

Elder Homes Ltd.
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EH10 6DP

Decision date: 28 November 2023

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

Short-term property which has been operated as a short term let since June 2018.
At 3 Old Church Lane Edinburgh EH15 3PX

Application No: 23/04364/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 5 October 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 National Planning Framework Policy 30(e)(ii) in respect of Loss of Residential Accommodation, as the use of this dwelling as a short term let will result in the loss of a residential property that 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, 03, 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 proposal complies with section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a short term let (STL) will result in the loss of 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e)(ii). 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 James Armstrong directly at james.armstrong@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.

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Report of Handling

**Application for Planning Permission STL
3 Old Church Lane, Edinburgh, EH15 3PX**

Proposal: Short-term property which has been operated as a short term let since June 2018.

**Item – Local Delegated Decision
Application Number – 23/04364/FULSTL
Ward – B14 - Craigentenny/Duddingston**

Recommendation

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

Summary

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

The change of use of this property to a short term let (STL) will result in the loss of 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e)(ii). There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application site is a four bedroom house located on the southern side of Old Church Lane. The property has it's own access to the street via a private drive.

Old Church Lane and the surrounding area is of predominantly residential character. Bus links are moderately accessible from the site. The surrounding area features a low to moderate degree of activity with the exception of Duddingston Road West, where the application property is primarily accessed from, which features a comparatively high motor traffic volume.

The application property is in the Duddingston Conservation Area.

Description Of The Proposal

The application is for the retrospective change of use of the property from residential to short term let (sui generis) (STL). No internal or external physical changes are proposed.

Supporting Information

Links to STL advertisement

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history was identified.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 28 November 2023

Date of Advertisement: 13 October 2023

Date of Site Notice: 13 October 2023

Number of Contributors: 1

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 Duddingston Conservation Area Character Appraisal emphasises the substantial green setting which provides a rural appearance, the landscaped setting around Duddingston House which is a critical element of the spatial structure, the predominance of traditional building materials and the mainly residential use.

As stated previously, there are no external changes proposed. The change of use will not impact on the character or appearance of the conservation area. Therefore, the proposal does not conflict with the objective or preserving or enhancing the character or 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.

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 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.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP Policy Hou 7 and NPF4 Policy 30 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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.

NPF4 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 an STL 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 use of the property as an STL would result in an increased frequency of movement to the property, representing a pattern of movement that would be dissimilar to that of permanent residents. A transient visitor may also have less regard for neighbours' amenity than individuals using the property as a principal home, with resultant negative amenity impacts, particularly at night. The four bedroom size of the property and outdoor amenity areas surrounding the property may also intensify the amenity issues resulting from the STL use.

However, whilst there are residential properties across Old Church Lane that may be impacted by the proposed use, the distance to these properties, the degree of activity along Duddingston Road West and Old Church Lane, and the built form of the area, featuring high stone walls, dense foliage and front garden areas, sufficiently mitigates the impacts of the proposed use such that there would not be a significant amenity impact from the proposal to neighbouring residents.

On balance, the proposed change of use would not have an unreasonable impact on increase the living conditions and amenity of nearby residents. The proposal complies with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

NPF4 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. Both of these factors are referred to by the applicant in their planning statement when addressing the economic benefits of the proposal.

However, it is important to recognise that having the property within residential use also contributes to the economy, using local services and fulfilling employment opportunities across the City. Long term residents can also make consistent and long-term contributions to the local community.

The proposed change of use would result in a loss of residential accommodation, which, as there is a recognised need and demand for housing in Edinburgh, it is critical to retain the existing supply of 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

An area of ground suitable for parking approximately three vehicles is included within the application site. This is acceptable as there are no parking requirements for STLs.

The proposal complies 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 result in the loss of 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e)(ii).

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.

The application received two comments, both requesting further information about the application and raising no further matters.

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

The change of use of this property to an STL will result in the loss of 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e)(ii). 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 National Planning Framework Policy 30(e)(ii) in respect of Loss of Residential Accommodation, as the use of this dwelling as a short term let will result in the loss of a residential property that 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: 5 October 2023

Drawing Numbers/Scheme

01, 02, 03

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Planning Officer
E-mail: james.armstrong@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: James Armstrong

Date: 28 November 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): Paul Devaney

Date: 28 November 2023

Comments for Planning Application 23/04364/FULSTL

Application Summary

Application Number: 23/04364/FULSTL

Address: 3 Old Church Lane Edinburgh EH15 3PX

Proposal: Short-term property which has been operated as a short term let since June 2018.

Case Officer: Improvement Team

Customer Details

Name: Dr James JACK

Address: 5 Old Church Lane EDINBURGH

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: I have had a look at these plans and all are as existing. What is changing? As next door neighbour I would like to know what has Planning Permission been applied for?

Comments for Planning Application 23/04364/FULSTL

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Proposal: Short-term property which has been operated as a short term let since June 2018.

Case Officer: Improvement Team

Customer Details

Name: Dr James JACK

Address: 5 Old Church Lane EDINBURGH

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Can someone please contact me about this application?

