



THE CITY OF EDINBURGH COUNCIL

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 100636251-001

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

Agent Details

Please enter Agent details

Company/Organisation: Format Design
Ref. Number:
First Name: * Shona
Last Name: * Mackay
Telephone Number: *
Extension Number:
Mobile Number:
Fax Number:
Building Name: Holyrood Business Park
Building Number: 146
Address 1 (Street): * Duddingston Road West
Address 2:
Town/City: * Edinburgh
Country: * Scotland
Postcode: * EH16 4AP
Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

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="J"/>	Building Number:	<input type="text" value="3"/>
Last Name: *	<input type="text" value="Spadavecchia"/>	Address 1 (Street): *	<input type="text" value="3F1, Warrender Park Terrace"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	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="EH9 1JA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="3F1"/>
Address 2:	<input type="text" value="3 WARRENDER PARK TERRACE"/>
Address 3:	<input type="text" value="MARCHMONT"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH9 1JA"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="672451"/>	Easting	<input type="text" value="325406"/>
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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)

Application for change of use from sui-generis flat to short-term let.

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.

Please see appeal statement submitted

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)

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)

Appeal statement

Application Details

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

22/04952/FULSTL

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

03/10/2022

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

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To allow the members of the Local Review Body to see the application site and its environs

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: Mrs Shona Mackay

Declaration Date: 19/07/2023

LOCAL REVIEW APPEAL AGAINST REFUSAL OF PLANNING PERMISSION, 22/04952/FULSTL, FOR
CHANGE OF USE FROM FLATTED DWELLINGHOUSE TO SHORT-TERM LETTING

AT

3, 3F1 WARRENDER PARK TERRACE, EDINBURGH EH9 1JA



19 JULY 2023

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Summary of conclusions

This proposed change of use is for a flat within a residential tenement which shares a common entrance/stair, however, it is presented here that the benefits of it operating as a commercial short term let still outweigh the loss of a residential property, and there will be no adverse amenity issues.

There should be no cause to come to the conclusion that the use would be detrimental to neighbouring residential properties. There should be no greater disturbance from a well-run STL than from a typical three-bedroom flat in this location. It could easily be operated as student accommodation, a HMO or a private B&B, uses which are all appropriate, and are uses that are more intense than family accommodation.

This stair is not a quiet residential stair at present, but is a busy HMO stair filled with students.

The property has operated as a let since prior to the changes in the STL legislation, and the applicant is not aware of any complaints having been made.

The applicant wishes to make several points very clear: -

- All clients will all be carefully vetted, to ensure they are a genuine family group, and any complaints from neighbours will be taken very seriously.
- Absolutely no parties or party groups will be permitted.
- No Access to the rear garden will be allowed for those staying in the flat whilst it is in use as a STL

Edinburgh needs short term let properties, and in particular it needs to be able to provide high-quality family type self-catering properties that afford the occupants a “home from home” whilst on holiday, particularly those travelling as a family with perhaps two children. The current of applying overly restrictive STL policies is jeopardising this important industry, which will be to the detriment of the City. These uses should be permitted where they can be successfully accommodated, and the characteristics of this property is such a case.

This property will benefit local businesses from clients shopping for their self-catering, entertainment, dining out and tourism spending.

It is therefore hoped that the Local Review Body will reconsider this decision and grant planning permission.

There now follows the assessment that has led to the above conclusion.

The Site

The property is a three bedroom flatted dwelling in the Warrender/Marchmont area of Edinburgh, a traditional tenemental residential area to the south side of the city centre, and directly overlooking Bruntsfield Links and The Meadows.

The property has a shared entrance, very near to the junction of Marchmont Road and Warrender Park Terrace.

The site is a third floor flat within a four-storey tenement at the east end of Warrender Park Terrace (see birds eye image below).



The owner is currently not residing in the property, and letting it out in this fashion is best way to ensure it remains occupied, with flexibility as to when the owner can move back in. A full time resident might be more difficult to change. Also, the property needs substantial restoration and preservation work, and the income from letting will help to fund this.

The decision

The reasons for refusal are:-

1. ***“The proposal is contrary to Local Development Plan Policy Hou 7 in respect of inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.”***
2. ***“The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.”***

This report of handling summary states: -

“The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the adverse impact from the loss of residential accommodation and impact on residential amenity. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.”



