

# Development Management Sub Committee

Wednesday 24 November 2021

**Application for Planning Permission 21/04512/FUL  
at 1B Fingal Place, Edinburgh, EH9 1JX.  
Change of the use from a residential property to a  
commercial short term visitor self-catering accommodation.**

Item number

Report number

Wards

B15 - Southside/Newington

## Summary

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The proposed use as short term visitor accommodation does not comply with the Local Development Plan due to the quiet residential nature of Fingal Place and the potential for a high turnover of visitors causing disturbance. The basement stairs have the potential to create noisy arrivals and departures and transient visitors may have less regard for neighbours' amenity than long standing residents when using the basement area. There are no material considerations which outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

LDPP, LHOU07, LEN04, LEN06, LTRA02, NSG, NSBUS, CRPMAR,

# Report

## **Application for Planning Permission 21/04512/FUL at 1B Fingal Place, Edinburgh, EH9 1JX. Change of the use from a residential property to a commercial short term visitor self-catering accommodation.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The application property is a basement flat in a tenemental building on the corner of Fingal Place and Argyle Place.

It is a one bedroomed flat with a basement area to the front for private use. There is no shared access or amenity space.

The building is category B listed (Listed building reference 30371, listed 14 December 1970).

This application site is located within the Marchmont, Meadows and Bruntsfield Conservation Area.

#### **2.2 Site History**

There is no relevant planning history for this site.

### **Main report**

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#### **3.1 Description of the Proposal**

It is proposed to change the use of the property from residential to short stay let (STL).

No external or internal physical alterations are proposed.

#### Supporting information

- schedule of accommodation
- title information

This is available to view on the Planning and Building Standards Online Services.

### 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 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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 proposal is acceptable in principle;
- b) the development has special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest;
- c) the development preserves or enhances the special character or appearance of the conservation area;
- d) there are any parking issues and
- e) comments raised have been addressed.

#### a) Principle of Proposal

The main policy that is applicable to the assessment of short stay lets (STL) lets 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. There are no policies relating specifically to the control of short stay commercial visitor accommodation (STL) in the current Local Development Plan (LDP).

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

The guidance states that a 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.

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".

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.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

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 STL properties, the economic benefits are a material planning consideration.

The property is located in a residential area. The proposed use would enable a large number of 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 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.

The property is accessed from basement stairs from the pavement and the potential for noise from luggage being wheeled up and down is considerable and likely to cause disturbance.

There is a private amenity space to the front and there is a table and chairs located there. Visitors have a right to use that amenity space, but transient visitors are less likely to have regard for residential neighbours and the use of this area has the potential to impact on what is a relatively quiet residential street and particularly the neighbours on the upper floors.

In terms of refuse collections, STLs normally use communal bins in the same way that residential occupants would use them. In addition, there is no definition of over-tourism and no statutory policies with regard to this in the Local Development Plan and therefore concerns about lack of long-term residents cannot be addressed under the current Development Plan.

Despite Scottish Planning Policy and other Government guidance on housing, there are no statutory policies on the loss of housing in the current Development Plan.

Due to the quiet residential nature of Fingal Place and the potential for a high turnover of visitors causing disturbance, the proposed use does not comply with policy Hou 7.

#### b) Listed Building

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

*"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*

Historic Environment Scotland's (HES) Guidance Notes on Managing Change in the Historic Environment sets out the principles for alterations to listed buildings including physical alterations and change of use.

LDP Policy Env 4, Listed Buildings - Alterations and Extensions, permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.

There are no external or internal alterations proposed. Based on the information submitted at this stage, the change of use will not have a material impact on the special interest of the listed building.

The proposal complies with LDP Policy Env 4 and Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997.

#### c) 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 if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal emphasises the well-proportioned Victorian tenemental perimeter blocks with Baronial detailing and the substantial area of the open parkland formed by the Meadows and Bruntsfield Links.

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a one-bedroom domestic flat 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.

The proposal complies with LDP Policy Env 6.

