



Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100594395-009

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Neil"/>	Building Number:	<input type="text" value="1"/>
Last Name: *	<input type="text" value="Innes"/>	Address 1 (Street): *	<input type="text" value="50 Balfour Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH6 5SG"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="██████████"/>		

Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

FLAT 1

Address 2:

50 BALFOUR STREET

Address 3:

PILRIG

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH6 5SG

Please identify/describe the location of the site or sites

Northing

675572

Easting

326565

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use from regular occupancy providing family childcare support to secondary letting when not in use personally.

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Details in supporting document attached

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Details in supporting document attached

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

22/5090/FULSTL Appeal.docx

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/05090/FULSTL

What date was the application submitted to the planning authority? *

10/10/2022

What date was the decision issued by the planning authority? *

25/04/2023

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Neil Innes

Declaration Date: 18/07/2023

Statement of support as to why the refusal of the planning application number 22/5090/FULSTL WARD B12-Leith Walk should be considered for appeal

Date of Submission : 18/07/2023

Neil/Margaret Innes.

50/1 Balfour Street

Edinburgh

Please can we have confirmation of receipt for this appeal before 24/07/2023, this being the last date of the 3 month appeal window for this application, if any clarification or update is required on this.

Overview

We originally submitted an application for home letting but were advised by planning that the only category we could apply for was secondary letting even though it did not fit our particular circumstances in as much as we regularly stay in the property. It is not our primary residence according to HMRC however it is not a holiday home as it is used for our personal residential purposes and support for family members in the area.

The category that would best describe our circumstances is HOME LETTING but we were advised against this option.

Sui generis is described as a planning option and perhaps this could have been considered applicable in our case? It is worth noting that we first submitted our planning application before the fees went up in August but because planning then advised us to re-submit we were charged the increased price which arguably does not seem a fair system to applicants who submitted it in good faith with what was the correct amount at the time.

Please note that we are not legally trained and have just presented this appeal to the best of our ability. We will work our way through the refusal of our planning application and comment on the various deliberations. There are a number of statements in the report that are misleading and unsubstantiated as detailed in appendix A at the end of the document.

Page 1 of 8 under description of proposal refers to "***The application seeks permission to change the residential use to a short term let apartment***"

Our response: This statement is not accurate as this is not our intention as we personally stay in the apartment and only let it when we are absent.

If a property can be of use to other guests when there is obviously proven demand for this type of accommodation surely this would be to the benefit of all parties concerned.

An empty property does not add to the economy of the area.

Under Proposed Use it states "MPF4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism developments which benefits local people etc

Our response: Our property has seen visitors for all sorts of reasons and not just tourism.

During the pandemic many hosts offered their premises free to essential workers. The Covid pandemic was unprecedented in our lifetime but if it were to happen again then our type of property could be considered as being suitable for this purpose. While our guests have supported the economy of the local area especially the local cafes and shops nearby it has also provided accommodation to the elderly and less able guests. Other purposes of stays enable guests to stay nearby while visiting relations, accommodation to guests for family events, attending courses or emergency situations. This provides a type of accommodation that hotels do not.

LDP Policy HOU 7 (inappropriate uses in Residential Area etc

-The character of the new use and of the wider area

Our response: Our flat is on the ground floor of a block of six. It shares the entrance door and the communal entry with the other flats. There is only one other flat on the ground floor. The Stairwell has **never** been used by ourselves or any of our guests in the 5 years that we have owned the property. When we submitted our planning application, it went to 58 neighbouring properties and not one responded with any comment or complaint. The only response came from an **amenity body** who seems to put in a complaint about every application per se. The construction of our flat is a brick built 80's property and does not have the problems that can be encountered by STL's in traditional stone built older tenements.

-The size of the property

Our response: It is a one bedroomed property and we only accept 2 guests at a time, we do not allow children but can accommodate one of the two people on a sofa bed if necessary.

"The pattern of activity....

Our response: Unlike business models who may have several properties we consciously chose to list with one platform only and that was Airbnb. This was because **we could set our own house rules** and make sure that guests agree to these at every booking. This includes no very early arrivals or departures; no outside key boxes and we always greet our guests in person and strictly no parties or anti-social behaviour. We tend to only get stays of 2 or 3 nights at a time and make sure that they can contact us at any time. We also have a point of contact who stays in Edinburgh ten minutes away from the property who has never been called upon for assistance but is a reassurance to guests. We have our own personal parking space right outside our property and always insist that guests are respectful to other residents and do not cause any undue noise. We also do not allow any other visitors during a guests stay unless discussed and agreed with us beforehand. We always make ourselves available for contact and stay within 30-40 minutes of the property.

