

Mrs Johnston
Walstone Muir
Nine Mile Burn
Penicuik
EH26 9LR

Decision date: 12 September 2022

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

Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).
At 2F 2 Albany Place Edinburgh EH2 4NG

Application No: 22/03087/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 14 June 2022, 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;

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 the property as a short stay let will 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 01-03., 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 is acceptable with regards to Section 59 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

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 Laura Marshall directly at laura.marshall@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
2F 2 Albyn Place, Edinburgh, EH2 4NG**

Proposal: Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).

**Item – Local Delegated Decision
Application Number – 22/03087/FUL
Ward – B11 - City Centre**

Recommendation

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

Summary

The proposal is acceptable with regards to Section 59 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

SECTION A – Application Background

Site Description

The application site is a first-floor Georgian apartment and is located on Albyn Place. The property forms part of a four storey and a basement townhouse with shared access with other residential occupants of the building.

Properties 1-11 (inclusive numbers) Albyn Place are Category A listed (listing reference: LB28234, date of listing: 14/12/1970).

The property is located within the New Town Area with a mix of uses nearby, including offices, cafes, bars, and hotels.

Description Of The Proposal

The application is for retrospective planning permission for a change of use of a flatted unit to a short stay visitor accommodation (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement
- Operating Terms and Conditions
- Hospitality awards and sample guests' reviews
- Sustainability Policy

Relevant Site History

No relevant site history.

Other Relevant Site History

None.

Consultation Engagement

Historic Environment Scotland

Publicity and Public Engagement

Date of Neighbour Notification: 23 June 2022

Date of Advertisement: 1 July 2022

Date of Site Notice: 1 July 2022

Number of Contributors: 2

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
 - (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

- b) 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):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

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 harm the listed building and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the listed building

The proposal does not harm the character of the listed building, or its setting or the setting of neighbouring listed buildings. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals harm the character or appearance of the conservation area?

The New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private

gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves.

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 1, Env 4 and Env 6
- LDP Housing policy Hou 7
- LDP Transport policies Tra 2 and Tra 3

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP policy Hou 7.

Listed Building

As addressed in section (a) above, the proposed change of use will not harm the special interests of the listed building. The proposal complies with LDP policy Env 4.

Conservation area impact

As addressed in section (a) above, the proposed change of use will not undermine the character or the appearance of the conservation area. The proposal complies with LDP policy Env 6.

World Heritage Site

As the proposal is for a change of use only, it will not harm the qualities which justified the inscription of the Old and New Towns of Edinburgh's World Heritage Sites. The proposal complies with LDP policy Env 1.

Principle of 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) 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 sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a SCVA:

- 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.

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 submitted planning statement states that the property has been used as SCVA since 2018. There is no record of planning permission for its use as a SVCA and the proposal is therefore assessed in retrospect.

The property is a one-bedroom, first floor flat with shared access to the building that includes a shared staircase. The characteristics of the application property is such that a change of use to a SVCA will result in direct interaction/interference between users of the short-term letting accommodation and long-term residents of the residential building. The proposed change of use to a SVCA is not compatible with the residential use and character of the building due to conflicting with the shared access with neighbouring occupants of the building.

The property has one formal bedroom. The accommodation size and layout, however, would be capable of accommodating up to four or more related or unrelated visitors to arrive and stay at the premises for a short period of time on a regular basis 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 neighbour's amenity than long standing residents.

The application property has a mix of uses nearby, including offices, cafes, shops, restaurants and hospitality venues. The application property, however, is part of a residential townhouse with shared access with other occupiers of the building. Residents would be accustomed to a degree of low ambience noise as a result of this arrangement. The proposed change of use to a SVCA would introduce noise and disturbance at a level and frequency that is different from the background ambience that long standing residents would be accustomed to. The proposed change of use to a SVCA in this location therefore will have a materially detrimental effect on the living conditions of nearby residents.

The applicant has provided a number of supporting information to explain that the property would be used for a maximum of two guests staying and aimed at high end market users. The business operation rationale, however, does not carry significant weight in the assessment of the proposals as it cannot be controlled through effective means of a planning condition.

There are no statutory policies on the loss of housing in the current Development Plan. In addition, there is no policies restricting the over-provision of SVCA's and each planning application is assessed on its own merits. While experience has shown that short term lets can impact on the quality of places, LDP policy Hou 7 (Inappropriate Uses in Residential Areas) is applicable to the assessment of proposals for SVCA's. The assessment has found that the proposed use is not appropriate for its location.

Parking standards

There is no car or cycle parking standards for SVCA's within the Edinburgh Design Guidance. The application property is within a short walking distance to nearby public transport and amenities. The proposal therefore complies with LDP policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

d) There are any other material considerations which must be addressed?

