

Format Building Design.
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Edinburgh
EH16 4AP

Mr Spadavecchia
3F1 3 Warrender Park Terrace
Edinburgh
EH9 1JA

Decision date: 25 April 2023

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

Application for change of use from sui-generis flat to short-term let.
At 3F1 3 Warrender Park Terrace Edinburgh EH9 1JA

Application No: 22/04952/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 3 October 2022, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

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

Reason for Refusal:-

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.

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

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

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

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

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.

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

Should you have a specific enquiry regarding this decision please contact James Armstrong directly at james.armstrong@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

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

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

Report of Handling

**Application for Planning Permission STL
3F1 3 Warrender Park Terrace, Edinburgh, EH9 1JA**

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

**Item – Local Delegated Decision
Application Number – 22/04952/FULSTL
Ward – B10 - Morningside**

Recommendation

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

Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

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.

SECTION A – Application Background

Site description

The application site is a three bedroom, second floor flat located on the southern side of Warrender Park Terrace. The property shares its access to the street with other properties via a communal stair.

Warrender Park Terrace is of predominantly residential character, with the northern side of the street consisting of a public park. The surrounding area is more mixed, with

different commercial uses present, including retail, restaurant, cafe, and other uses. Bus links are relatively accessible from the site.

The application site is located within the Marchmont, Meadows and Bruntsfield Conservation Area,

The application property is part of a category B listed building, 2-4 (Incl. nos) Warrender Park Terrace, including railings, LB30645, 19/03/1993.

Description of the proposal

The application is for a change of use from Residential to Short Term Let (STL) (sui-generis). For the avoidance of doubt, the application includes no internal or external works.

Supporting Information

- Planning Statement

Relevant Site History

22/04820/LBC

3F1 3 Warrender Park Terrace

Edinburgh

EH9 1JA

Application for listed building consent for internal alterations revised from approved application ref: 22/01456/LBC (as amended)

Granted

25 November 2022

Other Relevant Site History

No other relevant site history was identified.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 25 April 2023

Date of Advertisement: 28 October 2022

Date of Site Notice: 28 October 2022

Number of Contributors: 4

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

a) Is there a strong presumption against granting planning permission due to the proposals:

- (i) harming the listed building or its setting? or
- (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

a) The proposals harm the listed building or its setting?

The following HES guidance is relevant in the determination of this application:

o Managing Change in the Historic Environment: Guidance on the principles of listed buildings

o Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed

buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal works proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the listed building

The proposal does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

The following HES guidance is relevant in the determination of this application:

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal emphasises the well proportioned Victorian tenemental perimeter blocks with Baronial detailing and the substantial area of the open parkland formed by the Meadows and Bruntsfield Links.

As stated previously, there are no external or internal works proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

Conclusion in relation to the conservation area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policies 1 and 7.
- NPF4 Productive Places Tourism Policy 30.

- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering historic assets.

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering change of use applications.

Listed Building and Conservation Area

No physical works are proposed and as such there will not be an impact on the conservation area or Listed Building. There will not be a negative impact on historic assets or places, the proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 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. Criterion 30 (b) and (e) specifically relate to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to a short term let 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.

In connection to short term lets it states, "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

Amenity

The application property shares its access to the street via a communal stair and is located within a predominantly residential area. There is a low to moderate degree of activity in the immediate vicinity of the property at any time.

The use of the property as an STL would introduce an increased frequency of movement to the property and into the stair. The proposed three bedroom STL use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents.

There is 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 individuals using the property as a principal home. The shared garden area associated with the property is also of concern, as it has the capacity to amplify amenity impacts on neighbours.

This would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have an unacceptable effect on the living conditions and amenity of nearby residents. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential property this will only be supported where the economic benefits of the proposals are outweighed by demonstrable local economic benefits.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

The use of the property as an STL would result in the loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh it is important to retain, where appropriate. The limited amount of storage space in this circumstance is insufficient to justify the property's unsuitability for residential use.

However, the applicant has not sought to demonstrate any local economic benefits associated with the proposed use.

Furthermore, it is important to recognise that residential occupation of the property contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

In this instance it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by local economic benefits arising from the STL use. As such, the proposal does not comply with NPF 4 30(e) part (ii).

Parking Standards

There is no motor vehicle or cycle parking. This is acceptable as there are no parking requirements for STLs.

The proposal complies with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

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 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.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited 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:

4 objections
0 in support
0 neutral

material considerations in objection

- Negative impact on resident amenity. Addressed in Section C.
- Negative impact of short term lets on communities. Addressed in Section C.
- Impact on parking congestion. Addressed in Section C.
- Impact on traffic congestion. The change of use of the property will not have a significant impact on traffic congestion.
- Impact on the local community and area's sense of place. The change of use of the property will not have a significant impact on the local community or the area's sense of place.
- Impact on waste and recycling. Suitable waste and recycling facilities are provided.
- Loss of residential accommodation. Addressed in Section C.
- Impact on the maintenance of a Listed Building and/or buildings in a conservation area. Addressed in Section C.
- Lack of economic benefits from STLs. Addressed in Section C.
- Conflicts with development plan policies. Addressed in section C.

non-material considerations

- Not compliant with Scottish Planning Policy.
- Cause anti-social behaviour.