"The nature and character of any services provided

Our response: Much has been said about the added strain to refuse collections and all we can say to that is that when we stay over, we seem to generate much more refuse than any guest of ours ever has done. The majority are here to visit the city and to make the most of their stay they eat out and stay out!

Amenity

Quote: There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbour's amenity using the property as a principal home. There could also be a negative impact on cohesion"

Our response: We have owned this property for 5 years and use it as our principal residence in Edinburgh while offering support to relations nearby. Apart from our neighbour who is directly upstairs from us we would not recognise any of the other residents' names or recognise them in the street if they were to pass us by. This is more of a sign of the times we live in rather than any itinerant pattern of guest use.

Quote: The potential noise described above would be significantly from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions of nearby residents

Our response: We can only speak for our own personal circumstances but would like it noted that when my husband and I stay over as we are in our 70s, we both have a hearing problem and find that anytime we occupy the property the first thing we have to do is turn up the TV because it has been turned down by our guests but we have never had our upstairs neighbour mention that it is too loud when we stay. Another reason that is given is that guests may use washing machines during the night and we would like to point out that guests who tend to use this facility during their stay (and there are very few) would not

use it during the night. It should be noted however that there is a cheaper electricity tariff that is still in effect which means that during the hours of 12pm and 7.00 am any electricity used during this time is at a cheaper rate and in these days of soaring energy prices every penny counts and as in our case we still have old fashioned storage heaters which uses this tariff. However, we did make a conscious decision to buy appliances which are extremely quiet, for our own peace and quiet, and this has proven to be the case. There may be other owners/tenants who still use this tariff and perhaps planning and housing regulations were not aware that it still exists but were quick to blame any ambient noise during this time on short term let visitors rather than owners/tenants. The other reason given is that there is repeated bumping of cases up and down the staircase which does not happen with a ground floor flat as in this instance.

Quote: The loss of the residential accommodation has not been justified.

Our response: We cannot speak for other planning applications which have been refused but in respect to our small second property we would argue that it has not lost any residential status because we still use it regularly. We do know that our upstairs neighbour who is a single lady and has owned her property for 10 years is very concerned that if we were forced in to letting it to say a social housing association and they in turn then let it to a secure tenant who then has anti-social tendencies she will not be able to do anything about it. At least with STLs guests move on after a short period of time. She has confirmed to us that she has never had any reason to complain about any of our guests.

Quote: Overall conclusion The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity etc

Our response: As quoted by the leader of the administration Cammy Day in different media interviews each individual property planning and licencing application should be considered under its own merits and we feel that this has not been the case. We would welcome a site visit or the opportunity to put our personal case forward.

ADDITIONAL POINTS OF INTEREST

We are aware of the problems that can arise with companies who have several properties and involve 3rd parties to run them and also larger premises could give rise to other areas of concern and would welcome legislation to protect both guests and hosts alike but a much more common-sense approach to introducing a fairer way of achieving this could have been adopted.

If a decision years ago to ban lock boxes on the street or premises had been implemented then things might have been very different.

We would also have liked the opportunity to have paid a tax on any nightly income that we received if the income raised was then put towards social housing and supporting residents in Edinburgh.

Covid and subsequently the war in Ukraine should have led any responsible council or government to rethink any planning and licencing regulation that were implemented during this period.

It is our only other property, and we had to pay the second home tax when purchasing it and full council tax. For that privilege we are not allowed to vote in any local council elections. The reason we cannot move to Edinburgh permanently is that we have been unpaid carers for an adult in our main area for some 23 years and continue to do so. It has given us the opportunity of some respite from this onerous task which enabled us to cope better while offering support to other family members who are resident in Edinburgh.

Much is said about the pressure on council services regarding refuse collections due to STLS but please find enclosed a collage of just some of the illegal dumping of items that goes on in our street by residents of Edinburgh on a regular basis and has done since we first bought the property. This has nothing to do with visitors. This practice must cost the council great expense in dealing with this than any amount of so called extra 'refuse' generated by STLs. One day we could not easily get outside our main entrance door because someone had put a fridge freezer outside it.

