

Lothian Plans. FAO: Stephen Lothian 18 Laidlaw Gardens Tranent EH33 2QH Ms Hughes. 9 Hugh Miller Place Edinburgh EH3 5JG

Decision date: 24 August 2023

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

Change of use from a residential property to a short term let (in retrospect). At 9 Hugh Miller Place Edinburgh EH3 5JG

Application No: 23/02576/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 23 June 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 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 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, 03, 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 complies with sections 64 and 59 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, and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

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 Sean Christie directly at sean.christie@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 9 Hugh Miller Place, Edinburgh, EH3 5JG

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

Item – Local Delegated Decision Application Number – 23/02576/FULSTL Ward – B05 - Inverleith

Recommendation

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

Summary

The proposal complies with sections 64 and 59 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, and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

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SECTION A – Application Background

Site Description

The application property comprises a one-bedroom, ground floor colony dwelling at 9 Hugh Miller Place, Stockbridge with other flats located adjacent to and above the proposed STL unit. The property has private main door access and the surrounding area is residential. The site is within the Stockbridge Colonies Conservation Area. The application property forms part of a category B listed building - Glenogle Road, Glenogle Park (The Colonies), 1-33 (inclusive) Hugh Miller Place, LB50523, 11/10/1973.

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 works are proposed as part of the application.

Supporting Information

- NPF4 Supporting Planning Statement / Supporting Statement

- Supporting Checklist

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 27 June 2023 Date of Advertisement: 30 June 2023 Date of Site Notice: 30 June 2023 Number of Contributors: 9

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 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) Act1997 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 Stockbridge Colonies Conservation Area is characterised by cottage style architecture and the uniform use of sandstone and slate.

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 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 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.

Listed Building and 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:

Although the application property has private main door access, there are other residential flats located above and adjacent to the proposed STL unit. The surrounding area is residential with a low degree of activity in the immediate vicinity of the property.

The applicant's supporting planning statement asserts that the use of the property as a STL will have a limited impact on local amenity due to the nature of the lets undertaken (generally 2-6 months in duration). It is also stated that there have been no complaints in regard to the property's previous eight years of operation as a STL.

It is stated by the applicant that the property is used for longer term lets (2-6 months). Although this would lead to less impact on amenity, the granting of planning permission for STL use would allow the property to be used at varying times of the year and for different periods of time.

The use of the property as a STL would allow for the introduction of 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.

The additional servicing that operating a property as a 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 statement does not provide any evidence of local economic benefits associated with the use of the property as a STL.

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.

Although the applicant states that the property would be used as a STL for periods between 2-6 months, the change of use of the property to a STL would in effect result in the 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.

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.

Conclusion in relation to the Development Plan

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. 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:

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 ShortTerm 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

In total 9 representations (8 objections and 1 supporting comment) were received. A summary of the representations is provided below:

material considerations

- Negative impact on local amenity due to noise and disturbance. Addressed in part c).

- Negative impact on the local community and residential character of the area. Addressed in part c).

- Negative impact on the area's conservation status. Addressed in part b).

- STL use reduces housing stock and negatively impacts local and city-wide housing availability/affordability. Addressed in part c).

- The proposal is contrary to NPF4 Policy 30 and LDP Policy Hou 7. Addressed in part c).

non-material considerations

- There have been previous refusals for similar applications nearby. Each application is assessed on its own merit.

- There are existing STL properties already in operation on Hugh Miller Place. Each application is assessed on its own merit.

- The property is well managed and of high quality. 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 and 59 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, and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

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;

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 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: 23 June 2023

Drawing Numbers/Scheme

01, 02, 03

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

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: Sean Christie

Date: 21 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: 22 August 2023

Application Summary

Application Number: 23/02576/FULSTL Address: 9 Hugh Miller Place Edinburgh EH3 5JG Proposal: Change of use from a residential property to a short term let (in retrospect). Case Officer: Sean Christie

Customer Details

Name: Ms Gillian Shaw Address: 25 Rintoul Place Edinburgh

Comment Details

Commenter Type: Neighbour Stance: Customer objects to the Planning Application Comment Reasons:

Comment: Young couples, single parents and single people are crying out for reliable longer term accommodation in Edinburgh. If this property is used for short term lets it reduces much needed housing stock. There are plenty of short term accommodation options in Edinburgh offered by professional hoteliers and guest house owners.

Application Summary

Application Number: 23/02576/FULSTL Address: 9 Hugh Miller Place Edinburgh EH3 5JG Proposal: Change of use from a residential property to a short term let (in retrospect). Case Officer: Sean Christie

Customer Details

Name: Not Available Address: Not Available

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Customer Details

Name: Mr Keith Hughes Address: 23 Reid Terrace Edinburgh

Comment Details

Commenter Type: Neighbour Stance: Customer objects to the Planning Application Comment Reasons:

Comment: I object to this application on the grounds that this is a high density neighbourhood and having had previous experience with AirBnB they are not suitable for this area. In a previous house my life was effectively ruined by loud parties from holiday lets. As renter I think this will reduce the availability of good properties in this area and others to the long term detriment of both the neighbourhood and professionals who would like to live in town.

