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Decision date: 1 April 2022

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

Change of use from house to short stay visitor accommodation.
At 59 Gilmore Place Edinburgh EH3 9NT

Application No: 21/06232/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 25 November 2021, this has been decided by **Local Fast Track 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;

Conditions:-

Reasons:-

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 large property as a short stay let will result in noise and disturbance which shall have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

Drawings 01-06, 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. However, the proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents and therefore it does not comply with LDP policy Hou 7. The proposal does not comply with the principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development. The recommendation is to refuse planning permission.

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 Robert McIntosh directly at robert.mcintosh@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
59 Gilmore Place, Edinburgh, EH3 9NT**

Proposal: Change of use from house to short stay visitor accommodation.

**Item – Local Fast Track Decision
Application Number – 21/06232/FUL
Ward – B11 - City Centre**

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. However, the proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents and therefore it does not comply with LDP policy Hou 7. The proposal does not comply with the principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development. The recommendation is to refuse planning permission.

SECTION A – Application Background

Site Description

The application site relates to No. 59 Gilmore Place, Edinburgh. It is a three storey, seven bedroom, mid terrace property. It has its own private access to the front and a garden to the rear. No internal or external alterations are proposed.

The applicant states that the property was until recently utilised as a House of Multiple Occupation (HMO). The available Council records show that an HMO license was granted for the property between 2008-2014.

Description Of The Proposal

The application is for planning permission for the change of use from a residential house to short-stay visitor accommodation. The property will have seven short stay visitor rooms and occupants will have access to the rear garden.

Supporting Information

- Supporting statement.

Relevant Site History

19/05987/FUL
59 Gilmore Place
Edinburgh
EH3 9NT
Alter House and Install 2 Dormer windows (AMENDED).
Granted
5 March 2020

91/01653/FUL
59 Gilmore Place
Edinburgh
EH3 9NT
Erect a conservatory
Granted
27 August 1991

Consultation Engagement

Environmental Protection

Publicity and Public Engagement

Date of Neighbour Notification: 2 December 2021

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 0

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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals impact on the character or appearance of the conservation area?

The application site falls within the Marchmont, Meadows and Bruntsfield 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 Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal states that *the Conservation Area is primarily focused on the Meadows and the Bruntsfield Links- the largest recreational open space in the city., with the boundary including many of the buildings that surround and define these open spaces. These include the areas of high-quality tenemental housing developed between 1860-1900 in Marchmont and Bruntsfield. These tenements were built predominantly in the Baronial style, following guidelines set down in the feu charter. In the second phase, after 1900, the Baronial style is less prevalent and elevations become plainer.*

There are no proposed alterations to the building and the appearance of the conservation area will be unaffected. In addition, there would be no material change to the character of the conservation area given the predominance of guest houses nearby

and that the property was previously used as a House of Multiple Occupation (HMO) for a number of years.

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?

The development plan comprises the Strategic and Local Development Plans. The relevant policies of the adopted Edinburgh Local Development Plan to be considered are:

Environment Policy Env 6.

Housing Policy Hou 7.

Transport Policies Tra 2 and Tra 3

The non-statutory Listed Building and Conservation Area Guidance and the non-statutory Guidance for Businesses are material considerations that are relevant when considering LDP policy.

Impact on the character and appearance of the conservation 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 impact on the character and appearance of the conservation area has been considered above in a). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

Proposed Use

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA)/ holiday 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.

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.

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

The application property is a three storey, seven bedroom mid terrace dwelling which was previously used as an HMO. It is noted that according to the Scottish Assessors Association, No. 57, which is directly to one side of the application property, is utilised as a guest house. No. 55, No. 53 and No. 51 are also utilised as guest houses. There are, however, residential properties to the other side of the dwelling, No. 61 and No. 61a. It should therefore be considered whether the change of use to short-term visitor accommodation could impact on their amenity.

In terms of the criteria above, the building is in a fairly central location, on a street that can be busy with both vehicles and passing pedestrians. As such, residents would be accustomed to some degree of ambient noise/disturbance.