#### d) Parking

There is no parking associated with the development. Visitors are entitled to park in the street in line with parking regulations.

#### e) Public comments

##### **Material comments - objection**

- noise from visitors - addressed in section 3.3a)
- refuse collection - addressed in section 3.3a)
- over tourism and lack of long-term residents - addressed in section 3.3a)
- contrary to SPP and SG housing policy - addressed in section 3.3a)
- parking capacity - addressed in section 3.3d)

##### **Non-material comments**

- short stay lets makes housing unaffordable - this is not a material planning consideration
- too many Airbnb's - this is largely a commercial consideration rather than a planning consideration
- area is not short of hotels and other holiday accommodation - this is not a material planning consideration

#### Conclusion

The proposed use as short term visitor accommodation does not comply with the Local Development Plan due to the quiet residential nature of Fingal Place and the potential for a high turnover of visitors causing disturbance.

The basement stairs have the potential to create noisy arrivals and departures and transient visitors may have less regard for neighbours' amenity than long standing residents when using the basement area. There are no material considerations which outweigh this conclusion.

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

### **3.4 Conditions/reasons**

#### **Reasons:-**

1. The proposed use as short term visitor accommodation is contrary to Policy Hou 7 (Inappropriate Uses in Residential Areas) due to the quiet residential nature of Fingal Place and the potential for a high turnover of visitors causing disturbance. The basement stair is likely to lead to noisy arrivals and departures and transient visitors may have less regard for neighbours' amenity than long standing residents.

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

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

## **Equalities impact**

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### **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**

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### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

There is no pre-application process history.

### **8.2 Publicity summary of representations and Community Council comments**

Four objections have been received.

## **Background reading/external references**

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- 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**

Urban area

### **Date registered**

8 September 2021

### **Drawing numbers/Scheme**

01, 02,

Scheme 1

## **David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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## **Links - Policies**

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### **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 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

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

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

## **Relevant Non-Statutory Guidelines**

**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.

The Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal emphasises the well-proportioned Victorian tenemental perimeter blocks with Baronial detailing and the substantial area of the open parkland formed by the Meadows and Bruntsfield Links.

# Appendix 1

**Application for Planning Permission 21/04512/FUL  
at 1B Fingal Place, Edinburgh, EH9 1JX.  
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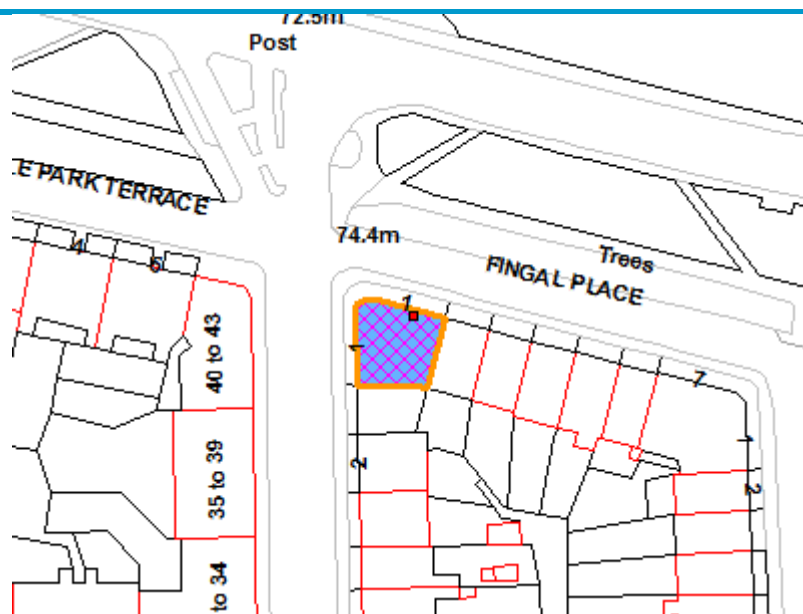
## Consultations

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No consultations undertaken.

## Location Plan

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