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Decision date: 26 July 2023

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

Change of use of existing flat to short-term letting (in retrospect).
At Flat 1 2 Wintermill Square Edinburgh EH6 5QP

Application No: 23/02672/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 20 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;

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.

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

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

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

The change of use of this property to a short term let (STL) will have an unacceptable impact on neighbouring amenity. 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
Flat 1 2 Wintermill Square, Edinburgh, EH6 5QP**

Proposal: Change of use of existing flat to short-term letting (in retrospect).

**Item – Local Delegated Decision
Application Number – 23/02672/FULSTL
Ward – B12 - Leith Walk**

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 (STL) will have an unacceptable impact on neighbouring amenity. 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 two-bedroom, ground floor flatted dwelling within a modern apartment block at 2 Wintermill Square, Bonnington. The property is accessed via a shared stairwell.

The site is accessed via Newhaven Road. The immediate area is predominantly residential with some industrial, warehouse and residential uses in the wider 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 works are proposed as part of this application.

Supporting Information

- Supporting Statement

Relevant Site History

23/01653/FULSTL

Flat 1 2 Wintermill Square

Edinburgh

EH6 5QP

Change of use of existing flat to short-term letting (in retrospect).

Other Relevant Site History

No other relevant site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 23 June 2023

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 3

Section B - Assessment

Determining Issues

This report will 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 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 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory 'Guidance for Businesses' (2023) is a material consideration that is relevant when considering change of use applications.

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 property is located within a predominantly residential area of Bonnington. There is a low degree of activity in the immediate vicinity of the property.

The applicant's supporting statement asserts that there have been no complaints during the operation of the property as an STL (since October 2021).

The use of the property as an STL would, however, introduce an increased frequency of movement to the property and to the shared stair. 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 and the security of shared spaces 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 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 demonstrable economic benefits associated with the use of the property as an 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.

The use of the property as an STL would, however, 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

Although off street parking is available at this property, there are no parking requirements for STLs. Cycles can 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. 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.

b) 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

Three representations were received (all objections). A summary of these representations is provide below:

material considerations

- Negative impact on local residential amenity due to noise and disturbance. Addressed in part a).
- Negative impact on the security of shared spaces. Addressed in part a).
- Negative impact regarding parking availability. Addressed in part a).
- Negative impact on city-wide housing availability and affordability. Addressed in part a).
- Disruption to the area's residential community. Addressed in part a).

non-material considerations

- The STL use is incompatible with the property's title deeds. This is not a relevant consideration in the assessment of this application.

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 change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. 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;

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.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 20 June 2023

Drawing Numbers/Scheme

01

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: 19 July 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: 25 July 2023

Comments for Planning Application 23/02672/FULSTL

Application Summary

Application Number: 23/02672/FULSTL

Address: Flat 1 2 Wintermill Square Edinburgh EH6 5QP

Proposal: Change of use of existing flat to short-term letting (in retrospect).

Case Officer: Sean Christie

Customer Details

Name: Mr Russell Gilbert

Address: Flat 5, 4 Wintermill Square Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this application on the basis that the use of the property for commercial purposes is counter to the title deeds of the property which clearly state: "each flat shall be used solely for private residential purposes only".

One of the attractions of buying a flat in this development was that we knew our neighbours could not be replaced by short-term letting properties due to these title deeds. This application undermines the title deeds and creates a risk of noise and disturbance to neighbours over the longer term.

Comments for Planning Application 23/02672/FULSTL

Application Summary

Application Number: 23/02672/FULSTL

Address: Flat 1 2 Wintermill Square Edinburgh EH6 5QP

Proposal: Change of use of existing flat to short-term letting (in retrospect).

Case Officer: Sean Christie

Customer Details

Name: Chelsea MacGillivray

Address: 3/2 Wintermill Square Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the change of use to a short-term letting as this is a lovely residential new build that is very difficult to find in the city of Edinburgh with the housing crisis at the moment many people struggling to find a safe and affordable long term accommodation in the city. If we start allowing more and more properties at Wintermill Square to become short term lets it will lose its residential community and fuel the Edinburgh housing market nightmare. We all mutually respect the sparse parking shortage at Wintermill Square as there are currently no restrictions in place (eg, 1 space per Flat). This has been a problem in the past to park our car here. However short term letting tenants might not be so respectful, with possible motorhomes or multiple vehicles especially with Fringe coming up many tourists might become aware of the free parking in our safe residential area and allow friends to park at the property to save on parking fees in town resulting in us having less spaces available for the residents of the buildings. This property also overlooks a small green space with benches which is lovely to sit and relax however I can imagine other residents might also feel more reluctant to use these spaces with more new faces coming and going and overlooking this space. In conclusion with the worry of losing the residential community, fuelling the Edinburgh housing crisis and the parking shortage at Wintermill Square I don't agree that changing the existing flat to a short term let will be beneficial for the community.

Comments for Planning Application 23/02672/FULSTL

Application Summary

Application Number: 23/02672/FULSTL

Address: Flat 1 2 Wintermill Square Edinburgh EH6 5QP

Proposal: Change of use of existing flat to short-term letting (in retrospect).

Case Officer: Sean Christie

Customer Details

Name: Miss Sinead ODonnell

Address: 6/2 Wintermill Square Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this application, given that I live here on my own, I have security concerns from a personal safety. Regardless of the property being on the ground floor, the key fob gives access to the complete block both stairwell and lifts. As a small community of mixed demographics, we know our neighbours and keep an eye out for each other. Having non residents having access to our block can imbalance our current eco system.

As the building two representative at our residents forum, there are ongoing concerns with car parking so this could aggravate the parking situation once the permit system comes into effect. I have no issue with neighbours living at the property and renting out extra rooms.