disturbance into the shared courtyard area. This could also pose a risk to security for other residents. One objector has listed a number of specific incidents relating to excessive noise and disturbance from the property.

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

The property is the subject of an enforcement notice served by the Council stating that the property breaches planning legislation through use of the dwelling as a short term visitor use. The notice states that the applicant should submit a planning application for change of use from residential to short term let. The applicant appealed the notice to the Scottish Government, who has agreed to sist the appeal until the outcome of any planning application is known.

The applicant states that they would be willing to accept a consent which is subject to the following conditions relating to short term use:-

- a personal permission;;
- maximum of 120 nights per year, and
- for three years only.

A personal consent would not be appropriate in the case of a short term let, The suggested condition restricting the number of days it could be used is unenforceable.

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 in neither a town centre nor a local centre, although it is not too far from local services and amenities on London Road.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. 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.

The property has an integral garage. One objector has commented that there are often visitors to this property parking on the street. The site is a 15 minute walk from key public transport routes. There is no cycle parking standards for SCVA's. 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. There are no material considerations that outweigh this conclusion.

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 all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore 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 objections

- Negative impact on residential amenity (noise, safety, security, privacy).Addressed in a) above.
- Negative economic impact. Addressed in a) above.
- Increase waste levels. A waste strategy should be agreed between applicant and CEC's Waste Services.
- Results in displacement of community. Addressed in a) above.
- Does not comply with LDP policy Hou 7. Addressed in a) above.
- There are existing issues with parking. Addressed in a) above.

non-material objections

- House prices/rents will rise. This is a commercial consideration not covered by planning policy.
- Encourages anti-social behaviour. This is a matter for Police Scotland.
- Negative impact on mental health of neighbours. This is a public health issue and not a material planning consideration.
- Poor attitude of users. Not a material consideration.
- Negative impact on insurance. This is not material planning consideration.
- Impact on traditional guest houses. This is not a material planning consideration.

material letters of support

- Will have no negative impact on residential amenity. Addressed in a) above.
- Neighbour has not experienced noise issues from this property. Addressed in a) above.
- Edinburgh needs tourists. Addressed in a) above.

non-material letters of support

- Happy to support application. Too general.
- No objection. Too general.
- Applicants have put together rigorous policies to alleviate concerns. Not specific.

Conclusion in relation to identified material considerations

The proposal does not raise any other material considerations.

Overall conclusion

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. 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: 16 June 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.

8 Spring Gardens
Edinburgh
EH8 8HX



Chief Planning Office/Planning Committee
City of Edinburgh Council
Waverly Court
4 East Market Street
Edinburgh
EH8 8BG

14th July 2022

Ref: 22/03161/FUL (18 Spring Gardens, Edinburgh EH8 8HX)

To whom it may concern

Application for the change of use for this property is objected to for the following reasons:

Spring Gardens is a quiet residential street and the change of use of 18 Spring Gardens from a residential dwelling to short - stay commercial visitor accommodation already has a materially detrimental impact on the living conditions of nearby residents due to its Inappropriate Use in a Residential Area. It historically and currently has a negative effect on the living conditions of nearby residents by virtue of increased traffic, noise and disturbance to the detriment of residential amenity.

The letting of this property is managed directly by the owners who live a considerable distance and are absent. There is no local on-site management, agent, concierge to uphold or police 'house rules' or attend to problems.

The proposal is contrary to adopted Edinburgh Local Development Plan and Policy Hou 7.

This property currently has an enforcement notice served.

Impact on loss of amenity of neighbouring residents is listed but not limited to the following examples:

Location and proximity. The main entrance to No.18 Spring Gardens is within meters of the main frontage of our property at No.8 Spring Gardens. Our main front door, primary

reception rooms, two bedrooms of which one is for a child are all faced onto the shared courtyard and the increase of noise and disruption due to the uncharacteristic movements which occur due to No.18 being used in this manner creates a loss of amenity. The quantity and frequency of visitors to the property for short-term visitor accommodation has an impact on our privacy.

In terms of scale of the operation. Always at, or approaching capacity, of the number of people this property sleeps, i.e 8 people and not always all from same household. It is more often than not, large groups who book the property, it would be unusual and unlikely for 1-2 people to book a property of this capacity using platforms such as AirBnB/Vrbo which means the property regularly attracts the maximum capacity.

Turnover of guests can be up-to three times per week and many service visits in between. Total number of visitors combined with the numerous cleaning and service visits is vastly different from the standard comings and goings of the property than if it had permanent residents. A log for 2022 is available and is of similar pattern to all previous years out-with the restrictions of the Covid-19 pandemic.

Shared area. The primary and only access to this property is via a shared courtyard. No.18 is situated nearest to the entrance of the courtyard and the large numbers and frequency of turnovers and increase in pedestrian and vehicular traffic creates a restriction in neighbours entrance and egress. The entrance area to the courtyard is regularly where the visitors congregate in large groups whilst arriving, departing, awaiting taxis, etc.

Parking and multiple vehicles attending. On occasion when visitors attend the property they will arrive in multiple vehicles which creates an increase in traffic and on-street parking demand. Some groups of visitors have arrived in mini-bus vehicles. Some arrive in multiple taxis which can all arrive at the same time. Some examples of these situations are available.

Night-time arrivals during unsocial hours have caused noise disturbance. One example of this was a self-drive mini-bus that arrived between 1AM and 2AM. The length of time and noise created it took for the visitors to fully unload people and luggage, gain entry to the property and eventually park the mini-bus and also park an accompanying separate car was a 1.5hrs in the middle of the night which woke our child twice.

Although there has been mention of 'House Rules' for visiting guests. There is no on-site presence from anyone who manages the letting or the owners to uphold any rules.

Specific incidents.