It is also acknowledged that many of the properties directly nearby are utilised as guest houses. However, guest houses normally have a permanent occupant residing within the property who is there to ensure that no unsociable behaviour and/or noise disturbance can take place. Whilst the applicant has stated that they own the property next door and would provide neighbouring properties with a means of contacting them if any disturbance would take place, this is not comparable to having a permanent resident residing within the dwelling.

One of the key determining issues in assessing if short stay visitor accommodation is acceptable is whether the use of the property as a short term visitor let would result in a greater frequency of movement and disturbance for neighbours compared to if there were full-time tenants occupying the dwelling.

Whilst the property used to be utilised as an HMO, the occupiers of HMO's are normally full time tenants, who are, on balance, less likely to have frequent movements at unsociable hours compared to guests of short term let accommodation. Occupants of short term lets are more likely to arrive in the early morning or late evening, due to travel arrangements, and are on balance more likely to head in and out of the property as they explore the city.

It must also be noted that HMO's are licensed under the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000 where controls exist to safeguard neighbouring residential amenity from instances of noise, disturbance and anti-social behaviour. This is not currently the case with short term let properties.

Appeal decisions have also determined that generally the smaller the property the less likelihood of disturbance to neighbours.

This is a large dwelling with seven big bedrooms over three floors with access to front and rear gardens. Environmental Protection were consulted as part of the assessment of the application. It recommended that the application be refused as it raised concerns relating to the gardens of the property being utilised by guests for smoking or playing music.

The applicant has provided a list of house rules and a supporting statement that states that parties and events will not be allowed in the property and nor will group bookings be permitted. However, this could not be enforced by the Planning Authority. The property could attract large scale groups, such as stag parties and despite the street having a number of bed and breakfasts, the use of the dwelling by such groups would impact on nearby residential properties in terms of noise and disturbance.

Overall, the use of this large property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents. The proposal therefore does not comply with LDP policy Hou 7.

Parking standards

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

The applicant has confirmed that all visitors will be informed that there is no off street car parking available. The site is highly accessible by public transport.

There is no cycle parking standard for SCVA's. Bikes could be parked within the property or within the rear garden of the property if required.

The Roads Authority had no comments to make on the application.

The proposals comply with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposed use of the building as a short term let will have a materially detrimental effect on the living conditions of nearby residents. It therefore does not comply with policy Hou 7 of the adopted Edinburgh Local Development Plan.

c) there are any other material considerations which must be assessed?

The following material considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with the principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little 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

No comments were received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

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. However, the proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents and therefore it does not comply with LDP policy Hou 7. The proposal does not comply with the principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development. The recommendation is to refuse planning permission.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

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 large property as a short stay let will result in noise and disturbance which shall have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 25 November 2021

Drawing Numbers/Scheme

01-06

Scheme 1

David Givan

Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Robert McIntosh, Planning Officer
E-mail: robert.mcintosh@edinburgh.gov.uk

Consultations

NAME: Environmental Protection

COMMENT: There are several existing guest houses located next to the property although one neighbouring is a residential unit. The applicant's property is accessed via a private main door that is accessed from the busy Gilmore Place. The impacts this would have on neighbouring amenity would be limited as there is only one neighbouring residential property through the wall from the applicant's property. Guests will also have access to the garden areas that could be used for smoking or playing music. This could adversely impact the residential amenity of this neighbouring property therefore Environmental Protection recommends that the application is refused.

To Robert
From Andrew Campbell, Environmental Protection

Date 09/12/2021

TOWN AND COUNTRY PLANNING ACT 1997

21/06232/FUL | Change of use from house to short term visitor accommodation. | 59
Gilmore Place

The applicant proposes changing the use of a residential townhouse that has previously been operated as House of Multiple Occupation. Short-Term-Lets can have an adverse impact on neighbouring residential amenity with regards noise from guest activity in these properties and when entering or leaving the property. There are several existing guest houses located next to the property although one neighbouring is a residential unit. The applicant's property is accessed via a private main door that is accessed from the busy Gilmore Place. The impacts this would have on neighbouring amenity would be limited as there is only one neighbouring residential property through the wall from the applicant's property. Guests will also have access to the garden areas that could be used for smoking or playing music. This could adversely impact the residential amenity of this neighbouring property therefore Environmental Protection recommends that the application is refused.

Should you wish to discuss the matter, please do not hesitate to contact me via email or on 0131 469 5160.

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