

Mrs Wishart.
GF 16 Albany Street
Edinburgh
EH1 3QB

Decision date: 11 January 2023

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

Change of Use from residential to short-term let (in retrospect)
At GF 16 Albany Street Edinburgh EH1 3QB

Application No: 22/04261/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 13 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, 02A, 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
GF 16 Albany Street, Edinburgh, EH1 3QB

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

Item – Local Delegated Decision
Application Number – 22/04261/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 two bedroom, ground floor flat located on the northern side of Albany Street. The property is accessed via a communal stair.

Albany Street is of mixed character, featuring residential, office and other commercial uses. Public Transport links are highly accessible from the site.

The application property is part of a category A listed building, 8-16 (Even Nos) Albany Street, Including Railings. LB28229, 13/09/1964.

The application site is located within the New Town Conservation Area, Old and New Towns of Edinburgh World Heritage Site, and the New Town Gardens and Dean Historic Garden Designed Landscape.

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.

Supporting Information

- Supporting Statement
- Photographs

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history was identified.

Consultation Engagement

Historic Environment Scotland

Publicity and Public Engagement

Date of Neighbour Notification: 11 January 2023

Date of Advertisement: 23 September 2022

Date of Site Notice: 23 September 2022

Number of Contributors: 2

Section B - Assessment

Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

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

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

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

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

a) The proposals harm the listed building and its setting?

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

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

Conclusion in relation to the listed building

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

"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."

Conclusion in relation to the conservation area

The proposals comply with 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 Policy, Env 1, Env 3, and Env 6.
- LDP Delivering The Strategy Policy, Del 2.
- LDP Housing Policy, Hou 7.
- LDP Transport Policies, Tra 2 and Tra 3.

Listed Buildings and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved.

The proposal 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 preserve the character and appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

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 property shares its access to the street with other properties via a communal stair. There is a moderate degree of activity in the immediate vicinity of the property at any time.

The impact of the STL use on neighbouring residents living outside of the communal stair is acceptable given the background noise levels from uses that exist within the vicinity of the application property. However, the impact on those living within the stair is not. The use of the property as an STL would introduce an increased frequency of movement to the flat. The proposed two 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, increasing disturbance 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 not adversely affect the vitality of the city centre and its role as a strategic business centre, regional shopping centre and capital city.

Whilst the application complies with LDP Policy Del 2, it does not comply with LDP Policy Hou 7.

World Heritage Site

The proposed change of use to 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 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. The proposal does not comply with the Development Plan.

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 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.

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. 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:

2 objections
0 in support
0 neutral

material considerations

- Impact on neighbouring residential amenity. Addressed in Section C.
- Impact on the World Heritage Site's special characteristics of history and place, and its community. Addressed in Section C.
- Impact on traffic congestion. The change of use will not result in significant change to traffic congestion in the local area.
- Impact on refuse and recycling facilities. Suitable refuse and recycling facilities are provided.

non-material considerations

- Loss of residential accommodation.

Overall conclusion

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.

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: 13 September 2022

Drawing Numbers/Scheme

01, 02A

Scheme 1

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: Historic Environment Scotland

COMMENT: No comments or objections.

DATE: 26 September 2022

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

Comments for Planning Application 22/04261/FUL

Application Summary

Application Number: 22/04261/FUL

Address: GF 16 Albany Street Edinburgh EH1 3QB

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

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 application appears to relate to a shared residential stair. This application has been brought to our attention by a Cockburn stakeholder. It is our view that in this residential shared stair context the proposed change of use is not in accordance with Policy Housing 7 'Inappropriate Uses in Residential Areas' as it would have a materially detrimental effect on the living conditions of other residents of the main door accessed residential stair, and so should not be permitted.

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

Comments for Planning Application 22/04261/FUL

Application Summary

Application Number: 22/04261/FUL

Address: GF 16 Albany Street Edinburgh EH1 3QB

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

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 an A-listed subdivided townhouse within the New Town Conservation Area, and objects.

- 1) The proposals only relate to one property within the converted townhouse, 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.