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Decision date: 22 December 2022

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

Change of use from residential to short-term let.
At 221 Webster's Land Edinburgh EH1 2RU

Application No: 22/04558/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 12 September 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;

Reason for Refusal:-

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling 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:

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents and therefore it does not comply with LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

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 James Armstrong directly at james.armstrong@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
221 Webster's Land, Edinburgh, EH1 2RU**

Proposal: Change of use from residential to short-term let.

**Item – Local Delegated Decision
Application Number – 22/04558/FUL
Ward – B11 - City Centre**

Recommendation

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

Summary

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents and therefore it does not comply with LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application site is a one bedroom, ground floor flat located within the Webster's Land housing development on the northern side of West Port Road. The property shares its access to the street with other properties via the communal amenity space.

West Port Road is of mixed character, with cafes, restaurants, public houses and offices in the surrounding area. Bus and train links are relatively accessible from the site.

The application site is within the Old Town Conservation Area, the Old and New Town World Heritage Site, and Local Nature Conservation Site.

Description Of The Proposal

The application is for a retrospective change of use from Residential to Short Term Let (STL) (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.

Supporting Information

- Cover Letter

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant history is identified.

Consultation Engagement

Transport

Publicity and Public Engagement

Date of Neighbour Notification: 22 December 2022

Date of Advertisement: 7 October 2022

Date of Site Notice: 7 October 2022

Number of Contributors: 7

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

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

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

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

- Managing Change in the Historic Environment: Interim Guidance on Conservation Areas

Managing Change in the Historic Environment: Interim Guidance on Conservation Areas sets out the principles to be followed in implementing the requirements of Scottish Planning Policy paragraphs 141 and 142.

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."

Old Town Conservation Area Character appraisal states:

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.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

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:

- o LDP Environment Policies Env 1 and Env 3
- o LDP Housing Policy, Hou 7.

o LDP Delivering The Strategy Policy, Del 2.

o LDP Transport Policies, Tra 2 and Tra 3.

Proposed Use

The application site is situated in the Urban Area and City Centre as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of STLs is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STCVA will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand and
- The nature and character of any services provided.

In connection to short stay commercial leisure apartments it states, "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

The application shares its access to the street with other properties via shared amenity space. Websters land is a wholly residential development surrounding two central courtyards, with a low degree of activity in the immediate vicinity of the allocation property at any time. Though the development is near to areas with a high level of activity during the day and night, the design of the development successfully mitigates the amenity impacts of this.

The use of the property as an STL would introduce an increased frequency of movement to the flat. The proposed one bedroom short stay use would enable 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 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 individuals using the property as a principal home. The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

Additionally, the flat has access to the communal courtyards, noise from which would significantly detract from neighbouring amenity, especially if this was to occur late in the evening or at night, a matter amplified by the presence of nearby bedroom windows at neighbouring properties.

The additional servicing that operating a property as a STL requires compared to that of a residential use is also of concern, as it is likely cleaning staff would need to visit the property after each visit, increasing disturbance in the street and in the stair.

This would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions and amenity of nearby residents.

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

The proposal will provide accommodation for tourists and individuals visiting the city, within an area of mixed use. The proposal will not prejudice or inhibit the activities of any nearby employment use. It will contribute to the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

The application complies with LDP policy Del 2, however it does not comply with LDP policy Hou 7.

World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

Parking Standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is no parking requirements for STLs. Cycles could be parked inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The change of use of this property to an STL will be of significant detriment to neighbouring amenity. The proposal does not comply with the Development Plan.

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

The proposal does not comply with LDP Policy Hou 7, as the change of use of this property to an STL would materially harm neighbouring amenity. There are no material considerations that outweigh this conclusion.

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 complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

The Planning Committee considered the objections received to City Plan 2030 on 30th November 2022. At this time 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:

6 objections
0 in support
1 neutral

material considerations in objection

- Lack of historic impact on residential amenity for neighbours (addressed in Section C)
- Impact on use of refuse and recycling facilities. The change of use is unlikely to result in a material difference to the quantity or type of waste produced.
- Impact on parking congestion (addressed in Section C).
- Impact on the local community. This individual application will not have a significant impact on the local community.
- Rules for guests are unenforceable. Little weight has been given to management measures taken by the applicant to mitigate amenity impacts.

non-material considerations in objection

- Impact on home insurance policies.
- Impact on rental prices of neighbouring properties
- Loss of residential accommodation.

- Contrary with Edinburgh Council's Draft Short Term Let Licensing Policy
- Sufficient tourist accommodation elsewhere.
- Inaccuracies in the number of people suggested that can stay in the property in the Planning Statement.
- Issues of anti-social behaviour.

Overall conclusion

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

Reason for Refusal

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling 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: 12 September 2022

Drawing Numbers/Scheme

01, 02

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Assistant Planning Officer

E-mail:james.armstrong@edinburgh.gov.uk

Appendix 1

Consultations

NAME: Transport

COMMENT: No comments or objections.