There have been a number of specific incidences which have occurred. There was a situation with a guest who arrived just before 6PM on a Friday evening and urinated within the courtyard. There have been numerous situations when guests have arrived they have blocked access to the courtyard with their vehicles and has been required to ask them to move vehicles to allow entry. This can be unsettling when coming home from work and not knowing whether there is access or not. There was a situation when a large group with significant amount of luggage stacked near the entry/exit to the courtyard awaiting taxis to collect them which then required a request to be made for them to move to allow me to

take my child to school. We had to awake guests at 7AM on another occasion as they had parked a mini-van in the centre of the courtyard with no way to exit.

A large group of young men had booked the property in February 2022 and the comings and goings of the visitors was frequent all night throughout the night. A group of separate females had also been brought back to the property for overnight stay. My family had the unfortunate situation of witnessing the girls leave the property the following morning.

There is no differentiation between types of bookings. The applicants proposal suggest not allowing bookings for particular events. Whether attendees to the property are visiting for any particular local event is irrelevant as it is the fact that large groups are attending that is the problem. None of the aforementioned issues causing loss of amenity can directly be correlated to whether visitors are there for sporting events, music concerts, etc.

The applicant's statement suggests since all properties have double glazing windows that noise should not be an issue, however it is unreasonable to expect other residents within the development to not open their windows to gain fresh-air within their own property.

Police Scotland calls. There have been situations which have required Police Scotland to be involved. The most notable being a visitor who urinated within the courtyard. It transpired this individual may have had a medical condition which everyone can show empathy toward, however this kind of unpleasant and unacceptable occurrence arises only as a result of individuals attending this property for short term visitor accommodation.

Environment team. No specific commercial refuse waste uplift arrangements are in place and if instated adds to traffic, noise, etc. There were previous communications with the littering and environmental team with complaint regarding cigarette ends being discarded from visitors to the property. 'House Rules' state that smoking is not permitted within the property or the grounds of the property this then requires smokers to exit onto the public pathway and the shared courtyard, to smoke which in turn creates noise and smoke pollution in our home. Discarded cigarette ends are then left on the road or pathway.

Maintenance/service visits

There can be up-to four individual attendances by commercial cleaning teams to the property in between turnovers which can be up to three turnovers of guests per week.

The title deeds for the properties which are combined with the entire development state the properties are for private residential use only and for no other purpose and therefore a change of use would then subsequently be against the terms of the title deed.

In relation to comments made as part of the related DPEA appeal, I wish to highlight that living within a challenging situation caused by the short term letting at No 18 has on occasion created highly emotive situations.

The applicant's proposal has stated that they would consider being content with the permission to be given to the individuals and not the property and to be capped at a maximum time-frame. This has no bearing to the historic, current and future loss of

amenity occurring as a result of the operation of the property as short term visitor accommodation.

There may be some employment generated to trades for the turnover of 'guests' and maintenance required to the property (which in itself generates traffic and noise). This should not be of consequence when consideration is being given to the application as this has little significance when balanced against the negative impact of quality of living for residents who live within the vicinity. It is important that the residential nature of the area is maintained and in particular as it is within close proximity to Holyrood Park.

There are other properties within the development which are not owner occupied and offer more traditional longer term letting. There has been no noted issues with this manner of letting that I am aware of. Longer term letting or full time residency may bring benefit as a longer term resident will show more desire to maintain the area in which they live whereas a transient visitor will not. There is a probability that some of the other letters of support are from owner(s) who are not full-time resident.

The granting of this application will have an unacceptable impact on the neighbourhood amenity and could open avenues for more properties within the development or area in general to commence short-term visitor accommodation.

Had we known there was a commercial visitor accommodation operating within meters when purchasing our home then our consideration to choose Spring Gardens for the location to raise our family may have differed.

Your sincerely

Richard Blades

| | | | |
|--------|-------|------------------------|--|
| 07-Feb | Owner | 3x cleaner visits | 1x maintenance van |
| 08-Feb | | 1x cleaner visit | |
| 11-Feb | | Guests | Car parked awkward, large group outside |
| 12-Feb | | Guests | |
| 13-Feb | | Guests | |
| 14-Feb | | Guests | Large group over two vehicles departing and congregating. Smoking/vaping |
| 14-Feb | | Cleaner | |
| 15-Feb | | Cleaner | |
| 16-Feb | | Cleaner | |
| 17-Feb | | Cleaner | |
| 25-Feb | | Cleaner | |
| 25-Feb | | Guests | Large group congregating at front of property |
| 26-Feb | | Guests | Large group males |
| 27-Feb | | Guests | Groups of males coming and going throughout night |
| 27-Feb | | Guests | Three girls leaving after overnight stay. |
| 28-Feb | | Guests | Large group departing. |
| 28-Feb | | 2x Cleaner visits | |
| 01-Mar | | 2x Cleaner visits | |
| 02-Mar | | Cleaner | |
| 03-Mar | | Cleaner | |
| 10-Mar | | Maintenance vehicle x2 | |
| 10-Mar | | Guests | |
| 11-Mar | | Guests | Group congregated at driveway. Smoking and ends littered. |
| 12-Mar | | Guests | |
| 13-Mar | | Guests | |
| 14-Mar | | Guests | |
| 14-Mar | | Cleaner visit | |
| 16-Mar | | Cleaner visit x3 | Cleaner visits 2x vehicles at same time |
| 17-Mar | | Cleaner visit | |
| 26-Mar | | Cleaner visit | |
| 26-Mar | | Guests | |
| 27-Mar | | Guests | |
| 28-Mar | | Guests | |
| 29-Mar | | Guests | |
| 30-Mar | | Guests | |
| 30-Mar | | Cleaner visit | Multiple cleaners attending in multiple cars. |
| 30-Mar | | Owner | |
| 31-Mar | | Owner | |
| 01-Apr | | Owner | |
| 02-Apr | | Owner | |
| 03-Apr | | Owner | |
| 04-Apr | | Owner | |
| 05-Apr | | Owner | |
| 06-Apr | | Owner | |
| 07-Apr | | Owner | |
| 08-Apr | | Owner | |

