

Miss McKerrow. The Barns By Tomintoul Cottage Braemar AB35 5XX

Decision date: 2 August 2023

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

Change of use from residential to short term let (in retrospect). At 12 Raeburn Mews Edinburgh EH4 1RG

Application No: 23/01489/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 26 May 2023, 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 property 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 4 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 on local amenity and the loss of a residential property has not been justified.

Please see the guidance notes on our <u>decision page</u> 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 <u>Planning and Building Standards Online Services</u>

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

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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.

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 Lesley Porteous directly at lesley.porteous@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 12 Raeburn Mews, Edinburgh, EH4 1RG

Proposal: Change of use from residential to short term let (in retrospect).

Item – Local Delegated Decision Application Number – 23/01489/FULSTL Ward – B05 - Inverleith

Recommendation

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

Summary

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 site is a two-storey mews building at 12 Raeburn Mews, Stockbridge. There is a double bedroom and shower room on the ground floor. The first floor has a sitting room, kitchen and shower room. The property has its own main door entrance and there is no shared or private amenity space.

The surrounding area is an enclave of mews buildings just off Raeburn Place. Public transport can be reached within a 5-minute walk.

The application site is in the New Town Conservation Area.

Description Of The Proposal

The application seeks permission to change the residential use to a short term let. No internal or external physical changes are proposed.

The applicant has advised that the property has been used as a short term let since 2021 The application is therefore retrospective.

Supporting Information

National Planning Framework 4 Planning Statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

No relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 26 May 2023 Date of Advertisement: 2 June 2023 Date of Site Notice: 2 June 2023 Number of Contributors: 0

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

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 New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. 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 proposal does not harm the conservation area. Therefore, it is 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. 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 (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 (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 a two storey mews building. It is located at the end of an enclave of mews buildings to the rear of Raeburn Place in Stockbridge. It has its own main door entrance on to the street.

The applicant submitted a planning statement in response to the NPF 4 policies. In terms of amenity, the statement highlights that the surrounding area is very peaceful and the applicant does not wish to disrespect this therefore rents only to individuals and couples. The applicant is not aware of complaints from neighbours.

As the immediate surrounding area is entirely residential there is a fairly low ambient noise level and the introduction of an STL use in this location will have a negative impact on the amenity of the surrounding area. Although it has its own main door access, the use of this property as a short term let would have the potential to introduce an increased frequency of movement to the dwelling at unsociable hours. The proposed one bedroom short stay 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 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 disturbance, further impacting on neighbouring amenity. However, this would be of lesser impact as it is likely that servicing would be conducted during the daytime.

The potential for noise described above would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly 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.

The applicant's NPF 4 statement confirms that this is the applicant's secondary property. The statement explains how the property is let out on a short term let basis only when family /extended family are not using it. The number of weeks the property is used for STL is a maximum of three months in the year. The implication is that there is no loss of residential accommodation. The statement also submits that the STL use will attract guests who will visit local amenities, bars, cafes and restaurants.

The current lawful use of the property is for residential accommodation. Consequently, the use of the property as an STL (in this case for a maximum of three months of the year) would result in a loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh is important to retain, 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).

Car Parking

There is one car parking space at the property. This is acceptable and there is no requirement for cycle parking for short term lets. The proposal complies with 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.

c) 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.

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.

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

No representations have been received.

Conclusion in relation to identified material considerations

Overall conclusion

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 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;

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 property 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 4 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 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: 26 May 2023

Drawing Numbers/Scheme

01,02

Scheme 1

David Givan Chief Planning Officer PLACE The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer E-mail:lesley.porteous@edinburgh.gov.uk Appendix 1

Consultations

No consultations undertaken.

Appendix 2

Application Certification Record

Case Officer

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: Lesley Porteous

Date: 2 August 2023

Authorising Officer

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Damian McAfee

Date: 2 August 2023

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| 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: | | | | |
| | 100639744-001 e unique reference for your online form only ease quote this reference if you need to con | | ty will allocate an Application Number when rity about this application. | |
| , ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, | Agent Details n agent? * (An agent is an architect, consult in connection with this application) | ant or someone else ac | ting T Applicant \leq Agent | |
| Applicant Details | | | | |
| Please enter Applicant de | tails | | | |
| Title: | Miss | You must enter a Building Name or Number, or both: * | | |
| Other Title: | | Building Name: | The Barns | |
| First Name: * | Kirsty | Building Number: | | |
| Last Name: * | McKerrow | Address 1 (Street): * | The Barns, | |
| Company/Organisation | | Address 2: | by Tomintoul Cottage | |
| Telephone Number: * | | Town/City: * | Braemar | |
| Extension Number: | | Country: * | | |
| Mobile Number: | [] | Postcode: * | Ab35 5XX | |
| Fax Number: | | | | |
| Email Address: * | | | | |

