

TmC Planning.  
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**Decision date: 21 April 2023**

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

Change of use from dwelling to short-term let.  
At Flat 5 22 Calton Road Edinburgh EH8 8DP

**Application No:** 22/04145/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 26 August 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 property 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 4 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.

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 is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

The change of use of this property to a short term let (STL) will have an unacceptable impact on neighbouring amenity. 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. 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.

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](mailto: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](http://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](mailto: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  
Flat 5 22 Calton Road, Edinburgh, EH8 8DP**

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

**Item – Local Delegated Decision  
Application Number – 22/04145/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 regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

The change of use of this property to a short term let (STL) will have an unacceptable impact on neighbouring amenity. 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. 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 is a two-bedroom modern flat at 22 Calton Road. The property is on two levels on the second and third floors of a residential block of six flats. The flats sit to the rear of an office block which fronts Calton Road. The application property shares an entrance door, stairs and corridors with the other five flats. There is no communal or private garden.

Calton Road is primarily residential with student accommodation and some offices. It is very close to the city centre and Waverley Station.

The application site is in the Old and New Towns Edinburgh World Heritage Site and the Old Town 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. Although the planning statement says that the proposal is retrospective, the applicant has confirmed that the short term let use has not yet started.

## **Supporting Information**

Planning statement.  
National Planning Framework 4 Planning Statement.

## **Relevant Site History**

No relevant site history.

## **Other Relevant Site History**

No other relevant planning site history.

## **Consultation Engagement**

Transport

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 21 April 2023

**Date of Advertisement:** 9 September 2022

**Date of Site Notice:** 9 September 2022

**Number of Contributors:** 4

## **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 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 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 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.

There are no external changes proposed, therefore, the impact on the 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.

### **b) 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 policies to be considered are:

- NPF4 Sustainable Places Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- NPF4 Historic Assets and Places Policy 7.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering NPF4 policy 7.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

### Conservation Area and World Heritage Site

There are no external or internal works proposed and as such there will not be a significant impact on historic assets or places. The proposal complies with NPF 4 Policy 7.

### 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 (2023) 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 character of the immediate area is primarily residential. The flat is located within a modern flatted block, with a shared entrance, stairway and corridors.

The use as an STL would allow 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 residents. 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 damage the amenity of the immediate neighbours and adjacent properties. This could also have a negative impact on the community. 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.

A change of use would increase the level of ambient background noise beyond what is reasonably expected by neighbouring residents and will have a significant detrimental effect on the living conditions and amenity of nearby residents. 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 accommodation, this will only be supported where the loss is outweighed by demonstrable local economic benefits.

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.

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.

The proposal 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.

The applicant submitted a statement that demonstrated the number of residential properties available to rent and buy in the same postcode area as the application property. It concludes that the loss of residential would therefore not affect housing availability in the area.

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 a car parking space provided and there is space for bike storage within the rear courtyard. The proposals comply with 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. 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. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7.

### **c) 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

A summary of the representations is provided below:

##### *material considerations*

- Should be retained for residential use. Addressed in b) above.
- Contradicts Hou 7 of LDP. Addressed in b) above.
- Destroys communities. Addressed in b) above.

##### *non-material considerations*

- Leads to shortage of housing. This is not a material consideration under the current LDP.
- Not supportive of Scottish Government Housing Policy on 'More Homes' or Scottish Planning Policy on 'Socially Sustainable Places'. The application must be assessed against the statutory development plans.

### **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 regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. 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. 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

### 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 property 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 4 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.

### Background Reading/External References

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

**Further Information** - [Local Development Plan](#)

**Date Registered:** 26 August 2022

### Drawing Numbers/Scheme

01, 02A

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Lesley Porteous, Planning Officer  
E-mail: [lesley.porteous@edinburgh.gov.uk](mailto:lesley.porteous@edinburgh.gov.uk)

## Appendix 1

### **Consultations**

NAME: Transport

COMMENT: No comments

DATE: 8 September 2022

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

# Comments for Planning Application 22/04145/FUL

## Application Summary

Application Number: 22/04145/FUL

Address: Flat 5 22 Calton Road Edinburgh EH8 8DP

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

Case Officer: Local1 Team

## Customer Details

Name: Ms OLD TOWN 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 should be refused as the use of a residential house for short-term letting means loss of residential accommodation. Short-term lets in a tenement results in noise and other disturbance for the other inhabitants, especially where there is shared access or shared space. Short-term lets as a whole destroy communities and lead to a sense of insecurity amongst remaining residents.

# Comments for Planning Application 22/04145/FUL

## Application Summary

Application Number: 22/04145/FUL

Address: Flat 5 22 Calton Road Edinburgh EH8 8DP

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

Case Officer: Local1 Team

## Customer Details

Name: Mrs Elspeth Wills

Address: 3 Brown's Place Edinburgh

## Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Old Town Community Council wishes to object to this new applications.

Our grounds of objection are as follows:

Shortage of housing to buy or rent is a real issue throughout Edinburgh as acknowledged by both by the current and 2030 national planning guidelines. This is particularly true of the Old Town where the voters' roll has fallen to its lowest level ever and one in three properties is now a STL. The proliferation of STLs has damaging effects not only on neighbours (Hou 7) and on building maintenance but on whole communities. Judging by the neighbour notification list there are still a few residents surviving in the area.

STLs bring few benefits to the local economy or community as most visitors stay for only 2-3 nights to have fun in the city centre.

Many properties are at the heart of the World Heritage site.

Loss of income to the Council who maintains essential services such as rubbish collection free of charge. Housing should be seen as a place for people to live in not as an investment.

We urge that this and all STL applications are turned down.

Yours sincerely

Elspeth Wills

Planning - OTCC

# Comments for Planning Application 22/04145/FUL

## Application Summary

Application Number: 22/04145/FUL

Address: Flat 5 22 Calton Road Edinburgh EH8 8DP

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

Case Officer: Local1 Team

## Customer Details

Name: Ms OLD TOWN 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 should be refused as the use of a residential house for short-term letting means loss of residential accommodation. Short-term lets in a tenement results in noise and other disturbance for the other inhabitants, especially where there is shared access or shared space. Short-term lets as a whole destroy communities and lead to a sense of insecurity amongst remaining residents.

# Comments for Planning Application 22/04145/FUL

## Application Summary

Application Number: 22/04145/FUL

Address: Flat 5 22 Calton Road Edinburgh EH8 8DP

Proposal: Change of use from dwelling 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: The Cockburn has studied this application and would wish to lodge a formal objection to it.

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".

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 22/04145/FUL

## Application Summary

Application Number: 22/04145/FUL

Address: Flat 5 22 Calton Road Edinburgh EH8 8DP

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

Case Officer: Local1 Team

## Customer Details

Name: Mr Bruce Borthwick

Address: 24/1, LOCHEND CLOSE Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The application for change of use from a recently built property designated a family residence is at absolute divergence from the City Council and Scottish Government stance with regard using family suitable accommodation for short stay holiday lets. This property must be retained for family residential accommodation only, since the alternative would result in further exclusion of family presence and community life. This application must be refused.

## MEMORANDUM

**To:** Planning Officer  
Local1 Team

**From:** Transport  
Greg McDougall

**Our Ref:** 22/04145/FUL

**22/04145/FUL  
FLAT 5  
22 CALTON ROAD  
EDINBURGH  
EH8 8DP**

### TRANSPORT CONSULTATION RESPONSE

#### Summary Response

No objections.

#### Full Response

No objections subject to appropriate conditions and information.

*Greg McDougall*

**TRANSPORT  
Greg McDougall  
Transport Officer**