| | | |
|--------|---------------|---|
| 08-Apr | Guests | Cleaner visit |
| 09-Apr | Guests | |
| 10-Apr | Guests | |
| 11-Apr | Guests | Cleaner visit |
| 12-Apr | Guests | |
| 13-Apr | Guests | |
| 14-Apr | Guests | |
| 15-Apr | Guests | |
| 16-Apr | Guests | |
| 17-Apr | Guests | |
| 18-Apr | Guests | 3x Cleaner visits |
| 19-Apr | Guests | |
| 20-Apr | Guests | |
| 21-Apr | Guests | |
| 22-Apr | Guests | Large group of golfers and equipment congregated in courtyard |
| 23-Apr | Guests | |
| 24-Apr | Guests | 3x Cleaner visits with 3 separate vehicles |
| 25-Apr | | |
| 26-Apr | | |
| 27-Apr | Owner | |
| 28-Jul | Owner | |
| 29-Apr | Cleaner visit | |
| 29-Apr | Guests | |
| 30-Apr | Guests | |
| 01-May | Guests | |
| 02-May | Guests | 2x Cleaner Visits |
| 03-May | | Service/Maintenance visits |
| 05-May | Guests | Overnight arrival of mini-bus (1:40AM) with unloading and attempt to put bus in garage. |
| 06-May | Guests | |
| 07-May | Guests | Driveway blocked by guests congregating, mini-van and car. Large group leaving over prolonged period of time. |
| 08-May | | 2x Cleaner visit |
| 11-May | Guests | Large group loud and arrived in two mini-vans |
| 12-May | Guests | |
| 13-May | Guests | |
| 14-May | Guests | |
| 15-May | Guests | Group congregated preventing car exit |
| 16-May | Guests | |
| 17-May | Guests | |
| 18-May | Guests | 2x Large group early morning congregating and loading into taxis |
| 18-May | | 2x Cleaner visit |
| 19-May | | Cleaner visit |
| 20-May | | Cleaner visit |
| 20-May | Guests | Guests arriving, car parked over entrance to drive |
| 21-May | Guests | |
| 22-May | Guests | |
| 23-May | Guests | Service vehicle |

| | | |
|--------|--------|---|
| 25-May | | Maintenance van 2x visits |
| 26-May | | Maintenance van, 2x cleaner visits |
| 27-May | Guests | Urinitating issue. Police Scotland call |
| 28-May | Guests | Guest apology, residents email circular |
| 29-May | Guests | |
| 30-May | Guests | |
| 31-May | Guests | |
| 01-Jun | Guests | Large group congregating awaiting uplift. Also blocking car exit |
| 01-Jun | Guests | 2x Cleaner visit |
| 02-Jun | Guests | |
| 03-Jun | Guests | |
| 04-Jun | Guests | |
| 05-Jun | Guests | Cleaner visit, cleaner car parked across drive entrance whilst guests depart |
| 05-Jun | Guests | |
| 06-Jun | Guests | |
| 07-Jun | Guests | |
| 08-Jun | Guests | |
| 09-Jun | Guests | Cleaner visit |
| 09-Jun | Guests | Large noisy group arriving in mini-bus |
| 10-Jun | Guests | Large loud group congregated on driveway preventing access |
| 11-Jun | Guests | |
| 12-Jun | Guests | Large loud group congregated early morning |
| 13-Jun | Guests | Large group congregated |
| 14-Jun | Guests | Large group preventing exit and taxi parked across driveway |
| 14-Jun | | Cleaner visit |
| 15-Jun | | Cleaner visit |
| 24-Jun | Guests | |
| 25-Jun | Guests | |
| 26-Jun | Guests | |
| 27-Jun | Guests | |
| 28-Jun | Guests | |
| 29-Jun | | Cleaner visit |
| 30-Jun | Guests | Cleaner visit Issues with guests arriving with multiple cars blocking access to courtyard Large group congregated x2 |
| 01-Jul | Guests | |
| 02-Jul | Guests | |
| 03-Jul | Guests | |
| 04-Jul | Guests | Cleaner visit. Large group congregated |
| 05-Jul | Guests | . |
| 06-Jul | Guests | |
| 09-Jul | Guests | Cleaner visit. Guests and cleaners congregated outside |
| 10-Jul | Guests | |
| 11-Jul | Guests | |
| 12-Jul | Guests | Large group congregated. Cleaner visit x2 |
| 12-Jul | Guests | Large group arrival in multiple taxis |

13-Jul
14-Jul

Guests
Guests



22/00179/REVREF - Objection to conversion of 18 Spring Gardens to short term let

PLACE is a grassroots network of residents personally affected by the rapid expansion of largely unlawful whole property short-term lets in our buildings and communities. The network was set up in April 2019 to share information on how to report short-term lets that are operating without planning permission or in breach of title conditions; and to lobby the City of Edinburgh Council and the Scottish Government to take action to protect residents' rights to peaceful, private and affordable homes.

We write to support residents who have been affected by the property in this case and to request that planning permission is again rejected. Their words echo many that we have received from residents who find their home affected by commercial activity operating within and near their homes.

We understand that proposals for a change of use will be assessed in terms of their likely impact on neighboring residential properties. We note that there is no private access from the street to this property and that the property is very close to several others with no shielding or separation.

We cite several cases relating to similar main door properties where a decision has been made which concludes that their impact would be detrimental to neighboring residential properties.

✓ 2021 - An Teagh Gael, The Lane, Dullatur, G68 0AU

Such gatherings or celebrations, whether described as a party or not, are likely to lead to additional activity, noise or disturbance at the property particularly at the weekends and in the evenings... These conclusions regarding the scale, character and regularity of the letting activity lead me to conclude that the short term letting is an ongoing commercial activity integrated with the appellants' occupancy of the property but carried out in a way that is not ancillary to the lawful dwellinghouse use.