The following material planning 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 all thirteen 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 has been consulted on but has not yet 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

A summary of the representations is provided below:

material considerations

- Noise and disturbance experienced during summer and weekends. Addressed on section c.
- Impact on World Heritage Site. Addressed in section c.
- Unsustainable growth of short term lets impacting on quality of places. Addressed in section c.

non-material considerations

- Maintenance and damage to listed buildings, contrary to LDP policy Env 4 - maintenance issues is not a material planning consideration and as no physical alterations are proposed, policy Env 4 is not applicable to the assessment of a change of use.
- Contrary to LDP policy Des 5 in terms of refuse/recycling and impact on amenity - as no physical alterations are proposed, this policy is not applicable to the assessment of a change of use. Planning does control/condition operational waste arrangements.

Conclusion in relation to identified material considerations

The other material consideration has been identified and addressed. There are no new material considerations.

Overall conclusion

The proposal is acceptable with regards to Section 59 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

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 the property as a short stay let

will 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: 14 June 2022

Drawing Numbers/Scheme

01-03.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer
E-mail: laura.marshall@edinburgh.gov.uk

Appendix 1

Consultations

NAME: Historic Environment Scotland

COMMENT: No comment.

DATE: 8 September 2022

The full consultation response can be viewed on the Planning & Building Standards Portal.



By email to:
laura.marshall@edinburgh.gov.uk

City of Edinburgh Council
Planning and Strategy
4 Waverley Court
East Market Street
Edinburgh
EH8 8BG

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
HMConsultations@hes.scot

Our case ID: 300059278
Your ref: 22/03087/FUL
05 July 2022

Dear City of Edinburgh Council

Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013

2F 2 Albyn Place Edinburgh EH2 4NG - Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018)

Thank you for your consultation which we received on 23 June 2022. We have assessed it for our historic environment interests and consider that the proposals affect the following:

Ref	Name	Designation Type
100018438,	Edinburgh World Heritage	World Heritage Sites,
LB28234,	Site Boundary, 1-11 (INCLUSIVE NOS)	Listed Building,
	ALBYN PLACE, INCLUDING RAILINGS, WITH 2-4 (INCLUSIVE NOS) WEMYSS PLACE	
GDL00367	MEWS, THE NEW TOWN GARDENS	Garden and Designed Landscape

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

Our Advice



We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Yours faithfully

Historic Environment Scotland

Comments for Planning Application 22/03087/FUL

Application Summary

Application Number: 22/03087/FUL

Address: 2F 2 Albyn Place Edinburgh EH2 4NG

Proposal: Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).

Case Officer: Laura Marshall

Customer Details

Name: Mr Eric Hughes

Address: 3 Wemyss Place Mews Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have lived at a property in Wemyss Place Mews for the last 6 years. I have noticed and been kept up by significant amounts of noise late at night particularly during the Summer and put it down to the some of the properties on Albyn Place potentially being Student Flats; I now understand this to be a short term let and probably the source of the noise and would rather it was not put out as short term lets on a continuing basis as a result.

Long term tenants such as my neighbours in the adjacent properties are generally more amenable and not a nuisance like those coming in for a long weekend and a party.

Comments for Planning Application 22/03087/FUL

Application Summary

Application Number: 22/03087/FUL

Address: 2F 2 Albyn Place Edinburgh EH2 4NG

Proposal: Change of use from residential apartment to short-term letting apartment in line with recent legislation (for an already established short-term let operating since 2018).

Case Officer: Laura Marshall

Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined the proposals for the change of use to short-term let in an historic A-listed property within the New Town Conservation Area, and objects.

- 1) The proposals only relate to one property within the tenement, which is accessed from a shared stair. This would have a detrimental impact on the residential amenity of neighbouring properties, and limits the future of the flats not included within the application.
- 2) The change of use would contribute to the unsustainable growth of the short term let (STL) sector in Edinburgh. The economic benefits of tourism for Edinburgh are clear, and we celebrate the role that our architectural heritage plays in this sector. However, the current rising rate of STLs threatens the sense of place and community which are part of the city's attraction, and this is especially acute in the World Heritage Site.
- 3) Scottish Government Research has highlighted the links between STLs and the negative impacts of reduced availability of affordable housing, congestion and reduced quality of life through noise and disturbance (People, Communities and Places, October 2019, pp. iv-v)
- 4) With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is diminished by the increase of short-term occupants.

The change of use does not respect the special characteristics of history and place reflected in the building's designation and location in the World Heritage Site, and would increase the negative impacts caused by the growth of STLs in Edinburgh.

The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of

place), DES5 (amenity of neighbours/refuse and recycling facilities), ENV 4 (Risk of unnecessary damage to historic structures), and HOU7 (Materially detrimental effect on the living conditions of nearby residents). We therefore object to the application.