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Decision date: 12 September 2022

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

Change of use from mews dwelling (Class 9) to short term let visitor accommodation.
At 6 Windsor Street Lane Edinburgh EH7 5JZ

Application No: 22/02463/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 9 May 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 the 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:

The proposal is acceptable with regard 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.

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.

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.

Report of Handling

**Application for Planning Permission
6 Windsor Street Lane, Edinburgh, EH7 5JZ**

Proposal: Change of use from mews dwelling (Class 9) to short term let visitor accommodation.

**Item – Local Delegated Decision
Application Number – 22/02463/FUL
Ward – B12 - Leith Walk**

Recommendation

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

Summary

The proposal is acceptable with regard 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.

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.

SECTION A – Application Background

Site Description

The application property is a recently completed mews development (Class 9 use) and is located within Windsor Street Lane. The building was completed (along with its immediate neighbour No. 04) in 2021. The building is two storey in height and has a main door access from the lane.

The site is accessed via a pend from Montgomery Street and the lane is a cul-de-sac, serving residential mews and vehicle repair workshops.

The site is within the setting of a category A listed properties (No. 5-29) on Windsor Street (date of listing: 16/12/1965, reference: LB29942).

The site is within the New Town Conservation Area and is part of a World Heritage Site.

Description Of The Proposal

The application is for a change of use from mews dwelling (Class 9) to short term let visitor accommodation (sui generis use).

Supporting Information

- Supporting statement

Relevant Site History

No relevant site history.

Other Relevant Site History

Since 1998, the site has had a long repeated history of planning permission granted to demolish the former derelict building on the site and to erect two traditional mews development in its place. The following is the most recent planning permission:

10 January 2020 - Planning permission granted to remove derelict two storey house and replace with 2no. mews house units on site and adjoining gap site. Per consented applicaiton ref: 17/00890/FUL with minor adjustments (application number 19/05028/FUL).

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 12 September 2022

Date of Advertisement: 3 June 2022

Date of Site Notice: 3 June 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: Setting

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.

The site is a part of recently completed mews development where impact on the setting of listed buildings was addressed under previous planning permissions. There are no external or internal alterations proposed as part of the proposed change of use. 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.

The proposed change of use does not involve external or internal alterations. The change of use therefore will not have a material impact on the special interest of the listed buildings.

Conclusion in relation to the listed building

The proposal will not harm the listed building or its setting. The proposal is 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 site is located within the New Town Conservation Area. The character appraisal states the following:

A planned urban concept of European significance, the New Town has an overriding character of Georgian formality. The First New Town, built to James Craig's 1767 plan, has experienced significant redevelopment, while the Second, Third and Fourth New Towns, which were laid out on estates to the north, east and west retain most of their original buildings. 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 therefore lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves. Many of the New Town's buildings are listed category 'A' of national importance and the area contains some of the city's finest interiors.

The proposed change of use does not involve external or internal alterations. Windsor Street Lane has a mix of uses, including residential and light commercial uses (vehicle repair workshops). The change of use to a short-stay commercial visitor accommodation (SCVA) will not harm the character of the conservation area.

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. The change of use would preserve the appearance 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 policies 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.

Listed Building

The impact on the setting of nearby listed buildings has been considered above in section (a). It was concluded that the proposal will not impact on the special interest of the listed building settings. The proposal therefore complies with LDP policy Env 4.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in section (a). It was concluded that the proposal will not result in adverse harm to the character and appearance of the conservation area. The proposal therefore complies with LDP Policy Env 6.

World Heritage

The introduction of a short-term visitor accommodation in this location will not harm the inscription of the Old and New Town as a World Heritage Site in terms of understanding and appreciating what makes the Site special. The proposal therefore complies with LDP policy Env 1.

Principle

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 property is a self-contained unit with a main door access from the lane and has no private outdoor amenity space. The property has two formal bedroom areas. The accommodation layout, however, including the open plan living room and mezzanine level, would be capable of accommodating up to eight 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 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. Due to the size of the property, the proposed change of use to a SVCA has significant potential for noise and disturbance for nearby residents within the lane.

Windsor Street Lane is both residential and commercial in character, accessed via a path from Montgomery Street. There are several vehicle repair workshops within the lane where nearby residents would be accustomed to a degree of background noise during the day. However, with the cessation of these commercial uses during evening times and when the lane is not in transitional use, nearby residents would be accustomed to low ambient background noise. There is no guarantee that guests would not congregate within the lane to socialise, smoke and drink, with the potential for noise and disturbance. Not only residents of the lane would be affected, but wider residential properties surrounding Windsor Street Lane. The proposed change of use to a SVCA would introduce noise and disturbance at a level and frequency that is different from the background ambient noise that long standing residents would be accustomed to at night-time. The proposed change of use to a SVCA in this location will have a materially detrimental effect on the living conditions of nearby residents.

