

Montgomery Empire Ltd.
FAO: Alan Montgomery
113 Upper Craigour
Edinburgh
EH17 7SE

Decision date: 27 March 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 113 Upper Craigour Edinburgh EH17 7SE

Application No: 22/04718/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 20 October 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. No conditions attached.

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.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of local amenity and loss of residential accommodation, as the use of this dwelling as a

short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

Informatives

It should be noted that:

1. No informatives attached.

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 Benny Buckle directly at benny.buckle@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
113 Upper Craighour, Edinburgh, EH17 7SE**

Proposal: Change of use from residential to short term let (in retrospect).

**Item – Local Delegated Decision
Application Number – 22/04718/FUL
Ward – B16 - Liberton/Gilmerton**

Recommendation

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

Summary

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity and the character of the area. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of tourist accommodation in this case it does not outweigh the adverse impact on residential amenity or the loss of residential accommodation.

The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and 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 relates to a three-bedroom house at 113 Upper Craighour. Access is gained via private front door entrance, from a shared courtyard.

Upper Craighour is predominately residential. Bus links are accessible from the site.

Description Of The Proposal

The application is for retrospective planning permission for the change of use from residential to short term let.

Supporting Information

- National Planning Framework 4 Planning Statement

Relevant Site History

No relevant site history.

Other Relevant Site History

No further relevant site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 21 October 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 0

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering change of use applications.

Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (b) and (e) specifically relate to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to a short term let 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 term lets 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".

Amenity

The property is located within a predominantly residential area and is accessed via communal courtyard that is overlooked by other residential properties in the development and provides outdoor amenity space. The site and surrounding area have a low degree of activity and low ambient noise levels.

The use as a short term let would allow multiple parties of visitors to come and go from the premises for inconsistent periods of time on a regular basis throughout the year in a manner dissimilar to that of permanent resident. When staying at the property, guests can come and go at any time throughout the day and night impacting on the amenity of immediate residential occupants. Temporary visitors are likely to have less regard for the local amenity. This increase in frequency of movement to the flat at unpredictable hours would have an unacceptable impact on neighbouring amenity. Additionally, the extra servicing that is required for a STL compared to that of a residential use would further intensify the amount of disturbance, though this is likely to be carried out during the daytime.

The proposed change of use to a STL would increase the level of ambient background noise beyond what is reasonably expected by neighbouring residents. The proposal will have an unacceptable effect on the amenity of nearby residents and impact on the residential character of the area. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential property will only be supported where the economic benefits of the proposals are outweighed by demonstrable local economic benefits.

The proposal for use as a STL would result in the loss of residential accommodation. There is a recognised need and demand for housing in Edinburgh, therefore, it is important to retain the existing supply where appropriate.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

The applicant has provided a planning statement that outlines the proposal as being of benefit to local and wider economy and noting that the dwelling would not have an effect on the loss of residential housing due to the existing high volume of residential housing in the immediate area.

However, having the property within residential use would also contribute to the economy, through the use of a variety of local services and employment opportunities across the City. Long term residents also have the ability to make consistent and long-term contributions to the local community.

In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

Parking Standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there are 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 have an unacceptable impact on neighbouring amenity and the character of the area. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of tourist accommodation in this case it does not outweigh the adverse impact on residential amenity or the loss of residential. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7.

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

The following material planning considerations have been identified:

Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited 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

The application received no public representations.

Conclusion in relation to other material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity and the character of the area. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of tourist accommodation in this case it does not outweigh the adverse impact on residential amenity or the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

1. No conditions attached.

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.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of local amenity and loss of residential accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

Informatives

1. No informatives attached.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 20 October 2022

Drawing Numbers/Scheme

01 - 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Benny Buckle, Assistant Planning Officer
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Appendix 1

Consultations

No consultations undertaken.