- Neighbors already describe such additional activity and noise affecting their home.

✓ 2021 - 6 Campbell's Close , 87 Canongate , Edinburgh , EH8 8JJ

The appeal flat does not share an internal access stair with other flats. But the external steps used for its access pass very close to noise-sensitive parts of other residential properties. I assess this case on its own merits, and I believe that on balance it would not accord with policy Hou 7 of the Edinburgh Local Development Plan. This says that changes of use which would have a materially detrimental effect on the living conditions of nearby residents will not be permitted.

✓ 2019 - 1F, 11 Royal Circus, Edinburgh, EH3 6TL

"The communal entrance door is situated directly adjacent to the door and windows of the flats at number 13 Royal Circus and is in close proximity to the basement flat at Number 11B. Residents of those properties may also experience noise and disturbance, albeit to a lesser degree."

- This property is similarly close to neighboring homes.

✓ 2020 - Flat 1, 9 Elsie Inglis Way, Edinburgh, EH7 5FQ

I am not persuaded that the use of the French doors, via this space, is practical or indeed appropriate given the communal nature of the landscaping and given there is a clearly demarcated footpath to the communal entrance, only meters away. I am also not persuaded that the suggested use, only, of the French doors to the front of the property by short stay commercial visitors would avoid disturbance to neighbours in the adjacent ground floor flat. This is due to the proximity of the French doors of the appeal property to the nearest window in the adjacent flat and due to the potential number of visitors arriving and departing, the frequency of arrivals and departures and the times of arrivals and departures. Similarly, I am not persuaded that this would avoid disturbance to neighbours in the flat above which has French doors (and Juliet balcony) directly above the French doors to the appeal property.

- The balcony area has similar potential for noise to and from other homes.

✓ 2020 - 7 Lochmill Holdings, Antermony Road, Milton Of Campsie, G66 8AE

The council points out that the proximity of the holiday homes to the house at 7 Lochmill Holdings could lead to noise and disruption for residents at number 7. I agree that people often behave differently in holiday homes than they would at home. Holiday homes can also often be used for parties or social events when more noise could be expected. Frequent changeovers of guests would also mean more coming and going than would be normal in mainstream houses. Consequently, I agree with the council that the proximity of the holiday homes to number 7 could well lead to a reduction in residential amenity for residents in the latter house.

- This again describes the potential for impact to other main door homes as in this case.

✓ 2019 - Greenloaning, The Loan, West Linton, EH46 7HE

“...The house is accessed from an unsurfaced road in the north-east part of West Linton and is in an area characterised by large, in the main, detached houses set in substantial garden grounds in a semi-rural part of the village... the unauthorised use of ‘Greenloaning’ has an unacceptable impact on the character of the established amenity in this generally quiet part of West Linton.”

- This home is in a similar residential area. The impact of short-term lets are felt strongly here as in this case.

From: [REDACTED]
To: [Local Review Body](#)
Cc: [REDACTED]
Subject: Local Review No 22/03161/FUL
Date: 11 December 2022 16:25:28

Ref: 22/00179/REVREF

You request further written submissions regarding reference.

Firstly, we draw your attention to the remarks made in our submission of support to the planning application and commend those remarks to the Local review body.

Secondly, we note that an Enforcement Notice against broadly the proposed use has been quashed.

Finally, for the avoidance of doubt, we reiterate our support for planning consent in regard of the subject application.

Martin Bishop

22 Spring Gardens
Edinburgh
EH8 8HX

[REDACTED]

From: [Gina Bellhouse](#)
To: [Robin Holder](#)
Cc: [Local Review Body](#)
Subject: Local Review Body Request for Further Written Submissions - 22/03161/FUL, 18 SPRING GARDENS, EDINBURGH
Date: 25 January 2023 10:28:32
Attachments: [image002.png](#)
[image004.png](#)

Dear Robin,

Further to the attached decision notice, you will be aware that at the meeting of the Local Review Body on 18 January 2023 the Panel made a request under [The Town and Country Planning \(Schemes of Delegation and Local Review Procedure \(Scotland\) Regulations 2013](#) Regulation 15, for further written submissions, and specifically:

‘To continue consideration of the application for further written submissions both from the appellant/applicant and the planning officer with regards to Policy 30 Tourism of NPF 4.’

In accordance with Regulation 15, you now have 14 days to provide your comments in regards to the above. When responding please reply to all copied into this email to ensure the relevant parties have sight of your submission.

As you will see, the request for further written submissions was also made to the planning officer. Once both parties have prepared and submitted their comments, these will be exchanged and you will have a further 14 days to comment on the planning officer’s response.

Following receipt of all comments the case will be returned to the next available Panel 2 LRB meeting (potentially 22 March 2023).

If you have any queries regarding the above, please do not hesitate to get in touch.

Regards,
Gina

Gina Bellhouse | Team Manager | Service Development and Appeals | Planning and Building Standards | Sustainable Development | Place Directorate | The City of Edinburgh Council | Waverley Court | Level G:3 | 4 East Market Street | Edinburgh | EH8 8BG | (Mon to Thurs) | gina.bellhouse@edinburgh.gov.uk | www.edinburgh.gov.uk Latest Planning updates <http://twitter.com/planningedin> and <http://planningedinburgh.com/>

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From: Blair Ritchie <Blair.Ritchie@edinburgh.gov.uk>

Sent: 24 January 2023 11:03

To: Robin Holder <robin@holderplanning.co.uk>

Subject: local review body

Dear Mr Holder,

**THE CITY OF EDINBURGH PLANNING LOCAL REVIEW BODY
REQUEST FOR REVIEW – APPLICATION NO. 22/03161/FUL.
REQUEST FOR REVIEW – 18 SPRING GARDENS,**

**EDINBURGH
TOWN AND PLANNING (SCOTLAND) ACT 1997 AS AMENDED BY THE
PLANNING ETC (SCOTLAND) ACT 2006**

I refer to your request for a review, on behalf of Mr Cran for the change of use from house to short stay commercial visitor accommodation at 18 Spring Gardens, Edinburgh.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 18 January 2023.