DATE: 3 October 2022

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

Comments for Planning Application 22/04558/FUL

Application Summary

Application Number: 22/04558/FUL

Address: 221 Webster's Land Edinburgh EH1 2RU

Proposal: Change of Use from residential to short-term let

Case Officer: Local1 Team

Customer Details

Name: Mr Shaun Fleming

Address: 7/2 Portsburgh Square Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We have far too many properties throughout Edinburgh that are used as short term let's, while people are unable often to find affordable homes as there is many of these short term lets which make a huge amount of money for the homeowners while no consideration for their neighbours and often these properties are used in this area as party flats which cause a great deal of upset for people living nearby, i as a neighbour strongly object to yet another short term let in this area

Comments for Planning Application 22/04558/FUL

Application Summary

Application Number: 22/04558/FUL

Address: 221 Webster's Land Edinburgh EH1 2RU

Proposal: Change of Use from residential to short-term let

Case Officer: Local1 Team

Customer Details

Name: Mr Steven Rapaport

Address: 309 Webster's Land Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I think that we already have plenty of AirBNB visitors in this complex. Too many of them, I think. The number of digital locks on the front gate is getting ridiculous.

The increasing number of flats turned into virtual hotel space reduces the sense of community and local safety. I want to know that most of my neighbours are as invested in the safety and cleanliness and quiet of the neighbourhood as I am.

I recently had someone trying to break my front window (inside the gates) at 3am in this gated community. To get in, they must have known the master combination to the front gate, and that is becoming far too well-known.

I object to this and all further applications for short-term let in this complex. The number we have is sufficient.

Comments for Planning Application 22/04558/FUL

Application Summary

Application Number: 22/04558/FUL

Address: 221 Webster's Land Edinburgh EH1 2RU

Proposal: Change of Use from residential to short-term let

Case Officer: Local1 Team

Customer Details

Name: Mr Paul Burrows

Address: 509 Websters Land Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We have owned our flat for over 25 years. During that time, we have seen Websters Land turn increasingly from an owner-occupied and long term rental community into an "Air BnB" environment. Some days there are so many transient people Websters Land seems more like a hotel than a home for Edinburgh neighbours. We have objected to this, because it drives out longer-term residents, promotes an atmosphere inhospitable to anyone not on holiday, and seems at odds with the covenants in Websters Land deeds that forbid commercial use -- which a short term, "rentals by the day" enterprise seems to be. These "Air BnB" visitors create an upkeep burden on the rest of us: noise, over-flowing bins, need for more cleaning and repair, and safety concerns (since gates are often left open in a busy part of the town) There are plenty of hotel spaces in the Old Town. Let's keep the flats for longer-term residents occupancy as they were intended to be.

Comments for Planning Application 22/04558/FUL

Application Summary

Application Number: 22/04558/FUL

Address: 221 Webster's Land Edinburgh EH1 2RU

Proposal: Change of use from residential to short-term let.

Case Officer: Local1 Team

Customer Details

Name: Mr Craig Swift

Address: 503 Websters Lan Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: No problems with the continuation of a property running as STL given no complaints have been made previously. The apartment block is always very quiet despite the traffic from STL's so would have no difficulty with this continuing, particularly since the applicants income would be adversely effected if the permission was not granted.

Comments for Planning Application 22/04558/FUL

Application Summary

Application Number: 22/04558/FUL

Address: 221 Webster's Land Edinburgh EH1 2RU

Proposal: Change of use from residential to short-term let.

Case Officer: Local1 Team

Customer Details

Name: Mrs Elspeth Wills

Address: 3 Browns Place Edinburgh

Comment Details

Commenter Type: Residents Association

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am objecting on behalf of GRASS (Grassmarket Residents Association)

The applicant has been trading as a STL for seven years in a tenemented property which has the added complication of balcony access as well as common stairs and was built in the 1980s for sale to meet acute accommodation needs. We have received complaints from residents and other local members of the community that Webster's Land is fast becoming a STL haven. Removal of any property from this system would be welcome.

We object to all STLs on the usual grounds of loss of residential amenity, no benefit to the local community etc

Yours sincerely

Elspeth Wills

Chair

GRASS

Comments for Planning Application 22/04558/FUL

Application Summary

Application Number: 22/04558/FUL

Address: 221 Webster's Land Edinburgh EH1 2RU

Proposal: Change of use from residential to short-term let.

Case Officer: Local1 Team

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: This appears to be a shared stair/shared access situation, although this may require further clarification.

It is our view that if this is a residential shared stair/shared access 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".

The Old Town has been subjected to the most intensive pressures of overtourism for some time. It is essential that the city rebalances this pressure. Encouraging the shift from short-term holiday letting to more permanent housing is one way of achieving this.

Comments for Planning Application 22/04558/FUL

Application Summary

Application Number: 22/04558/FUL

Address: 221 Webster's Land Edinburgh EH1 2RU

Proposal: Change of use from residential to short-term let.

Case Officer: Local1 Team

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 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 building's 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), and HOU7 (Materially detrimental effect on the living conditions of nearby residents). We therefore object to the application.