- Impact on internal drainage facilities.

Conclusion in relation to other material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

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. 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.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

Reason for Refusal

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.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 3 October 2022

Drawing Numbers/Scheme

01, 02

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

Contact: James Armstrong, Assistant Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/04952/FULSTL

Application Summary

Application Number: 22/04952/FULSTL

Address: 3F1 3 Warrender Park Terrace Edinburgh EH9 1JA

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

Case Officer: Improvement Team

Customer Details

Name: Ms Lynne Bulmer

Address: 2 Warrender Park Terrace Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:As our property is next to the shared stairwell of no. 3 Warrender Park Terrace, we have had regular issues with noise from the stairwell from large gatherings/parties/students coming in late and making a lot of noise etc. and have felt the need to take action on many occasions - sometimes by confronting people, by contacting the proprietors/agents or occasionally the police. As a lot of these issues happen when new students arrive in no. 3, we usually have to make a series of complaints once a year in the autumn - with a short-term let, we anticipate that with the constant stream of different people this encourages, we will have more regular noise issues. We do not welcome the prospect of short-term lodgers who, in our experience, often seem to be very inconsiderate of their neighbours and do not respect their need for peace and quiet in the evenings and through the night, - this is important for us as my husband is a doctor. Many of them are also disrespectful of the property itself. Although I'm sure not all occupants of short-term lets will be antisocial in their behaviour, owner-occupier and long term residents find that such properties do indeed attract antisocial behaviour and we wish to raise our objections to this proposal.

Comments for Planning Application 22/04952/FULSTL

Application Summary

Application Number: 22/04952/FULSTL

Address: 3F1 3 Warrender Park Terrace Edinburgh EH9 1JA

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

Case Officer: Improvement Team

Customer Details

Name: Lord Cockburn Association

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

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

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

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

Comments for Planning Application 22/04952/FULSTL

Application Summary

Application Number: 22/04952/FULSTL

Address: 3F1 3 Warrender Park Terrace Edinburgh EH9 1JA

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

Case Officer: Improvement Team

Customer Details

Name: Dr David Greenshields

Address: 4A Warrender Park Terrace Edinburgh EDINBURGH

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The development is contrary to the Scottish Government Housing policy on more homes - "everyone has a quality home that they can afford and that meets their needs".

The development is contrary to Scottish Planning Policy on "socially sustainable places" and "supporting delivery of accessible housing".

The development would have unacceptable impacts on neighbourhood amenity.

It has been concluded at DPEA planning appeals, that short-term lets have a materially detrimental impact on the living conditions for close neighbours.

Significant impacts on neighbours include: increased antisocial behaviour, noise, disruption, intrusion by a frequent turnover of strangers, loss of community, loss of security and impacts on bins and parking.

The attached planning statement is misleading and I believe false regarding the status of the common stair properties. Several of the properties have been owner-occupied within the past two years, and I believe 1F1 is now again following the property sale.

I think it is misleading to state "none of the flats are traditional family homes" when 4F2 was owner-occupied by a family of four for several years up until 2021, and 1F1, 2F2, 3F1 and 3F2 have all been owner-occupied within the last four years.

Significant upgrade work on the property (part-funded by Edinburgh World Heritage) has recently been completed - this disruption and cost was the reason at least two owner-occupiers left, for

example.

As owners of one of the garden flats, we have experienced issues with short-term lets in the form of AirBnB's in the recent past. Our property has suffered with water flooding from bathrooms due to lack of care when running showers from AirBnB guests.

The front and back gardens immediately below windows of the stairwell property are our private property and we regularly have rubbish and cigarette butts dropped at the beginning of student lets. This is manageable with communication with longer-term student lets and landlords, but will be far less so with short-term lets.

With Edinburgh's housing crisis, the last thing that is needed is more short-term lets.

Comments for Planning Application 22/04952/FULSTL

Application Summary

Application Number: 22/04952/FULSTL

Address: 3F1 3 Warrender Park Terrace Edinburgh EH9 1JA

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

Case Officer: Improvement Team

Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined the proposals for the change of use to short-term let in a B-listed tenement within the Marchmont, Meadows & Bruntsfield Conservation Area, and objects.

- 1) The proposals only relate to one property within the tenement, which is accessed from a shared stair. This would have a detrimental impact on the residential amenity of neighbouring properties, and limits the future of the flats not included within the application.
- 2) The change of use would contribute to the unsustainable growth of the short term let (STL) sector in Edinburgh. The economic benefits of tourism for Edinburgh are clear, and we celebrate the role that our architectural heritage plays in this sector. However, the current rising rate of STLs threatens the sense of place and community which are part of the city's attraction.
- 3) Scottish Government Research has highlighted the links between STLs and the negative impacts of reduced availability of affordable housing, congestion and reduced quality of life through noise and disturbance (People, Communities and Places, October 2019, pp. iv-v)
- 4) With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is diminished by the increase of short-term occupants.

The change of use does not respect the special characteristics of history and place reflected in the building's designation and location in the Conservation Area, and would increase the negative impacts caused by the growth of STLs in Edinburgh.

The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities), ENV 4 (Risk of unnecessary damage to historic structures), and HOU7 (Materially detrimental effect on the living conditions of

nearby residents). We therefore object to the application.