

Development Management Sub-Committee Report

Wednesday 4 October 2023

**Application for Planning Permission STL
52 Eyre Place, Edinburgh, EH3 5EJ**

Proposal: Change of use from residential to short-term holiday let accommodation - retrospective.

**Item – Committee Decision
Application Number – 23/02813/FULSTL
Ward – B05 - Inverleith**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-Committee as it has received more than twenty material supporting comments and the recommendation is to refuse planning permission.

Recommendation

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

Summary

The proposal complies with sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a short term let (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 tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity or 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 A – Application Background

Site Description

The application property comprises a ground floor studio flatted dwelling at 52 Eyre Place, Canonmills. The property has private main door entry. There are other residential units located directly above and adjacent to the property.

The surrounding area is predominantly residential. The site is located within the New Town Conservation Area.

Description Of The Proposal

Planning permission is sought for the retrospective change of use from residential to short term let (sui generis). No internal or external changes are proposed.

Supporting Information

- NPF4 Supporting Planning Statement

Relevant Site History

95/02543/FUL
52 Eyre Place
Edinburgh
EH3 5EJ
Change of use from store to flat (as amended)
Granted
20 December 1995

22/04962/FULSTL
52 Eyre Place
Edinburgh
EH3 5EJ
From residential to short-term let visitor accommodation.
Refused
4 April 2023

Other Relevant Site History

No other relevant site history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 11 July 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 14 July 2023

Site Notices Date(s): 11 July 2023

Number of Contributors: 2

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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

To address these determining issues, it needs to be considered whether:

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

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

- Managing Change in the Historic Environment: Setting

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.

The New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves.

There are no external changes proposed. The change of use to a short term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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.

b) 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 policies to be considered are:

- NPF4 Sustainable Places Policy 1.
- NPF4 Historic Assets and Places Policy 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' (2023) is a material consideration that is relevant when considering change of use applications.

Conservation Area

There are no external or internal works proposed and as such there will not be a significant impact on historic assets and places. The proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the proposals do not involve operational development and therefore, 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 (e) specifically relates to STL proposals.

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

The non-statutory Guidance for Businesses (2023) 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.

Amenity:

The application property is a ground floor, main door flatted dwelling located within a residential tenement block. There are other residential units located next to and above the application property.

The surrounding area is predominantly residential with a medium to low degree of activity in the immediate vicinity of the property.

The applicant's supporting planning statement asserts that the use of the property for STL purposes will have a limited impact on the amenity of nearby residents due to the property's private access, limited size (28 sqm and up to a maximum of two guests), management procedures and the lack of previous complaints.

The use of the property as an STL would, however, introduce an increased frequency of movement to the property. The proposed STL use would enable multiple 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. Despite the property's private access arrangements and small size, the potential negative impacts to neighbouring properties are considered significant. Only limited weight can be given to the current operation/management of the property.

The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

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 loss is outweighed by demonstrable local economic benefits.

The applicant's supporting planning statement asserts that the loss of residential accommodation is outweighed by the economic benefits associated with the use of the property as a STL. It is claimed that the proposed STL use will contribute economic benefit through visitor spend.

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.

However, the use of the property as a STL would result in the direct loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh, is important to retain where appropriate.

Furthermore, residential occupation of the property also 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.

It is also stated in the submitted planning statement, that as the floor area of the property is less than the recommended 36 sqm for a studio dwelling as set out in the 'Edinburgh Design Guidance', the property is not suited for residential use. However, the property has planning permission for residential use (granted in 1995) and the lawful use of the property as residential accommodation is considered acceptable in this regard.

In this instance it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable 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 are no parking requirements for STLs. Cycles could be parked inside the property. The proposals comply with LDP Policies Tra 2 and Tra 3.

Previous Planning Decisions

The submitted planning statement cites a number of previous planning decisions in support of the application, all of which pre-date the introduction of NPF4. Notwithstanding this, each application is assessed on individual merit and context.

Conclusion in relation to the Development Plan

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

The following material planning considerations have been identified:

Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only limited weight can be attached to it as a material consideration in the determination of this application.

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 petition containing 23 signatures in support was submitted. Two representations (both objections) were also received. A summary of the representations/petition is provided below:

material considerations

- Negative impact on the residential character of the area. Addressed in part b).
- Negative impact on local amenity. Addressed in part b).
- Negative impact on city-wide housing availability/affordability. Addressed in part b).
- The property would not have a detrimental impact on local amenity given its small size. Addressed in part b).
- The property is too small to be used as permanent residential accommodation. Addressed in part b).

non-material considerations

- A previous application was refused at this site. Each application is assessed on its own merit.
- The property has not received any previous complaints. Not a material consideration.

Conclusion in relation to identified material considerations

Identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

Overall conclusion

The proposal complies with sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a 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 tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity or 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 term 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 term let will result in an unacceptable impact of local amenity and the loss of a residential property has not been justified.

Informatives

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 30 June 2023

Drawing Numbers/Scheme

01 - 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

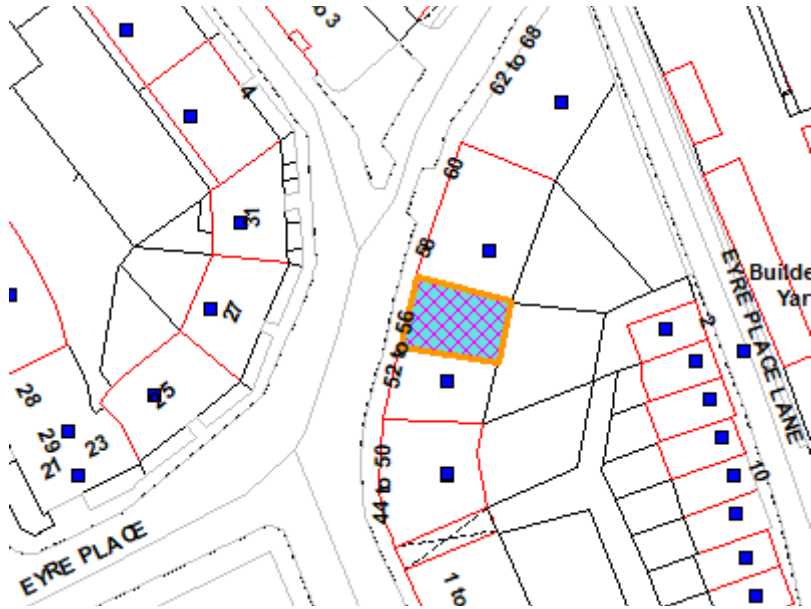
Contact: Sean Christie, Assistant Planning Officer
E-mail: sean.christie@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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