

Ferguson Planning (George Street).
FAO: Sam Edwards
37 ONE George Street
Edinburgh
EH2 2HN

Deanna Dobosz C/o Destiny
Scotland.
21A Queen Street
Edinburgh
EH2 1JX

Decision date: 5 April 2023

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

Change of use (retrospective) from residential to short term let (sui-generis).
At 21A Queen Street Edinburgh EH2 1JX

Application No: 22/01778/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;

1. No conditions are attached to this consent.

Reason for Refusal:-

1. The proposal is contrary to National Planning Framework 4 Policy 30(e) part (ii) in respect of Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in the unjustified loss of a residential property.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01, 03A, 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 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.

Report of Handling

Application for Planning Permission
21A Queen Street, Edinburgh, EH2 1JX

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

Item – Local Delegated Decision
Application Number – 22/01778/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 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.

The change of use of this property to a short term let will result in a loss of the residential accommodation. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) part (ii). There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application site is a basement, three bedroom flat located on the southern side of Queen Street. The property has its own access to the street.

Queen Street is a key thoroughfare, served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street and in the surrounding area including residential, office, retail, restaurants, public houses and tourist attractions. Public transport links are easily accessible from the site.

The application property is part of a category A listed building, 21 Queen Street With Railings, LB29543, 14/12/1970.

The application site is in the Old and New Towns of Edinburgh World Heritage Site and New Town Conservation area.

Description Of The Proposal

The application is for a retrospective change of use from Residential to STL (sui-generis). No internal or external physical changes are proposed.

Supporting Information

- Planning Statement
- Management Statement
- Planning Statement regarding NPF4

Relevant Site History

08/04030/FUL

21 Queen Street

Edinburgh

EH2 1JX

Change of use from existing office to form 5 flats, including extension to rear, new access to front basement

Granted

29 September 2010

08/04030/LBC

21 Queen Street

Edinburgh

EH2 1JX

Alterations to existing building to form 5 flats, rear extension at basement level, infill existing doorway and form new access at front basement and associated internal works

Granted

3 March 2009

Other Relevant Site History

Several surrounding properties are used as Short Term Lets. Site address and references are:

- 22/06377/CLESTL, 21/1 Queen Street
- 22/06385/CLESTL, 21/2 Queen Street
- 22/06389/CLESTL, 21/4 Queen Street
- 22/06391/CLESTL, 23/1 Queen Street
- 22/06393/CLESTL, 23/2 Queen Street
- 22/06394/CLESTL, 23/3 Queen Street
- 22/06395/CLESTL, 23/4 Queen Street

Consultation Engagement

Historic Environment Scotland

Publicity and Public Engagement

Date of Neighbour Notification: 5 April 2023

Date of Advertisement: 29 April 2022

Date of Site Notice: 29 April 2022

Number of Contributors: 4

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 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 listed building or 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 does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings. It is therefore acceptable with regard to Section 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 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.

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 comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) 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 Sustainable Places Historic assets and places Policy 7.
- NPF4 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering historic assets.

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

Listed Buildings, 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 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 application property has its own main door access and is located within an area of mixed character. There are several properties in use as STLs in the converted house above the application property (21 Queen Street) and next door at 23 Queen Street. There is a moderate to high degree of activity in the immediate vicinity of the property at any time, contributing to high ambient noise levels in the street during the day and at night.

There are a number of residential properties in proximity to the application site, however due to the character of the area being busy and of a mixed nature, the STL use will not have an unacceptable impact on neighbouring amenity or the character of the area.

There is access to a rear garden area which is located at basement level. The impact of guests using the rear garden will not result in unacceptable amenity impacts given the character of the area, the surrounding urban form, and the level of background noise present in the courtyard and motor vehicle parking area to the rear of properties.

The proposal complies with NPF 4 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.

The applicant has provided a planning statement outlining the economic benefits of the proposed change of use of the property, describing how STLs benefit the economy in general, and how the applicant's wider business benefits the economy. Additionally the applicant states that no loss of residential accommodation will result from the proposal, as the application is in retrospect and was in office use prior to its conversion to residential use.

However, the retrospective nature of the application and historic uses of the property do not change that the current lawful use of the property is as residential accommodation. The use of the property as an STL would therefore result in a loss of

residential accommodation, which given the recognised need and demand for housing in Edinburgh it is important to retain, where appropriate.

Furthermore, residential occupation of the property also contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making 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 arising from the STL use. As such, the proposal does not comply with NPF 4 30(e) part (ii).

Parking Standards

There are no motor vehicle or cycle parking spaces. This is acceptable as there are no parking requirements for STLs.

