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Aberdeen
AB11 7TH

Decision date: 13 October 2022

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

Proposed Change of Use from dwelling to short-term let (in retrospect)
At 3F2 8 North Bank Street Edinburgh EH1 2LP

Application No: 22/02284/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 8 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:-

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, 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:

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 Lesley Porteous directly at lesley.porteous@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
3F2 8 North Bank Street, Edinburgh, EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Item – Local Delegated Decision
Application Number – 22/02284/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 Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site relates to a self-contained flat on the fourth floor of a five-storey tenement block at 8, North Bank Street on the Mound. The property has two bedrooms. There are four floors of residential properties in the block, with two flats on each floor. The property shares its access and communal stairs with the other flats.

North Bank Street is at the top of the Mound and is a busy city centre location with mixed uses including retail, pubs, restaurants and cafes. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, LB 30064. 12/12/1974.

The site lies within the Old Town Conservation Area and the World Heritage Site.

Description Of The Proposal

The application is for a change of use from residential to short term let (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since 2015. Therefore, the application is retrospective. The applicant has not submitted a floor plan as part of the application.

Supporting Information

Supporting statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 13 October 2022

Date of Advertisement: 24 June 2022

Date of Site Notice: 24 June 2022

Number of Contributors: 6

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 harms neither the listed building, its setting or the conservation area. It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act

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

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the

importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposals are 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 3, and Env 6.
- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.
- LDP Delivering the Strategy policy Del 2.

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

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

Listed Building

LDP Environment policy Env 3 (Listed Buildings - Setting) states that development affecting the setting of a listed building will be permitted only if not detrimental to the appearance or character of the building, or to its setting.

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with LDP policy Env 3.

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 b). 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.

The proposal is acceptable with regard to LDP Policy Env 6.

World Heritage Site

LDP policy Env 1- World Heritage Sites states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh as World Heritage Sites or would have a detrimental impact on the site's setting will not be permitted.

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP policy Env 1.

Proposed Use/Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

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 an STL:

- 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 property is a fourth floor flat in a five storey Old Town -style tenement block. There are two flats on each floor of the tenement block. The property is accessed via communal stairs from North Bank Street and all flats use the same communal access.

The property is in a mixed use area within a residential flatted block. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat at unsociable hours. The applicant has not provided a floor plan despite being requested to do so. This assessment is based on the supporting statement which advises that there are two bedrooms in the property, each accommodating a standard double bed. The proposed two bedroom short stay use would enable four or more 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. This would be significantly different from the ambient background noise that residents might reasonably expect. There is also the additional risk of harming the community spirit of the tenement block.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. The site lies within the City Centre and policy Del 2 reflects SPP by stating it supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

Anti-social behaviour can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it 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.

There is no off street car parking available within the site. As the site is in the heart of the Old Town car use is discouraged. The site is accessible by public transport on the Mound. There is no cycle parking standards for SCVA's. Bikes could be parked within the property if required. The proposals comply with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that would justify approval.

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

- Negative impact on residential amenity. Addressed in c) above.
- No benefits to local economy. Addressed in c) above.
- Negative impact on community. Addressed in c) above.
- Not in accordance with LDP policy Hou 7. Addressed in c) above.
- Not in accordance with SPP Supporting Sustainable Places. Addressed in c) above.

non-material considerations

- Negative impact on core maintenance of communal areas. This is not a material planning consideration.
- Shortage of housing. This is not a material consideration under the current LDP. 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.

- Not in accordance with Scottish Government Housing Policy. The application must be assessed against the relevant LDP policies and non-statutory guidance.
- Contrary to LDP policy Env 4. No physical alterations proposed and, as such, policy Env 4 is not relevant.
- Not in accordance with LDP policies Des 1 and Des 5. These are not relevant LDP policies in the consideration of this application.
- Short term let visitors have no respect for long term residents. This is not a material planning consideration.

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 is acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

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: 8 June 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/02284/FUL

Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

Customer Details

Name: Lord Cockburn Association

Address: 1 Trunks Close, 55 High Street, Edinburgh EH1 1SR

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: It is our view that in this residential shared stair context the proposed change of use is not in accordance with Policy Housing 7 'Inappropriate Uses in Residential Areas' as it would have a materially detrimental effect on the living conditions of other residents of the main door accessed residential stair, and so should not be permitted.

In addition, the proposed change of use is not supportive of either Scottish Government Housing policy on More homes - "everyone has a quality home that they can afford and that meets their needs" or Scottish Planning Policy on "socially sustainable places" and "supporting delivery of accessible housing".

Comments for Planning Application 22/02284/FUL

Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

Customer Details

Name: Mrs Elspeth Wills

Address: 3 Brown's Place EDINBURGH

Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Old Town Community Council wishes to object to the above application and in particular to all retrospective applications

Our grounds of objection are as follows:

Shortage of housing to buy or rent is a real issue throughout Edinburgh as acknowledged by both by the current and 2030 national planning guidelines. This is particularly true of the Old Town where the voters' roll has fallen to its lowest level ever and one in three properties is now a STL.

The proliferation of STLs has damaging effects not only on neighbours (Hou 7) and on building maintenance but on whole communities. Judging by the neighbour notification list there are still a few residents surviving in the area

STLs bring few benefits to the local economy or community as most visitors stay for only 2-3 nights to have fun in the city centre.

The property is at the heart of the World Heritage site.

Loss of income to the Council who maintains essential services such as rubbish collection free of charge. Housing should be seen as a place for people to live in not as an investment.

We urge that this and all STL applications are turned down.

Yours sincerely

Elspeth Wills

Planning - OTCC

Comments for Planning Application 22/02284/FUL

Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

Customer Details

Name: Ms OLD TOWN ASSOCIATION

Address: 1 Trunks Close, 55 High Street, Edinburgh EH1 1SR

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This application should be refused as the use of a residential house for short-term letting means loss of residential accommodation. Short-term lets in a single-use residential development results in noise and other disturbance for the inhabitants, especially where there are shared access paths. Short-term lets as a whole destroy communities and lead to a sense of insecurity amongst remaining residents.

Comments for Planning Application 22/02284/FUL

Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

Customer Details

Name: Mr Tom Welsh

Address: 3 Blackie House, Wardrop's Court, Edinburgh EH1 2NY

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The amount of short term lets has had a detrimental effect on the area, especially as many seem to be unauthorised, as this one has been for a number of years. There is a lot of purpose built tourist accommodation in the area and soon the Virgin Hotel ,located close by, will be opening up adding hundreds of new beds.

Comments for Planning Application 22/02284/FUL

Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

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 a B-listed tenement within the Old 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.

Comments for Planning Application 22/02284/FUL

Application Summary

Application Number: 22/02284/FUL

Address: 3F2 8 North Bank Street Edinburgh EH1 2LP

Proposal: Proposed Change of Use from dwelling to short-term let (in retrospect)

Case Officer: Lesley Porteous

Customer Details

Name: Dr William Zachs

Address: 1 Blackie House 451 Lawnmarket Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this change of use, although I appreciate the efforts of the owner to at least put in the application which is not often the case, especially in this part of town. The centre of our wonderful city is more and more difficult for permanent full-time residents to exist peacefully. Such visitors often have little respect for permanent residents. The inundation of short-term letting undermines the core values of community living in a part of town where it is already challenging to live amidst a constant turnover. Let our very welcome visitors stay in hotels and other purpose-build accommodation.

Sincerely

Dr William Zachs