The Lead Planning Officer outlined Determining Issues for Planning Applications following parliamentary approval of NPF4, which should be taken into account when determining applications.

Decision

To continue consideration of the application for further written submissions both from the appellant/applicant and the planning officer with regards to Policy 30 Tourism of NPF 4.

Assessment

At the meeting on 18 January 2023, the LRB had been provided with copies of the notice of review submitted by you including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice, the report of handling and further information.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01,02, Scheme 1 being the drawings shown under the application reference number 22/03161/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan, principally:

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

2) Relevant Non-Statutory Guidelines.

The Relevant Scottish Planning Policy – Sustainable Development Principles

Guidance for Businesses

Revised Draft NPF4

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- What specifically were the objectors' complaints regarding noise in the communal space?
- It was advised that the objections were provided in full in the papers, and covered a range of issues, but mainly in relation to the loss of residential accommodation and the impact on the surrounding residents. The main complainant had listed the arrivals and departures to the property. This included visitors, staff and parked cars. This was all related to increased activity and that permanent residents might be more mindful of neighbours than visitors would be.
- This was more complicated than the previous short-term let which had been considered. If the Panel were to consider including grounds for NPF4, would it prudent to tell the appellant and those commenting to say that the Panel was considering this. Could they then appeal to the DPEA on the grounds of non-determination?
- It was explained that there would be no issue regarding non-determination. The decision would still remain with the Panel.
- It was explained that the Panel could request further written submissions from the appellant in respect of NPF4, and in particular Policy 30 on tourism. The Panel might want to get information from case officers, though probably not from objectors.
- There was some confusion with the reporter's decision. It was explained that the enforcement notice was served on the basis that a material change of use had occurred. The reporter was looking at this, on the basis of frequency of use and they thought that short term let use was sufficiently infrequent not to warrant a change of use, so they quashed the enforcement notice. Therefore, the status of the property remained residential. Now, there was a short term let control area in place, if someone wanted to use their property as a short term let, they now needed planning permissions, to get a licence.
- Why would personal permission be inappropriate for short-term lets?

When applying conditions, it is necessary to consider whether they are appropriate, reasonable and enforceable. The authority would need to know who was operating the short term let. And when considered alongside restricting the number of nights the premises could be let it would not be possible to monitor.

- It was appreciated that the number of nights per year was difficult to enforce and given government guidance, they said they did not want to look at restricted numbers. It was the issue of the personal licence of 3 years. Was it just the fact that it was put together with a number of conditions or was it was it personal licences that officers had concerns about?
- It was explained that there were tests for conditions as to whether there were reasonable grounds for enforcement. If it was appropriate to be operated as a short term let, it might be more appropriate to grant it in perpetuity.
- The application was for change of use to a short-term let, they had not specifically applied for a number of nights.
- It might be possible to continue consideration to allow the appellant to comment on the applicability of NPF 30 regarding tourism. The refusal was based on LDP Policy Hou 7. There were also the comments from the DPEA regarding the appeal. It was probable that there were insufficient grounds to refuse the application.
- One of the members disagreed. They did not think that section 30 of NPF4 was of sufficient relevance. The Panel should make a decision at this meeting. It was not normal practice to take into account the way a property was managed.
- Continuation would be useful, because of its complex nature, regarding communal space and the impact that had in the Panel's determination in respect to LDP Policy Hou 7, it was advisable to proceed with caution and ask for more information on NPF4.
- When the Panel used LDP Policy Hou 7 on amenity, it tended to be for the potential impact on shared stairs and this was a small shared communal area. There was a mixture of views from those residents in the surrounding area, there was also an enforcement issue. The individual house would be deemed suitable. Given this, the Panel should indicate they had considered Policy 30 Tourism of NPF4 and ask the officer and appellant to assess this in light of this.

-

Having taken all the above matters into consideration and although one of the members was in disagreement, the LRB was unable to make a final decision and determined to continue consideration of the matter to a further meeting of the Local Review Body (Panel 2) for further written submissions both from the appellant/applicant and the planning officer with regards to Policy 30 Tourism of NPF 4.

Contact

Please contact Blair Ritchie by e-mail blair.ritchie@edinburgh.gov.uk if you have any queries about this letter.

Yours sincerely

Blair Ritchie

for the Clerk to the Review Body

Notes:

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within six weeks of the date of the decision.
- 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 the 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 in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Blair Ritchie | Assistant Committee Officer | Committee Services | Corporate Services | City of Edinburgh Council | Waverley Court, Business Centre 2.1 | 4 East Market Street, Edinburgh, EH8 8BG | ☎: 0131 529 4085 | ✉:blair.ritchie@edinburgh.gov.uk

Working Pattern: Tuesday, Wednesday, Thursday (am)



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APPLICANT: MICHAEL & CHERYL CRAN

RESPONSE TO REPRESENTATIONS

Application for a Change of Use from House to Short-Stay Commercial Visitor Accommodation.

18 Spring Gardens, Edinburgh, EH8 8HX

Date: December 2022

HolderPlanning

- 1.1 This document contains our response to the representations that have been made by parties to this Review.
- 1.2 We note that there have been 2 representations objecting to the proposed change of use and 4 representations in favour of it.
- 1.3 In our view, the most compelling submission made is that by the next door neighbour to 18 Spring Gardens, who shares the only party wall with the property. His comments are as follows (as directly quoted from an email made to the Review process):

“Mike and Cheryl Cran use their Edinburgh home a considerable amount. We know, for example, that they spent two weeks in October in the house plus three long weekends in November. Like last year, they will be spending Christmas and New Year in the house. The Christmas and New Year period would be particularly lucrative if they wished to let out the property and the fact that they choose to spend that time in the house demonstrates that they are not running this as a purely commercial activity. Their short term letting is on a relatively small scale and when they do have guests it is mostly family groups. You only have to read the reviews to gain an understanding of the type of people who stay there.

