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**Decision date: 7 November 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 changes (for an already established short-term let since 2018).  
At Flat 1 21B Abercromby Place Edinburgh EH3 6QE

**Application No:** 22/03088/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:-**

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 01,02, 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](mailto: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](http://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](mailto: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  
Flat 1 21B Abercromby Place, Edinburgh, EH3 6QE**

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

**Item – Local Delegated Decision  
Application Number – 22/03088/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 is a self-contained, basement flat at the corner of Nelson Street and Abercromby Place. The property extends over two floors. There is a sitting room, kitchen and dining area on the lower ground floor. There are three bedrooms and a shower room on the sub lower ground floor. The property shares a communal hall, main entrance and courtyard with the adjacent flat at 21 flat 1. It has its own set of steps leading from the courtyard to Nelson Terrace.

The surrounding area includes a mix of residential and offices. The property is on the edge of the New Town which is close to but not in the city centre. It is well served by public transport.

The application site is an A listed building (ref: LB 2212: date of listing 18.8.64).

The application site is in the World Heritage Site and the New Town Conservation Area.

### **Description Of The Proposal**

The application seeks permission to change the residential use to a short term let apartment.

No internal or external physical changes are proposed.

The applicant has advised that the property has been used as a short term let since 2018. The application is therefore retrospective.

### **Supporting Information**

Planning statement.

#### **Relevant Site History**

No relevant site history.

#### **Other Relevant Site History**

No other relevant planning site history.

### **Consultation Engagement**

Historic Environment Scotland.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 7 November 2022

**Date of Advertisement:** 1 July 2022

**Date of Site Notice:** 1 July 2022

**Number of Contributors:** 3

## **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: Interim Guidance on the principles of listed building consent.
- 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 1997.

**b) The proposals harm the character or appearance of the 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 New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external alterations proposed and the development preserves both the character and appearance of the conservation area. The change of use from a three-bedroom domestic flat to a short-term holiday let (STL) 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.

**Conclusion in relation to the conservation area**

The proposal does not harm the conservation area. Therefore, it 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 3 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 policy Env 6.

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

Listed Building and 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

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

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 lower ground and sub lower ground flat at the edge of the Georgian New Town. There is a flat immediately adjacent ( no.21B) which shares the same communal hall, main access and front courtyard. The property is accessed via a set of steps from Nelson Terrace.

The property is on the lower ground floor of a Georgian terrace. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat, communal hall and courtyard at unsociable hours. The proposed three bedroom short stay use would enable six 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 added risk of a potential detrimental impact on the sense of community and place and less interest in maintaining and caring for communal areas due to temporary occupation.

The location of the flat, being in a quiet basement in a Georgian street, surrounded by a high number of residential units, creates a situation where such a use could bring additional noise and disturbance immediately outside the flat in the residential street.

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.

Parking is on-street within a parking controlled area. This is acceptable and there is no requirement for cycle parking for short term lets.

The proposal complies 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.
- Increased litter. The applicant should have a waste strategy which is agreed with CEC's Waste Services.
- Does not respect the special characteristics of the World Heritage Site. Addressed in c) above.
- Does not contribute to sustainable growth. Addressed in d) above.
- Contradicts LDP policy Hou 7. Addressed in c) above.
- Threatens sense of place and community. Addressed in c) above.
- Negative impact on care and maintenance of communal areas. Addressed in c) above.

#### *non-material considerations*

- Reduces housing stock. 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.
- Contradicts LDP policies Des 1, Des 5 and Env 4 These are not relevant LDP policies in the assessment of the application.

### **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: 14 June 2022

## Drawing Numbers/Scheme

01,02

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](mailto:lesley.porteous@edinburgh.gov.uk)

## Appendix 1

### **Consultations**

NAME: Historic Environment Scotland.

COMMENT: No comments.

DATE: 5 July 2022

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

# Comments for Planning Application 22/03088/FUL

## Application Summary

Application Number: 22/03088/FUL

Address: Flat 1 21B Abercromby Place Edinburgh EH3 6QE

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

Case Officer: Lesley Porteous

## Customer Details

Name: Mr Douglas Gilchrist

Address: 3C Northumberland Street,, S E Lane S E Lane Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Councillor's Reference

Comment:Over the time I have lived in the New Town area I have noticed the increasing litter problem in line with the increase in the number of short term lets. The litter generated by the tenants of short term leases is a continual source of irritation; a health hazard; and a degradation of the amenity of a once proud residential area. The New Town is a World Heritage Centre continually threatened by overflowing bins and the disrespect of short term visitors

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Case Officer: Lesley Porteous

## Customer Details

Name: Mr andrew paton

Address: 6/4 Nelson Street Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Sirs

I have following objection to this application.

I want to live in a locale with a vibrant sense of community, this is difficult to achieve with the inevitable transient nature of short let accomodation .

There is already enough issues regarding residents of Abercromby place overflowing bins in Nelson Street rather than using their own (gull sacks) - this would only be compounded by transient guests who would neither know or comply with existing systems.

The additional noise from the circus of guests moving to and from accomodation and nature of guests re parties etc

Can you comment on why this property has been used as short term let from 2018 with existing residential permission only.

Finally and most importantly with the current housing crisis why are we allowing a continuation of increased short term lets to the detriment of owner occupier or long lease tennants. This is a significant scandal which must be reversed to ease the current crisis and improve viability of local amenities and residential community. This is aligned with the original intent of the New Town to provide a healthy, attractive and equitable area to LIVE in!.

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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 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.