The proposal complies 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 result in a loss of the residential accommodation. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) part (ii). There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

d) 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:

2 objections

1 in support
1 neutral

A summary of the representations is provided below:

material considerations in objection

- Negative impact on resident amenity. Addressed in Section C.
- Loss of residential accommodation. Addressed in Section C.

non-material considerations

- Too many STLs on Queen Street.
- Similar application refused elsewhere.
- Eligibility for council tax.
- Anti-social behaviour.
- No negative impact on amenity of nearby office workers.

Conclusion in relation to other 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 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.

The change of use of this property to an STL will result in a loss of the residential accommodation. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) part (ii). 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 are attached to this consent.

Reasons

Reason for Refusal

1. The proposal is contrary to National Planning Framework 4 Policy 30(e) part (ii) in respect of Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in the unjustified loss of a residential property.

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, 03A

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: 22 June 2022

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

Comments for Planning Application 22/01778/FUL

Application Summary

Application Number: 22/01778/FUL

Address: 21A Queen Street Edinburgh EH2 1JX

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

Case Officer: Jackie McInnes

Customer Details

Name: Mr David Hardy

Address: 18 Queen Street Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Near neighbours and we are an office block that is used usual hours but also some late nights and weekends.

No noise or issues ever and look very well managed.

Happy to support this application.

Comments for Planning Application 22/01778/FUL

Application Summary

Application Number: 22/01778/FUL

Address: 21A Queen Street Edinburgh EH2 1JX

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

Case Officer: Jackie McInnes

Customer Details

Name: Mr david Mercer

Address: 23A Queen Street Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:As I am a close neighbour, I am against changing to short term rental.

This property has three bedrooms and the possibility to have a sofa bed in the lounge. So this will be a party flat with 8 people staying.

We have too many properties for short term rent on Queen Street. There was a similar request for change of use at 37 Queen Street and this was rejected. As a short term let they will not pay any council tax which is wrong.

Comments for Planning Application 22/01778/FUL

Application Summary

Application Number: 22/01778/FUL

Address: 21A Queen Street Edinburgh EH2 1JX

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

Case Officer: Jackie McInnes

Customer Details

Name: Mrs Elizabeth Cumming

Address: 23a Queen Street EDINBURGH

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this proposal, as we as neighbours already experience a lot of disturbance due to short term lets in Queen Street. 21a has been already used frequently for hosting hen weekends. I would class this particular one as a party flat, as it has three bedrooms and can accommodate larger numbers of guests. I have seen balloons tied to the door on many occasions. Party goers stand outside smoking and drinking and shouting during all hours of the night. Many of the guests book in to different apartments in the same building (managed by Destiny Scotland) under different names and then join up in the larger flats ie. 21a, for a party. There has already been a decline in permanent residents living in Queen Street and it would be very unfortunate to lose another opportunity for a long term resident to live there.

Comments for Planning Application 22/01778/FUL

Application Summary

Application Number: 22/01778/FUL

Address: 21A Queen Street Edinburgh EH2 1JX

Proposal: Change of use (retrospective) from residential to short term let (sui-generis).

Case Officer: Jackie McInnes

Customer Details

Name: Mr Richard Price

Address: 2 Bellevue Terrace Edinburgh

Comment Details

Commenter Type: Community Council

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: The New Town & Broughton Community Council has looked at the details of this application and take the view that it should be determined in accordance with existing (2016) Local Development Plan policies and associated non-statutory supplementary guidance ('Guidance for Businesses'). We have no further comment - although we would note the late submission of a key documents provided by the applicant's agent in support of this application.



By email to:
planning.local1@edinburgh.gov.uk

City of Edinburgh Council
Planning and Strategy
4 Waverley Court
East Market Street
Edinburgh
EH8 8BG

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
HMConsultations@hes.scot

Our case ID: 300059024
Your ref: 22/01778/FUL
22 June 2022

Dear City of Edinburgh Council

Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013
21A Queen Street Edinburgh EH2 1JX - Change of use (retrospective) from residential to
short term let (sui-generis)

Thank you for your consultation which we received on 09 June 2022. We have assessed it for our historic environment interests and consider that the proposals affect the following:

Ref	Name	Designation Type
100018438,	Edinburgh World Heritage	World Heritage Sites,
LB29543,	Site Boundary, 21 QUEEN STREET WITH	Listed Building,
GDL00367	RAILINGS, THE NEW TOWN GARDENS	Garden and Designed Landscape

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

Our Advice

We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Yours faithfully

Historic Environment Scotland