Legislation and education need to be considered to make a fairer system for all, which benefits visitors and hosts alike.

Also, I know that other hosts take great pride in their properties and environments like ourselves and like them we are often seen picking up litter from our streets and the cigarette butts which seem to have multiplied with the introduction of parking zones.

For your information we attach a collage of **just some** of the items (14) that have been illegally dumped, all of which remain for varying period from a few days to several weeks until the council deals with them. We are extremely lucky that we have had excellent reviews for our listing from guests who could easily commented negatively on this gross breach of policy by residents.



To conclude our one bedroomed property will **not** be offered for long term let as we stay in it on a regular basis, so when we do not occupy it, it will remain empty which seems a waste of a much-needed facility for visitors for all sorts of reasons who might like to use it.

It is especially suitable for the elderly and less able as there are no steps to the property and it has its own personal parking space. Guests for all sorts of reason have stayed but it has been especially rewarding to have repeat guests who use it for extra accommodation while visiting relatives in the area.

We are both of the age (over 70) where we will probably not be able to continue long term to offer this service so if a short-term planning application could be granted then that would be appropriate. (As outlined in the Planning circular 1/2023 short-term lets and planning of 17th May 2023 Para 4 (e) sections 4.14 and 4.15 limiting the duration of approval {perhaps for 3 years in our case})

Whilst we understand that legislation needs to be put in place for the wellbeing of visitors and hosts alike many non-business hosts have benefited from 'extra' income to support their families and in these unprecedented times when people are struggling more than ever to make ends meet surely it is not the time to penalise hosts who more than ever have come to rely on this income.

Much has been said in the press about each application being judged on its own merits so we would like to take this opportunity for Edinburgh City Council to confirm to us that in our particular application case that this has been the case.

We would like to thank the planning department for their help and please do not hesitate to get in touch if you need clarification on any points raised in this document.

Appendix A

Section A - Application background - Site description

This is misleading, as, although there is a staircase to the upper 4 flats the 2 ground floor flats do not share the staircase and have no need to use them.

This indication of sharing a staircase is repeated in several points throughout the document.

The only point of contact with other residents is on the rare occasions that they are using the entry door at the same time as ourselves or guests.

Section B- Assessment

Sub Section a) The proposals comply with the development plan?

The relevant policies to be considered are

LDP Housing Policy Hou 7

Policy Hou 7 – Affordable Housing

Para 6.24

Affordable housing is defined as housing that is available for rent or for sale to meet the needs of people who cannot afford to buy or rent the housing generally available on the open market. Affordable housing is important in ensuring that key workers can afford to live in the city as well as helping meet the needs of people on low incomes.

Edinburgh City Local Plan Chapter 6

<http://edinburghcouncilmaps.info/devplans/eclp/chap6.htm#HOU7>

The application of this policy in assessing our property is inappropriate as it fails to meet the criteria of affordability.

This property has a market value that would exceed the mortgage salary multiplier of most 'key workers' or 'people on low income' for a first-time owner, the rental expectation for the property would be at least double the current figure for social rental in Edinburgh.

As a general note when applying Hou 7 it would be prudent to check that the properties considered meet affordability criteria to avoid subsequent challenges on this.

Sub Section a) Amenity

Quote: There is a low degree of activity in the immediate vicinity of the property at any time

We would like to challenge this statement. At the end of the street is the main entrance to Pilrig Park which is used at any time of day and night by the public for dog walking, children's play park, general recreation of all ages and a walk way to Broughton/Bonnington road and beyond.

There is a special need school which has its only entrance from Balfour Place a road just opposite our property, children on foot, parents' cars and special Taxis use this road on a daily basis during term time; the latter congregate a short period (15-20 mins) on Balfour Street just outside our property after drop-off and before pick-up daily.

There is a corner shop within 100 meters of the property and there is always some footfall associated with this throughout every day of the week.

The main road just outside our block widens slightly, for a short duration, and this is constantly used by cars, taxis and light goods delivery vehicles as a turning point to double back and go to Leith walk.

Overview

The application for planning for this property is complicated as it should be a *sue generis* application as its use does not fit in any current category.

It is not our primary residence according to HMRC however it is not a holiday home as it used for personal residential purposes and to support family in the area.