We must emphasise that the guests who use the house do not cause any disturbance; as we share a party wall we would hear if there were raucous gatherings or excessive noise and this has never been the case. Like the other properties in the development, we have two bedrooms, a dining room and a top floor studio overlooking the courtyard and have never experienced any noise or other disturbance from number 18's guests. There is definitely no loss of amenity as a result of guests staying at number 18.

There has been a suggestion that there is interaction between guests and residents in the courtyard. We have never seen anyone congregating in the courtyard; there is no reason to. As number 18 is directly opposite the entrance/exit to the development, anyone visiting the property does not have to pass in front of the other properties.

The Crans have our full support to continue using their home for short term lets.

P.S. This whole issue is the result of a vindictive campaign by one houseowner who happens to be the one who lives furthest away from the Crans and would thus be the least affected by any issues (if there had even been any). I find it almost unbelievable how much time and effort is being wasted as a result of this. I would be happy to discuss further as required.”

- 1.4 We note that there is only one objection to the Review, from the party referred to by the next door neighbour above. We have referred to that party in our main Review submission, making the point that they have been making misleading and vexatious complaints to the Council regarding the letting operation for a number of years now. Their most recent submission continues to make misleading and false allegations.
- 1.5 Moreover, an experienced Reporter has recently carefully considered the complainant’s case and has very firmly rejected their assertion that there is any harmful impact on their residential amenity. The Reporter reached this view after visiting the site, and carefully considering all of the relevant issues. Moreover, a number of near neighbours, including the one with a party wall, have written in support of the application.

- 1.6 This is despite the fact that the complainant has lobbied neighbours to object. The complainant has suggested that only two of the supporting neighbours are full time residents and that some are resident overseas. This is inaccurate. None live overseas and three are full time residents. One resident does a weekly commute, residing at weekends.
- 1.7 The complainant says the neighbour's responses were mixed. That is misleading as there is universal support from neighbours, albeit some who would prefer that the permission was temporary. This is because they are content with the way that the Cran's manage the property and understand that it is their intention to retire to the property about 3 years hence. As indicated in our Review statement, the applicant would welcome a condition which limits the permission to 3 years. An example of a competent way to deal with would be to apply a condition as follows:

This planning permission is granted for a temporary period of 3 years.

Reason: To limit the duration of the permission to a reasonable period of time, after which a future application can be considered in respect to the use's impact on the residential amenity of neighbours and any other relevant policies at that time.

- 1.8 The complainant has provided inaccurate information regarding dates of occupation. The Crans are scrupulous and honest in their affairs and are concerned that a vexatious party is allowed to provide such misleading information. The Cran's records are obtained from the websites bookings, which can be verified, and there have been no other bookings. It is notable that the complainant once accosted Mr Cran at the entrance to his home, swearing at the taxi driver who brought him there because the taxi was briefly in the shared parking area to drop Mr Cran off. Perhaps the complainant mistook Mr Cran for a guest. Aside from this highlighting that the complainant may be wrongly attributing the Cran's visits to guest visits, his abusive behaviour towards a taxi driver dropping off a fare demonstrates an unreasonably intolerant attitude to those around him.
- 1.9 The complainant says that the Reporter did not agree to view the complainant's CCTV footage of the applicant's property. We will leave the LRB members to form a view as to why the Reporter declined to view this footage, but it is clearly inappropriate for the complainant to film and retain images of the comings and goings of their neighbours. The complainant has submitted still photographs, which do not appear to indicate any significant issues, and are isolated in nature. The Reporter, who considered the information submitted by the complainant, including photographs, did not consider there to be any matters causing harm to their residential amenity.
- 1.10 The complainant says that their complaints are not vexatious and that there are various interactions between guests and neighbours in the courtyard. This claim is not verified by others and, if they have occurred, may well have involved the complainants themselves. In addition, we would suggest that the account of the Cran's next door neighbour is more reliable, who has stated that there have been no interactions they are aware of.
- 1.11 The complainant says there have been a number of complaints but does not mention that they have been the only complainant, making numerous complaints.
- 1.12 The complainant says that they are concerned that a change of ownership could make things worse. The applicant has indicated that it is willing to accept that the permission is temporary for 3 years.

For this reason, it is not accurate for the complainant to say that the letting is displacing another household, which in any case is not a planning policy consideration.

- 1.13 The other objection received for the Review process is from an organisation called PLACE, who describe themselves as a lobby group against short-term lets which they consider to be unlawful. They do not acknowledge that a Reporter has recently determined that the use is lawful. We are not aware that they have visited the site.
- 1.14 The very generalised comments made by PLACE lead one to the conclusion that they have not properly considered the particular circumstances of this case. They refer to number of appeal decisions on other applications which have been refused, which have no similarity to this case. All of these appeals relate to flats with shared internal stairs and/or where there has been clear evidence of anti-social behaviour and/or groups of guests into double figures, and complaints from a number of neighbours.
- 1.15 Although PLACE has referred to a number of appeal decisions, for some reason it has not mentioned the most relevant and recent appeal decision for 18 Spring Gardens itself, and where the Reporter concluded that the use as a short-term let had no harmful impact on nearby residential amenity.
- 1.16 In conclusion, therefore, the submissions made in response to the Review of this application do not raise any matters which suggest that this application is contrary to Policy Hou 2 of the LDP. Indeed, quite the contrary in our view.