| Site Address Details | | | | |
|--|---------------------------------------|------|---|--|
| Planning Authority: | City of Edinburgh Council | | | |
| Full postal address of the s | ite (including postcode where availab | le): | _ | |
| Address 1: | 12 RAEBURN MEWS | | | |
| Address 2: | STOCKBRIDGE | | | |
| Address 3: | | | | |
| Address 4: | | | | |
| Address 5: | | | | |
| Town/City/Settlement: | EDINBURGH | | | |
| Post Code: | EH4 1RG | | | |
| Please identify/describe the location of the site or sites Northing 674728 Easting 324405 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) I would like to request a review of the recent decision to refuse my application for a change of use to a Short Term Let as I do not agree with your reasons, as detailed in the attached document | | | | |
| 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. | dooc | VOUR | review | rolato | to2 * |
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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 a 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 supported document | | | |
|---|---|-------|--|
| Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? * | Yes X No | | |
| If yes, you should explain in the box below, why you are raising the new matter, why it was r your application was determined and why you consider it should be considered in your revie | not raised with the appointed officer before w: * (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) Letter detailing why I would like the decision to be reviewed | | | |
| Application Details | | | |
| Please provide the application reference no. given to you by your planning authority for your previous application. | 23/01489/FULSTL | | |
| What date was the application submitted to the planning authority? * | 19/05/2023 | | |
| What date was the decision issued by the planning authority? * | 02/08/2023 | | |

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. * X Yes \Box No

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

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

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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

There is a gate with a code that needs to be entered in order to get into Raeburn Mews. I would be very happy to provide this information if someone wanted to visit the outside of the house.

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?. *

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

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? *

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? *

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 *

| _ | | |
|---|-----|----|
| X | Yes | No |

X Yes No

X Yes No

Yes No X N/A

Yes X 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: Miss Kirsty McKerrow

Declaration Date: 17/08/2023

Applica on No 23/01489/FULSTL

I refer to the above and would like to appeal to the Council's recent decision to refuse my applica on for a change of use to a Short Term Let.

As I understand it, the key reasons detailed in your refusal were that it would have an unacceptable impact on the neighbouring amenity and that the loss of residen al accommoda on has not been jus fied.

This applica on was submit ed retrospec vely, there have never been any complaints from the neighbourhood and none of the residents objected to my applica on. Therefore, I cannot understand what nega ve impact this change of use would present to the neighbouring amenity as it has been func oning perfectly well to date.

As I explained in my proposal, I stay in the property when I am down in Edinburgh for work as well as for breaks when we are visi ng family. Therefore, this property would not be rented out on a long-term basis and so there is no loss of residen al accommoda on.

Your refusal highlighted the fact that this is a main door property with its own parking space. However, it also stated that the introduc on of a STL use in this loca on would have a nega ve impact due to the increased frequency of movement to the dwelling at unsociable hours. Why would this be so? I do not see how you can presume factors which do not exist. I have already explained there have been no complaints and no objec ons, surely the residents are the best judge of this assumed nega ve impact and as no complaints have been made and no objec ons raised, I do not see this 'increased frequency of movement' as a factor.

The poten al for noise was also raised as a reason for the refusal. It is a one-bedroom terraced house which offers accommoda on for up to 2 people. Why would having 2 people on holiday create more noise than a family of 4 (my family). Again, I would ask you to remember that in the months it has been func oning as a STL there have been no complaints and none of the residents objected to this applica on.

I understand the principle of why there is a need to regulate Airbnb's, par cularly when owners are using the property on a purely commercial basis or large numbers of guests are accommodated. However, in this case this couldn't be further from the truth. The fact that there have never been any complaints from residents or any objec ons to this applica on is tes mony to the limita ons I have put on any guests using my property. I believe that a change of use to STL would not present any unacceptable impact on the neighbouring amenity, and I believe this has been proven. It is for this reason that I am appealing this decision and I would kindly ask you to review my applica on.