The proposed change of use to a short term let will not introduce new privacy issues or neighbouring amenity.

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.

Parking standards

There are 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. Bikes could be parked within the property if required. The proposal therefore complies with LDP policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal will not harm the special interests of nearby listed buildings or harm the character of the conservation area. The proposal 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.

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

- Impact on residential amenity - addressed in Section (b) above.

non-material considerations

- Inaccurate supporting information relating to existing rooflights, description of surroundings - does not preclude assessment of the proposal against the relevant policies in the LDP.
- Over provision of tourist accommodation in the immediate vicinity - there is no policy in the LDP restricting the provision of tourist accommodation. Therefore, little weight can be attached to this consideration.

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 the 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: 9 May 2022

Drawing Numbers/Scheme

01.

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

No consultations undertaken.

Comments for Planning Application 22/02463/FUL

Application Summary

Application Number: 22/02463/FUL

Address: 6 Windsor Street Lane Edinburgh EH7 5JZ

Proposal: Change of use from mews dwelling (Class 9) to short term let visitor accommodation.

Case Officer: Laura Marshall

Customer Details

Name: Mrs Olivia Doherty

Address: 23 Windsor Street, Midlothian, Midlothian, Midlothian, Midlothian, Midlothian Lothian
Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I would like to object to this application. Firstly, there is an over provision of tourist accommodation in the immediate vicinity. Windsor Street has; Cairn Hotel, Windsor St Apartments, Hanover House Hotel, Lantern House and various air bnb rooms in private houses. Brunswick street has No11 Hotel and Brunswick apartments and various private airbnb again in houses. Hillside Crescent has Top Hat House and 2 Hillside crescent. There are plenty of options for a variety of visitors in this area. I would also like to highlight some discrepancies in the application regarding the second floor plan and windows. " The property is single aspect with all windows facing the lane" this is incorrect. From my house in Windsor Street I can clearly see into the mezzanine floor of both houses (4 and 6) as they are close to our homes. You can only see these roofwindows from our houses, not the lane. the second floor is " open to the first floor open plan space " so if visitors choose to play music etc and the windows are open we would clearly hear it (most bedrooms are at the back). The house is " in the centre of the block" which is correct and "surrounded by two storey town houses " . This is incorrect. Most houses, mine included are 4 storey town houses as is Hillside Cres and the back of Brunswick Street is 5 and 6 storeys. This is very important as the height of the buildings enclosed by Montgomery street creates a " bowl " where sound is amplified more than usual . In section 4 Policy content: " help create strong ,sustainable communities enabling all residents to enjoy a high quality of life " We have this at present as all residents are aware that sound is carried and amplified if excess noise is made so this is an extremely rare occurrence, we can all sleep with our windows open undisturbed by noise from parties etc. this is important to the health and wellbeing of all residents. Transient visitors will not have this sense of community responsibility as they are there temporarily. There will be a detrimental effect to this community if this is allowed. Visitors do not invest in the community wellbeing. Historically there have been many complaints about visitor accommodation disturbing the lives of city centre residents no matter how responsible the landlord is.

Comments for Planning Application 22/02463/FUL

Application Summary

Application Number: 22/02463/FUL

Address: 6 Windsor Street Lane Edinburgh EH7 5JZ

Proposal: Change of use from mews dwelling (Class 9) to short term let visitor accommodation.

Case Officer: Laura Marshall

Customer Details

Name: Mr David Thomson

Address: 17 Windsor Street Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Councillor's Reference

Comment: Currently in Windsor Street, there are two hotels occupying eight full 3 1/2 story townhouses between them. Three of which are used for short term lets, resulting in Stag and Hen do's taking over the whole townhouse and all the noise and disruption that goes with it.

Along with various AIRB&B properties in Windsor Street, Montgomery & Brunswick Street and Elm Row, I honestly feel there is more than enough capacity for tourist/short term visitors in the area.

Comments for Planning Application 22/02463/FUL

Application Summary

Application Number: 22/02463/FUL

Address: 6 Windsor Street Lane Edinburgh EH7 5JZ

Proposal: Change of use from mews dwelling (Class 9) to short term let visitor accommodation.

Case Officer: Laura Marshall

Customer Details

Name: Mr Neil Richardson

Address: 19 Windsor Street Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The mews house has been on the market for a year, is unsold so now the developer is trying to get some cash from it. We already have the Cairn Hotel on Windsor Street, with endless stag and hen parties. At least we can sleep because the back is quiet. The mews house has 2 very large widows which open onto the back of our house. Casual visitors partying do not care about neighbours or noise pollution, so we will have loud noise at front and back, and no sleep. As an Airbnb it will have a materially detrimental effect on the living conditions of nearby residents, and therefore should not be permitted.