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Application Number: 23/02576/FULSTL Address: 9 Hugh Miller Place Edinburgh EH3 5JG Proposal: Change of use from a residential property to a short term let (in retrospect). Case Officer: Sean Christie

Customer Details

Name: Mr Philip Williams Address: 23 Rintoul Place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential Stance: Customer objects to the Planning Application Comment Reasons:

Comment: I understand proposals for the reuse of existing buildings for short term holiday letting will not be supported by the Planning Department where the proposal will result in:

- "The loss of residential accommodation

- Where the street has a quiet nature or low ambient noise levels (particularly at night-time), STL will not generally be supported."

I would like to reinforce recognition of the need for keeping good quality one and two bedroom properties in the Colonies free from commercial interests.

This is a thriving, welcoming community where, at present, the mix is owner-occupied, including families with children, and couples with or without children renting long term.

The neighbourhood is very quiet and peaceful, despite traffic along Glenogle road and limited parking in the streets.

The area is 100% residential and I see no argument to support commercial short term letting. The houses in the colonies should remain 100% long term residential and not to be treated as commercial short term letting properties.

Edinburgh has unique small communities in the Stockbridge and the other colonies across Edinburgh. Its long term uniqueness should be protected.

I object to the Planning Application ref: 23/02576/FULSTL.

Application Summary

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Customer Details

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Application Number: 23/02576/FULSTL Address: 9 Hugh Miller Place Edinburgh EH3 5JG Proposal: Change of use from a residential property to a short term let (in retrospect). Case Officer: Sean Christie

Customer Details

Name: Mrs Diane Murray Address: 26 Rintoul Place Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:9 Hugh Miller Place is one of the Glenogle colonies and I have lived in the next street to this one for 43 years.

I have witnessed the relatively recent big increase in short term lets here.

What used to be a close-knit community with lots of families, often of several generations, is now becoming a tourist playground due to our proximity to the city centre and parks, Botanics, swim baths and lots of other amenities.

Short term lets facilitate the decrease in property for sale and also long term lets - the latter I have no objection to.

Also the potential for noisy and uncaring short term stayers makes our changing communal life even more unbearable.

Application Summary

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Customer Details

Name: Mr Ian McIlroy Address: 26 Rintoul Place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential Stance: Customer objects to the Planning Application Comment Reasons: Comment:9 Hugh Miller Place

I have lived here for over forty years and have witnessed and experienced first hand the changes to the nature the community here. There is no objection to long term letting at all. That fulfills an obvious need and requirement. This is not the same at all.

There have been previous refusals for this kind of application and it states quite clearly a precedent -

Reasons for Refusal: The proposal is contrary to: 1. The proposal is contrary to the Development Plan, specifically NPF4 Policy 30 Tourism b) iii and e) ii and LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will result in the loss of residential accommodation and will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Thank you

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Customer Details

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Comment Details

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Customer Details

Name: Mr Ian McIlroy Address: 26 Rintoul Place Edinburgh

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I think the reasons above sum this objection up.

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Customer Details

Name: Eileen McConnell Address: 26 Hugh Miller Place Edinburgh

Comment Details

Commenter Type: Neighbour Stance: Customer objects to the Planning Application Comment Reasons: Comment:Quiet street...mix of owner occupied,, families, couples, long term renting. Need to keep properties free from commercial interests . Area is residential and short term, commercial rents not appropriate. Strong sense of community with residents long term . So I object to Planning Application ref:23/02576/FULSTL

Application Summary

Application Number: 23/02576/FULSTL Address: 9 Hugh Miller Place Edinburgh EH3 5JG Proposal: Change of use from a residential property to a short term let (in retrospect). Case Officer: Sean Christie

Customer Details

Name: Not Available Address: Not Available

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Customer Details

Name: Mr Gavin Powell Address: 23 Hugh Miller Place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential Stance: Customer objects to the Planning Application Comment Reasons:

Comment: The Stockbridge Colonies were designed and built as a residential area. II strongly oppose the erosion of the community by increasing the number of properties that can permanently change their status to commercial properties, especially those intended for short term lets. There are to my knowledge three properties on Hugh Miller Place that are now exclusively short-term lets (No. 1, 1A, & 33). To permit yet another in this terrace row would represent more than 10% of the properties. The often tourist nature of the tenants of short term lets undermines the sense of community, while the premium short-lease market nudges long term leases ever higher pricing low and middle income families out of the neighbourhood. The Colonies were built as affordable quality homes for the working class, increasing the number of short term lets will only make this community more exclusive undermining its diversity and integrity.

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Customer Details

Name: Ms Paula Bushell Address: 25 Reid Terrace Edinburgh

Comment Details

Commenter Type: Neighbour-Residential Stance: Customer objects to the Planning Application Comment Reasons:

Comment: I object because short term lets impact negatively on the character and community spirit of the Stockbridge Colonies which, by the nature of its B-listed terraced architecture, is a close-knit community where households live at very close quarters with one another.

My property overlooks 9 Hugh Miller Place and the comings and goings of strangers on a frequent basis at odd times, day and night, dragging suitcases over the cobbles, arriving/departing in taxis down a quiet narrow street, impacts visually and audibly on me.

I know that short term lets are a concern for many of my neighbours in other streets. Any decision to allow short terms lets undermines the unique atmosphere and conservation status of the place.

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