It would fit best into home letting as this is exactly how it is managed there is no possibility of sharing as it is a single bedroom and it is not let continuously throughout the year as in secondary letting.

Report of Handling

The Summary paragraph states there is an unacceptable impact on neighbouring amenity but does not give any specific details to challenge and with regard to civic amenity this will be detrimental if used for residential purposes only see attached photographs of neighbour littering NOT attributable to tourist (attach photos)

The application background site description is misleading as although there is a staircase to upper flats the ground floor flats are not sharing this unless having to speak to residents of upstairs flats which visitors have no need to and we have only ever been up to the flat above us once since moving in. The majority of contact with other residents is on the ground floor when they either use the rear exit to the property for dog walking or laundry airing, or, in passing when entering or leaving the block front door at the same time as other residents.

General details

The vast majority of guests are tourists where the pattern of use is **not** dissimilar to residents of the block in that they are invariably go out most of the day from early morning to evening making use of their time to visit attractions.

The property is **not** off a communal stairway as the stairs are only required for accessing the properties above the ground floor.

Guests are met in person and check in is published as between 3 to 5 pm, all requests for late arrival are rejected on booking, the only variation to this if guest travel plans are disrupted out with their control on their journey, e.g. flight cancellations/delays traffic problems enroute etc, however they are still met in person on arrival.

Rejecting this application will not alleviate any residential problems as the property will remain empty when not required for personal use and this will inevitably have a consequential negative impact on the local economy

If the overall concern is the eventual loss of residential property in the area which could not be avoided by granting *sue generis* home letting approval, then perhaps a solution would be to adopt the approach in the Planning circular 1/2023 short-term lets and planning of 17th May 2023 Para 4 (e) sections 4.14 and 4.15 limiting the duration of approval.

In regard to this as we are both in our 70's and maintain and operate bookings personally we will probably not be able to sustain such activities for more than 3 years at most and would revert to personal use only.

Still to think about

- Environmental impact of encouraging guest to leave any car they have and use public transport or walk
- Tourist benefit of giving details of local attractions not considered where to go and how to get there

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As part of meet/greet of all our guests we establish if they are new to the area and find out if there are specific plans for their stay. If they arrive with transport they are advised unless they are looking for attraction out with the city to leave their vehicle in the private parking place and use public transport or walk. Details of current location in respect to their events planned and familiarise them with opportunities of other places to visit museums/galleries/gardens etc to consider during their stay.

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- With the current energy situation, we may consider spending the winter period in flat with lower costs to main residence

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As we always meet guest in person and have an onward journey to make after handover, we cannot allow late check in over the autumn to spring period as travel is more difficult in the dark and wintery condition. With this in mind considering the current cost of living rises and higher energy costs we may start to close the winter period to guests and revert staying ourselves with the reduced energy consumption of this property.

- As residents we do get involved with local issues compared to purely STL properties

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There is no impact on community cohesion as alluded to above there has been little interaction with the neighbours in the block however there is contact with the community through the participation in meetings with the factor appointed by the residents to maintain the communal areas and shared responsibilities of the block.

- There is a significant amount of vehicular traffic on the street to access other areas and specifically our block does experience a lot of traffic turning just in front to go back up the road throughout the day and evening.

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Section a) Heading Proposed use Para Amenity, this states there is a low degree of activity at any time; Internally there are two occupants with a dog which requires walking several times a day. Externally there is significant vehicular traffic for access to further reaches of the surrounding street as well as the immediate vicinity being used as a turning point for cars/Taxis and light goods delivery vehicles. There is also a dual peak of transport for children at Pilrig Park School with minibuses congregating after drop off and prior to pickup daily during term times. There is a corner shop within 100 meters of the property and there is always some footfall associated with Pilrig park within 100 meters at the foot of the street.

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- There is a lot of minibus/taxi bus activity associated with Pilrig Park School school at Balfour place.
- There is a frequent footfall of people from Pilrig park
- There are small commercial properties on the street
- Applicability of LDP Hou 7 to this property

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The overall aim of this policy is provision/availability of affordable housing for key workers or those low income.

This is inappropriate for the property as it falls out with the criteria of affordability, with typical market valuation and rental expectation respectively much in excess of any mortgage lending ratio of 5 times salary and over double the current social rental figures.

When evaluating property planning applications against this policy consideration be given whether it is actually affordable in terms of the policy

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