This document comprises the Applicant's (Michael & Cheryl Cran) response to the Council's comments on Policy 30 of NPF4. The Council's comments are copied in full below, and our comments inserted in red.

For the reasons we give, it is our view that a fair reading of NPF4 leads to the unquestionable conclusion that the application accords with Policy 30 and LDP Policy Hou 7.

Application: 22/03161/FUL

At 18 Spring Gardens

Planning Services further written comments on NPF4 policy 30 Tourism:

On 18 January the Local Review Body continued consideration of application 22/03161/FUL at 18 Spring Gardens for the change of use from residential to a short term let. Specifically, further written submissions were requested from both from the appellant/applicant and the planning officer with regards to NPF4 Policy 30 Tourism.

Policy Framework:

Revised Draft National Planning Framework 4 was approved by the Scottish Parliament on 11 January 2023 to proceed to adoption. Adoption is likely to take place on 13 February 2023. On adoption the Revised Draft NPF4 will form part of the Council's Development Plan. **NPF4 has now been adopted as expected.**

The following policies are therefore relevant to the determination of this application:

LDP Policy Hou 7 Inappropriate Uses in Residential Areas

Developments, including changes of use, which would have a materially detrimental effect on living conditions of nearby residents, will not be permitted. **We agree that LDP Policy Hou 7 is a relevant consideration as the LDP remains part of the Development Plan, and which now also includes NPF4.**

Approved NPF4 Tourism

Policy Intent: To encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

Policy Outcomes: Communities and places enjoy economic, social, and cultural benefits from tourism, supporting resilience and stimulating job creation.

Local Development Plans:

LDPs should support the recovery, growth, and long-term resilience of the tourism sector. The spatial strategy should identify suitable locations which reflect opportunities for tourism

development by taking full account of the needs of communities, visitors, the industry, and the environment. Relevant national and local sector driven tourism strategies should also be taken into account.

The spatial strategy should also identify areas of pressure where existing tourism provision is having adverse impacts on the environment or the quality of life and health and wellbeing of local communities, and where further development is not appropriate.

Policy 30

a) Development proposals for new or extended tourist facilities or accommodation, including caravan and camping sites, in locations identified in the LDP, will be supported.

b) Proposals for tourism related development will take into account:

i. The contribution made to the local economy;

ii. Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;

iii. Impacts on communities, for example by hindering the provision of homes and services for local people;

iv. Opportunities for sustainable travel and appropriate management of parking and traffic generation and scope for sustaining public transport services particularly in rural areas;

v. Accessibility for disabled people;

vi. Measures taken to minimise carbon emissions;

vii. Opportunities to provide access to the natural environment.

c) Development proposals that involve the change of use of a tourism-related facility will only be supported where it is demonstrated that the existing use is no longer viable and that there is no requirement for alternative tourism-related facilities in the area.

d) Proposals for huts will be supported where the nature and scale of the development is compatible with the surrounding area and the proposal complies with relevant good practice guidance.

e) Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or

ii. The loss of residential accommodation where such loss is not outweighed by demonstrable

local economic benefits.

Short Term Let Control Area :

Section 17 of the Planning (Scotland) Act 2019 introduced powers for local authorities to designate Short-term Let Control Areas. The purpose of control areas is to: Help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood); **There is no evidence of high concentrations of secondary lettings on Spring Gardens and there is no other secondary letting in the terraced group of townhouses which share courtyard parking here. This application does not therefore conflict with or undermine the basis of the STL Control Area.**

- Restrict or prevent short-term lets in places or types of building where it is not appropriate; **18 Spring Gardens is a town house with main door access and a private garden and garage for car parking. The absence of an internal shared stairway means there is minimal opportunity for interaction between guests and residents. The fact that it is not a flat means that noise disturbance to neighbours does not occur between floors. Including the nearest neighbour with a party wall, a total of seven neighbours (between No 6 and No 22 Spring Gardens) have gone out of their way to write to the Council, expressing their support for the application. As we explain below, the planning officer has not concluded that there would be harm to residential amenity and an independent Reporter has concluded that there would be no harm. The significant number of neighbours supporting the application, all of whom have day-to-day experience of the use, contradicts the exaggerated and false account of the single objector who lives locally. The next door neighbour has confirmed in writing to the Council that guests do not congregate in the courtyard. The kind of guests that rent the house have no wish to 'loiter' in what is effectively a car park, but in any case the Crans advise all of their guests to respect their neighbours' privacy and amenity, which they do. A Reporter has recently considered the possibility of disturbance arising from activity in the courtyard (or anywhere else) and concluded that this is not a concern (see below).**
- Help local authorities ensure that homes are used to best effect in their areas. **The property is the Cran's second home presently, which will become their principal home when they retire there in about 3 years. Before they retire, it is being used to best effect for their area because there is use by visitors to Edinburgh when they are not resident.**

The Council's designation of the whole of the city as a Short Term Let Control Area came into effect on 5th September 2022.

Within this control area, planning permission is always required for the change of use of an entire dwellinghouse, that is not a principal home, to a short-term let (STL).

Edinburgh operates as a single housing market. There are high levels of demand and need for affordable housing which have been identified through an analysis of housing need and demand. Most properties operating as STLs were or are residential dwellings and any residential dwelling not being used for that purpose reduces the availability of housing in Edinburgh. **Perhaps this is true of “most” STLs in Edinburgh, but not in this particular case. As previously explained, the Crans live in the house on a very regular basis. If they were not allowed to rent the property as a short-term let, they have no intention of selling the house or making it available for a long-term let. Therefore, it would be categorically wrong to reach the view that the part time use as an STL reduces the availability of housing in Edinburgh. Moreover, although we acknowledge that there is high demand and need for affordable housing in the City for many reasons, the value of this property (£700,000 +) means it would never be available at anything close to an ‘affordable’ value as defined by the Council.**

A licensing scheme, The Civic Government (Scotland) Act 1982 (Licensing of Short term Lets) Order 2021 has now been approved requiring that, from July 2024, all STLs obtain a licence. The licensing scheme is complimentary to the control area and does not provide any regulation over the number of STLs or allow consideration of planning matters.

