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Decision date: 25 October 2022

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

Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).
At 1A Cambridge Street Edinburgh EH1 2DY

Application No: 22/01652/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 31 March 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.



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
1A Cambridge Street, Edinburgh, EH1 2DY**

Proposal: Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).

**Item – Local Delegated Decision
Application Number – 22/01652/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 Cambridge Street and Castle Terrace. The property extends over a single floor and has an entrance hall, master bedroom, a living/dining room, kitchen, shower room and study. The property has its own main door which is accessed via a set of steps from Castle Terrace. There is a gate at the top of the steps. The property has its own private courtyard/basement area to the front.

Cambridge Street is a mix of residential and offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of

the street. The application property is in the basement of a four storey Victorian terrace. The four floors above are in residential use. The property is in the city centre, is a two-minute walk from Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport.

The application site is a B listed building (ref: LB 28484: date of listing 1.1.2003).

The application site is in the World Heritage Site and the West End 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 September 2021. The application is therefore retrospective.

Supporting Information

Planning Statement.

Relevant Site History

14/05110/FUL

1A Cambridge Street

Edinburgh

EH1 2DY

Change of use from class 4 offices to residential (flatted) and associated minor alterations.

Granted

18 February 2015

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 11 April 2022

Date of Advertisement: 29 April 2022

Date of Site Notice: 29 April 2022

Number of Contributors: 0

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 or its setting. It is therefore acceptable with regard to Sections 59 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 West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

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 one-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.
- 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 policies Env 3 and Env 6.

The non-statutory Guidance for Businesses is relevant when considering policy Hou 7.

Listed Buildings 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 complies with 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

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

The use of this property as a short term let would have the potential to introduce an increased frequency of movement to the flat, and to the courtyard in front of the flat, at unsociable hours. Although it is within the city centre, the street is not an overly busy thoroughfare and ambient noise levels are relatively low, particularly in the evening. Moreover, the property is in close proximity to residential flats. The proposed one bedroom short stay use would enable two 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.

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.

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

No representations have been received.

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: 31 March 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
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Appendix 1

Consultations

No consultations undertaken.