

Development Management Sub Committee

Wednesday 2 June 2021

**Application for Planning Permission 21/01109/FUL
At 2F4 3 Albert Street, Edinburgh, EH7 5HL
Change of use from residential to short stay lets use.**

Item number

Report number

Wards

B12 - Leith Walk

Summary

The change of use to short-term holiday/commercial visitor accommodation (SCVA) is not acceptable in principle in this location. It will result in an unacceptable loss of amenity for neighbouring residential properties. The proposal does not comply with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LHOU07, LEN06, NSG, NSLBCA, NSBUS, OTH, CRPLEI,

Report

Application for Planning Permission 21/01109/FUL At 2F4 3 Albert Street, Edinburgh, EH7 5HL Change of use from residential to short stay lets use.

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The application site is a flatted 2nd floor property on the south side of Albert Street near the junction with Leith Walk.

The surrounding area is residential tenements.

This application site is located within the Leith Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description Of The Proposal

The application is for planning permission for the change of use of a residential flat to short-term holiday/commercial visitor accommodation (SCVA).

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the proposed use is acceptable;
- b) the proposals preserve or enhance the character and appearance of the conservation area; and
- c) comments raised have been addressed.

a) Principle of the Proposal

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP). It should be noted that the LDP does not include any policies which protect against the loss of residential accommodation.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA 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.

The guidance states that proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents.

In connection to short-stay lets it states - *The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest.*

The guidance states that change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

There has been a number of appeal decisions which have helped to assess whether short-stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;

- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

Recent appeal decisions stress that the frequent movement by tourists, and other itinerant residents, of baggage along landings and stairwells as well as the necessity for daily servicing of the apartment all lead to a pattern of intense usage of the access stairs and communal areas beyond that which may otherwise be expected from an apartment of this size. All of which creates the potential for unacceptable noise and disturbance to existing residents.

It is noted that Albert Street is quite a busy location and residents would be accustomed to some degree of ambient noise/disturbance from outside. However, the property is accessed through a shared communal door and stairs, with residential properties located all around it. As the flat is on the second floor, users of the short-term letting accommodation would also have to pass by other flats within the stair and move baggage along landings and up and down the stairwell.

The change of use proposed would mean that there would be direct interaction between users of the short term letting accommodation and long term residents of the surrounding residential properties.

The proposed use would enable new individuals 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 also 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 long standing residents.

Environmental Protection have stated it recommends the application is refused due to concerns regarding the proposals potential impact upon residential amenity.

As a result of these factors, there is the potential for disturbance to the living conditions of neighbouring occupiers and a detrimental impact on residential amenity.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits, including that of tourism, are a material planning consideration. However, these considerations do not outweigh the detrimental impacts on residential amenity in this instance.

The proposal is therefore contrary to LDP policy Hou 7 as it cannot be demonstrated that the proposal will not have a materially detrimental impact on the living conditions of nearby residents.

b) Leith 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."

LDP policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted which preserves or enhances the special character and appearance of the conservation area and which is consistent with the relevant character appraisal.

The Leith Conservation Area Character Appraisal states:

"Leith Walk is one of the most important routes in the city. Its continuity as it stretches gradually downhill from the city centre is so prominent that it is clearly visible from many high vantage points around the city. It links the old fortified town of Edinburgh and its sea port, as other European capital cities are linked with their ports".

There are no internal or external works proposed.

The proposal complies with LDP policy Env 6 and the conservation area character appraisal.

c) Public comments

Non Material Objections

- Too many Air BnB properties - This is not a material planning consideration;
- Loss of residential properties- Current adopted policies do not protect against the loss of residential dwellings.

Material Support

- Would support tourism and the economy- This is addressed in section 3.3a

Non Material Support

- Would add to the mix of uses within the building- This is not a material planning consideration.

Conclusion

The change of use to short-term holiday/commercial visitor accommodation (SCVA) is not acceptable in principle in this location. It will result in an unacceptable loss of amenity for neighbouring residential properties. The proposal does not comply with the adopted Local Development Plan. There are no material considerations that outweigh this conclusion.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Conditions:-

Reasons:-

1. The proposal is contrary to adopted Edinburgh Local Development Plan policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a detrimental effect on the living conditions of nearby residents by virtue of increased noise and disturbance to the detriment of residential amenity.

Informatives:-

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application meets the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

One objection comment and two support comments were received. The points raised shall be addressed in section 3.3 of this report.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

Statutory Development Plan Provision

Date registered 10 March 2021

Drawing numbers/Scheme 01,02,

Scheme 1

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

Relevant Non-Statutory Guidelines

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

Non-statutory guidelines 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

Other Relevant policy guidance

The Leith Conservation Area Character Appraisal emphasises the area's unique and complex architectural character, the concentration of buildings of significant historic and architectural quality, the unifying effect of traditional materials, the multiplicity of land use activities, and the importance of the Water of Leith and Leith Links for their natural heritage, open space and recreational value

Appendix 1

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Consultations

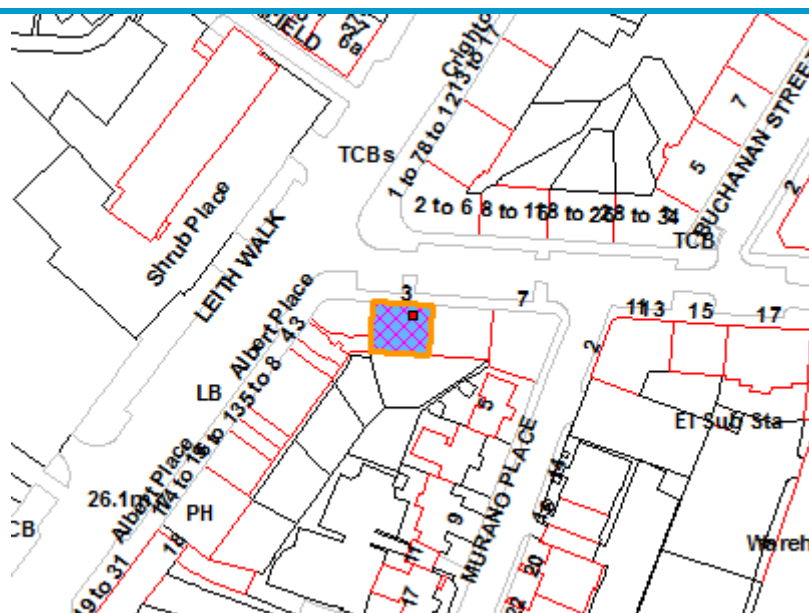
Environmental Protection

The main issues we have with short-term lets is the impacts they can have on neighbouring residential amenity. This can be from a regular flow of visitors entering and exiting the property with suitcases. This property has a shared common stair that could be a source of noise if used regularly to haul suitcases up and down. The other noise concern we have is the noise being generated by guests can vary, but nevertheless there can be guests that stay over who can cause issues with playing loud music, banging around, shouting, or making noise outside if smoking.

From our records there are many residential properties in the common stair, neighbouring the applicant's unit above, below and through the walls.

Environmental Protection do have concerns with this proposal and therefore cannot fully support it and recommend refusal.

Location Plan



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