Comments :

NPF4 policy 30 Tourism overlaps considerably with LDP policy Hou 7. Both LDP policy Hou 7 and NPF4 policy 30, seek to protect local amenity and living conditions for existing residents.

NPF4 policy 30, whilst recognising the economic, social, and cultural benefits of a thriving tourism industry, acknowledges that it can also have adverse impacts on the environment or the quality of life and health and wellbeing of local communities, and the policy requires Local Development Plans to identify areas that may be subject to these pressures. Acutely aware of these pressures, the Council designated the whole of the city as a Short Term Let Control Area on 5th September 2022.

NPF4 Policy 30 Part b) sections i, ii, iii are particularly applicable to the use of residential properties as short term let accommodation within areas that are predominantly residential, are in close proximity to other residential uses and/or where the premises may share communal spaces with other residential developments.

NPF4 Policy 30 Part e) states development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal **will result in (our emphasis):**

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

With regards to the property at 18 Spring Gardens, the use of the premises as a short term let is considered in the Report of Handling to be unacceptable due to the impact this **could have (our emphasis)** on residents both within the immediate development of four townhouses, and also on the wider residential area. **It is therefore apparent that the planning officer has incorrectly assessed the proposal against Policy 30(e) i.e. the planning officer has concluded that it is contrary to Policy 30e(i) on the basis of a speculative assumption whilst the policy requires a definitive view that the use “will result in” an unacceptable impact. The planning officer has reported that there is a single objection from someone who lives locally, but at no point has the planning officer indicated that they agree with the objector or have any of their own evidence to support it.**

Moreover, as this is a retrospective application, the **actual** impact of the use on the amenity of the area can be readily assessed, which has helpfully been very recently thoroughly investigated by a Scottish Government Reporter. The Reporter concluded that there was no harm to the amenity of the area, concluding in paragraph 13 of his appeal decision that:

“Number 18 is located directly across from the vehicular access and open to the road. This layout limits the requirement for guests to pass by the neighbouring properties within the terrace when leaving or returning on foot or in vehicles. I recognise that the other residents are required to pass Number 18 to reach their properties but based on the courtyard layout, lack of secure access and its proximity to the public road I do not consider this to create any significant amenity or safety concerns. In my view families or friends holidaying together tend to leave and return as a group, either on foot or by vehicle, thereby limiting the periods guests spend within the courtyard and further minimising any disruption caused.”

We note that LDP Policy Hou 7 is phrased in similar terms to NPF4 Policy 30(e), as follows, using the word “would” rather than “could”:

“Developments, including changes of use, which would (our emphasis) have a materially detrimental effect on the living conditions of nearby residents, will not be permitted”

It would therefore be incorrect for the LRB to refuse this application on the basis of an unevicenced possibility that the use will cause harm to the living conditions of nearby residents. In 7 years of the part-time letting of the property, there have never been significant harmful impacts arising, and there is no reason to believe that there could be in the future. Seven neighbours have gone out of their way to support the application, and an independent Reporter has recently concluded that no harmful impacts will arise from the use.

All but one objection are from people who do not live locally and appear to have an ‘in principle’ objection to short term lets, providing generic comments on short-term lets, mostly in respect to flats.

The proposal therefore fails to comply with NPF4 Policy 30 part e) i. **For the reasons given above, that is incorrect because the planning officer has misinterpreted this policy on the basis that the phrase “will not result in” is analogous to ‘could result in’. Such misinterpretation appears wrong in law, and any decision founded upon it would leave that decision susceptible to legal challenge (judicial review). Moreover, even if NPF4 and LDP Policy used the word “could” instead of “would” or “will”, the Reporter’s conclusion and the overwhelming support of near neighbours for the application provides compelling evidence that it is not reasonable to even conclude that the use ‘could’ harm the living conditions of neighbours.**

With regards to NPF4 Policy 30 part e) ii, the use of the property as a short term let would result in the loss of a residential property. Analysis has identified that there are high levels of both need and demand for housing in Edinburgh. It is important therefore in meeting this need to retain existing dwellings in residential use. **As we have explained above, the dwelling is in regular residential use by the Crans. If this application is refused the Crans will continue to live there and will not be selling the property. So, as a matter of fact, there will be no loss of an existing dwelling, and it would be perverse to conclude otherwise. If the LRB was to conclude that this application does result in the loss of a residential property, that conclusion would therefore be susceptible to judicial review.** The entire Council area has been designated as a short-term let control area in acknowledgment of this need. It is recognised that whether in use as a residential dwelling or a short term let local economic benefit would be generated. There is no evidence of local economic benefits from use of this property as a short-term let which outweigh the loss of residential accommodation in the context of the recognised need for housing in Edinburgh. **Given that there is no loss of a house in the first place, this part of Policy 30e(ii) is not applicable in this case. However, even if it was applicable, the planning officer’s statement that there is no evidence of local economic benefits is wrong. As we have stated in our main submission on NPF4, the guests will visit paid attractions and spend money in bars and restaurants. If there were no guests then the house would be empty when the Crans are not there, and there would be no economic activity at all. Therefore, as a matter of fact, there will be local economic benefits from letting the property. A finding by the LRB that the part time STL use of this particular property does not have any economic benefits would therefore also be susceptible to judicial review.**

The proposal therefore fails to comply with NPF4 Policy 30 part e) ii.

In conclusion, a fair and lawful reading of NPF4 Policy 30 cannot lead to the conclusion that this application fails to comply with it. The same is true in respect to LDP Policy Hou 2. We therefore

respectfully request that planning permission be granted.

08/02/23