The view from the street showing the street entrance and windows to the front

The appeal review response

Since the decision to refuse the application, it is of note that the recent court case relating to the licensing policy for short term lets gives significant cause to reconsider the planning policy also. In summary, *“The court found that the City of Edinburgh Council’s short-term let licensing policy was unlawful at common law and in breach of The Provision of Services Regulations 2009 for a number of different reasons. Most strikingly they found that it was not for the council, as licencing authority, to decide that a licence should not be granted just because a property is in a tenement.”*

This particular case relates to a third floor flat within a tenement with shared entrance and stairwell.

The area is well known for containing large numbers of Houses in Multiple Occupation and student flats. In fact nearly all, if not all other flats in the stair are presently operating as HMO’s. This particular stair is in fact mainly student HMO’s.

The property is let as family accommodation, and to visiting professionals. This is a top quality residential let, and is not rented to party groups. Applicants are vetted in advance and are made very aware this is a family let.

It has no greater impact on amenity or character of the area than any other residential unit. The occupants may well change weekly or fortnightly, however this should not create any noticeable disturbance.

It is a relatively active area. Marchmont Road contains a local centre not far from the site. There are commercial premises closer to the property. Marchmont Road is a busy thoroughfare and bus route. The Meadows and Bruntsfield Links are very active areas.

It is a very well located property in terms of access to transport, local facilities and to the historic centre of Edinburgh and visitor attractions.



Aerial view with the property being in the second block from the corner (Marchmont Road)

One of the main reasons for refusal is regarding **Policy 30** of the National Planning Framework **NPF4**, on **Tourism**. This policy has the 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*”. It also advises at part e) that “*Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in; -*

either

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.”

Residential Amenity and Character

The property is within a residential tenement and it shares a common access. The property is in a residential, but busy area which already has a relatively high ambient background noise level. **Policy Hou 7** is relevant in this location. The intention of the policy is to preclude the introduction or intensification of **non-residential uses** incompatible with predominantly residential areas and to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation.

It is argued that this is a compatible residential use. There is no history of noise complaints from the premises. Other flats in the stair are let commercially, predominantly as HMO to students.

Whilst it is true that occupants will obviously change more regularly than residents would, the coming and going should be little different than the impact of a resident family leaving for school, college, work or shopping. They would only be carrying a small amount of luggage, which is unlikely to be a noisy event. If there were to be a noisy client then this would be short lived. It is equally possible to have a noisy permanent resident. The owner would take any complaints very seriously, and would act upon it.

The cleaning service will be very quiet, and little different from any other general household cleaning activities. Changing linen is not a noisy activity.

This is advertised as family accommodation, and not as a party flat. Clients are vetted to ensure they will be a family unit. It is well managed property which has not received any complaints.

As stated above, most, if not all other flats at number 3 are presently operating as HMO.

The flat does have shared access to the rear garden ground. Even though this has not been an issue and is unlikely to become one, the access to the garden will be restricted. Clients will be made very clear of this. The Meadows and Bruntsfield Links provide more than adequate space for visitors if garden access is restricted.

It is concluded that the change of use should give no cause for concern for the amenity of neighbouring dwellings.

The use will have no impact on the character of the area as it is an active area, and one with a large student and HMO population.

Loss of Residential Accommodation

The property is a high quality residential property. However, being on an upper floor, access is difficult for elderly and infirm, and is not ideal for a new family with younger children.

NPF4 policy 30, seeks 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. This site is very accessible being on a cycle route and bus route. It is very well located for public transport, local services and

facilities, being within a local centre, and is close to the historic heart of Edinburgh, ideal for tourists who will bring revenue to the local economy. It is in a very sustainable location.

The City relies on a supply of good quality self-catering family accommodation. Not all families want to, or can afford to, stay in a hotel, and prefer the freedom to remain in family type accommodation. We need to maintain this element of choice. This property is very well located for local amenities, public transport, and access to the City Centre, the Historic Heart of Edinburgh and all of the associated tourist attractions. It is also within a setting which shows off the beauty of the city and is a great advert for tourists to come and visit. It is therefore argued that the loss of the residential unit is not an appropriate reason for refusal on its own, and that the benefits of the STL use outweigh the loss of a residential unit. The change of use can therefore be justified.

Finally, it is suggested that if the operation of a short term let is so dependent upon the manner in which it is managed, then permission should be granted for the applicant only, and it should not simply be attached to the property. This could be controlled by condition or a simple legal agreement. It is much the same as is the case with HMO's which are licensed, and licenses are awarded to individuals, and not to the property. The Council should treat STL's on a case by case basis to allow proprietors the opportunity to prove they can operate in a way symbiotic to other residences.