

Mr Newsam
30 Martingale Close
Cambridge
CB4 3TA

Decision date: 5 May 2023

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

Change of use of flat to short term holiday let or a flat.
At 3F3 112A West Bow Edinburgh EH1 2HH

Application No: 22/04934/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 30 September 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;

Conditions:-

1. No conditions are attached to this consent.

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:

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 Benny Buckle directly at benny.buckle@edinburgh.gov.uk.

A handwritten signature in blue ink, appearing to read 'Benny Buckle', with a long horizontal flourish extending to the right.

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
3F3 112A West Bow, Edinburgh, EH1 2HH

Proposal: Change of use of flat to short term holiday let or a flat.

Item – Local Delegated Decision
Application Number – 22/04934/FUL
Ward – B11 - City Centre

Recommendation

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

Summary

The change of use of this property to a Short Term Let 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 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 A – Application Background

Site Description

The application site relates to a two-bedroom flat, at 3F3 112A West Bow. Access is gained via a shared stair and ground floor entrance, which are used by a further eleven residential properties. The property is located within the Old Town Conservation Area and World Heritage Site.

The flat is located within an B listed building (29910), listed on 14/12/1970.

Description of The Proposal

The application is for retrospective planning permission for the change of use from residential to short term let.

Relevant Site History

No relevant site history.

Other Relevant Site History

No further relevant site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 14 October 2022

Date of Advertisement: 21 October 2022

Date of Site Notice: 21 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

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

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

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

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- 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 alterations 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, or its setting. 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?

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 Old Town Conservation Area Character appraisal states: *"The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm;*

the vitality and variety of different uses; and the continuing presence of a residential community."

There are no external alterations. The change of use from a residential premises 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 comply with 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 Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- NPF4 Historic Assets and Places Policy 7.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering NPF 4 Policy 7.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Listed Building and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved.

The proposal complies with the objectives of NPF 4 Policy 7.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It is concluded that the change of use would preserve the character and appearance of the conservation area.

The proposal complies with NPF 4 Policy 7.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with NPF4 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 (updated April 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 property is situated in a mixed-use area. Access is via a communal front door and stairwell that is used by eleven further properties, all within residential use.

The use as a short term let would allow visitors to come and go at the premises for inconsistent periods of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. Guests can come and go frequently throughout the day and night conflicting with the amenity of immediate residential occupants. Temporary visitors are also likely to have less regard for the local amenity. This would increase the ambient background noise that residents would reasonably expect within the immediate and local area. This increase in frequency of movement to the flat at unpredictable hours would damage the amenity of the immediate neighbours and adjacent properties.

A change of use would increase the level of ambient background noise beyond what is reasonably expected by neighbouring residents and will have a significant detrimental 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 accommodation, this will only be supported where the loss is 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.

However, having the property within residential use would also contribute to the economy, through the use of a variety of local services and employment opportunities across the City. Long term residents also have the ability to make consistent and long-term contributions to the local community.

The proposal would result in the loss of residential accommodation. There is a recognised need and demand for housing in Edinburgh, therefore, it is important to retain the existing supply where appropriate.

In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. 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.

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 tourist accommodation in this case it does not outweigh the adverse 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

The application received four public representations, four objections.

material considerations in objection

- A change of use would have a detrimental effect on residential amenity. This has been discussed within section c).
- A change of use would remove a property from the long-term residential market. This has been discussed within section c).

non material considerations

- Creates excess waste and litter.

Conclusion in relation to identified material considerations

None of the identified material considerations outweigh the proposals in compliance with the Development Plan.

Overall conclusion

The change of use of this property to a Short Term Let 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 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

1. No conditions are attached to this consent.

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: 30 September 2022

Drawing Numbers/Scheme

01 - 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/04934/FUL

Application Summary

Application Number: 22/04934/FUL

Address: 3F3 112A West Bow Edinburgh EH1 2HH

Proposal: Change of use of flat to short term holiday let or a flat.

Case Officer: Local1 Team

Customer Details

Name: Mrs Jenny Paton-Williams

Address: 28 Castle Terrace Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to object to this application for a short-term let. The centre of Edinburgh has been hollowed out by short-term lets, meaning that there are so few proper residents in order to keep the community alive. Events when local people come together are very few as it is difficult to get enough people.

Short-term lets within tenement buildings mean a lot of extra noise (often late at night) and disturbance for the residents. There are sometimes safety issues re front doors.

Short-term lets produce a lot of waste such as convenience food packaging. I believe this is one major reason why our bins and skips are overflowing on a recurring basis.

There is a need for more affordable housing - flats are ideal.

Comments for Planning Application 22/04934/FUL

Application Summary

Application Number: 22/04934/FUL

Address: 3F3 112A West Bow Edinburgh EH1 2HH

Proposal: Change of use of flat to short term holiday let or a flat.

Case Officer: Local1 Team

Customer Details

Name: Ms OLD TOWN 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: This application should be refused as the use of a residential house for short-term letting means loss of residential accommodation. Short-term lets in a tenement results in noise and other disturbance for the other inhabitants, especially where there is shared access or shared space. Short-term lets as a whole destroy communities and lead to a sense of insecurity amongst remaining residents.

Comments for Planning Application 22/04934/FUL

Application Summary

Application Number: 22/04934/FUL

Address: 3F3 112A West Bow Edinburgh EH1 2HH

Proposal: Change of use of flat to short term holiday let or a flat.

Case Officer: Local1 Team

Customer Details

Name: Mrs Elspeth Wills

Address: 3 Browns Place Edinburgh

Comment Details

Commenter Type: Residents Association

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: GRASS (Grassmarket Residents Association) with the full support of the Old Town Community Council wishes to object to this application on the following grounds.

Shortage of housing to buy or rent is a real issue throughout Edinburgh as acknowledged by both by the current and 2030 national planning guidelines. This is particularly true of the Old Town where the voters' roll has fallen to its lowest level ever and one in three properties is now a STL. The proliferation of STLs has damaging effects not only on neighbours (Hou 7) and on building maintenance but on whole communities. Judging by the neighbour notification list there are still a few residents surviving in the area.

STLs bring few benefits to the local economy or community as most visitors stay for only 2-3 nights to have fun in the city centre.

Many properties are at the heart of the World Heritage site.

Loss of income to the Council who maintains essential services such as rubbish collection free of charge. Housing should be seen as a place for people to live in not as an investment.

We urge that this and all STL applications are turned down.

Started trading illegally.

Yours sincerely

Elspeth Wills

Chair GRASS

Comments for Planning Application 22/04934/FUL

Application Summary

Application Number: 22/04934/FUL

Address: 3F3 112A West Bow Edinburgh EH1 2HH

Proposal: Change of use of flat to short term holiday let or a flat.

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 Old Town Conservation Area and World Heritage Site, 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, and this is especially acute in the World Heritage Site.
- 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 building's location in the World Heritage Site, 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.