

Mr Toth.
2 High Street
Kirkliston
EH29 9AY

Decision date: 31 January 2024

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

The property is solely used as self-catering unit-holiday let
At Flat 3 16 Easter Dalry Road Edinburgh EH11 2TS

Application No: 23/04287/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 13 October 2023, 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 term 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 term let will result in an adverse impact on local amenity and the loss of a residential property that 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, 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:

The change of use of this property to a short term let 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation or 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 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 STL
Flat 3 16 Easter Dalry Road, Edinburgh, EH11 2TS**

Proposal: The property is solely used as self-catering unit-holiday let

**Item – Local Delegated Decision
Application Number – 23/04287/FULSTL
Ward – B07 - Sighthill/Gorgie**

Recommendation

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

Summary

The change of use of this property to a short term let 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation or 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 property is a two bedroom ground floor flat on the eastern side of Easter Dalry Road. The property shares its access to the street with other residential dwellings via a communal stairwell. Easter Dalry Road is predominantly of residential character, featuring a low degree of activity during the day and a low degree of activity at night.

Description Of The Proposal

The application is for the retrospective change of use of the property from residential to short term let (sui generis) (STL). No internal or external physical changes are proposed. The applicant has provided supporting documentation showing the operation of the property as a short stay let since March 2022.

Supplementary Information

Air BnB Booking Summary
Booking Summary 1
Booking Summary 2
EIC Report
EPC Report
Gas Safety Cert
Legionella Report
PAT Report

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history was identified.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 31 January 2024

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 4

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

The application has been submitted in retrospect. The applicant indicates on the application form that the operation of the property as a short stay let commenced in March 2022. This is before the 5 September 2022, which is when the Edinburgh short-term let control designation came into effect. As the designation does not have a retrospective effect it is necessary to consider whether the use of the property as a commercial short stay let is a material change of use.

The effect of granting planning permission would be to change the use from flatted dwellinghouse to short-term let. The use of a property as short-term let, as a result of the grant of planning permission, would constitute a material change in use of the property under Section 26 of the Town and Country Planning (Scotland) Act 1997, given the associated characteristics in short-term let use in this location and property type.

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.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3

The non-statutory Guidance for Business (2021) is a material consideration that is relevant when considering LDP Policy Hou 7 and NPF4 policy 30.

The Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

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 (e) specifically relate to STL proposals.

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

Amenity

The use of the property as an STL would result in an increased frequency of movement to the property and into the shared stair, representing a pattern of movement that would be dissimilar to that of permanent residents. A transient visitor may also have less regard for neighbours' amenity than individuals using the property as a principal home, with resultant negative amenity impacts, particularly at night. There may also be a negative impact to community cohesion and resident safety from the proposals.

However, it is recognised that the amenity impacts of the application are in part mitigated by the high likelihood that the additional servicing of the property necessitated by the change of use would be conducted during the daytime.

On balance, the proposed change of use would result in an additional increase to the level of ambient background noise in the shared stair and surrounding area, beyond what might be reasonably expected by neighbouring residents, and 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.

It is important to recognise that having the property within residential use also contributes to the economy, using local services and fulfilling employment opportunities across the City. Long term residents can also make consistent and long-term contributions to the local community.

The proposed change of use would result in a loss of residential accommodation, which, as there is a recognised need and demand for housing in Edinburgh, it is critical to retain the existing supply of where appropriate. 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).

Transport

One motor vehicle parking space is proposed. This complies with the standards described in the Edinburgh Design Guidance. No negative impact to public transport services is identified.

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. 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation or 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.

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.

Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only 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

Four objections were received regarding the application. A summary of the issues raised is provided below:

material considerations in objection

- Loss of residential accommodation. Assessed in section a).
- Negative impact to the character of the area. The proposal involves no physical works, consequently no impact of the character of the area is identified.
- Negative impact to neighbouring amenity. Assessed in section a).
- No evidence that the economic benefits of the proposal outweigh the loss of residential accommodation. Assessed in section a).
- Negative impact to public transport services. Assessed in section a).
- Negative impact to the local community. Assessed in section a).

non-material considerations

- Not compliant with City Plan 2030.
- Will result in rising rental prices in the local area.
- negative impact to refuse collection. The applicant is required to arrange commercial waste collection.

Conclusion in relation to identified material considerations

Identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

Overall conclusion

The change of use of this property to a short term let 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 visitor accommodation in this case it does not outweigh the loss of residential accommodation or 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;

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 term 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 term let will result in an adverse impact on local amenity and the loss of a residential property that 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: 13 October 2023

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Appendix 2

Application Certification Record

Case Officer

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: James Armstrong

Date: 26 January 2024

Authorising Officer

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Elaine Campbell

Date: 31 January 2024

Comments for Planning Application 23/04287/FULSTL

Application Summary

Application Number: 23/04287/FULSTL

Address: Flat 3 16 Easter Dalry Road Edinburgh EH11 2TS

Proposal: The property is solely used as self-catering unit-holiday let

Case Officer: Improvement Team

Customer Details

Name: Mr Euan Duthe

Address: 15/2 Easter Dalry Road Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:As the city of Edinburgh is currently undergoing a severe housing crisis, I object to this property being used as a short-term let, when it could be used to provide a home to an Edinburgh family, either as a residential let, or if sold, as an owner-occupier residence.

Excessive short-term rentals in this area would undermine Dalry's status and essential character as a neighbourhood of working people in the heart of the city.

Comments for Planning Application 23/04287/FULSTL

Application Summary

Application Number: 23/04287/FULSTL

Address: Flat 3 16 Easter Dalry Road Edinburgh EH11 2TS

Proposal: The property is solely used as self-catering unit-holiday let

Case Officer: Improvement Team

Customer Details

Name: Miss Rachelle Wong

Address: 7/8 Easter Dalry Wynd Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the planning permission for this property named in this case to be solely used as a self-catering unit-holiday let. Allowing permission will disrupt the neighbourhood in regards to noise levels, increase in rubbish disrespectfully discarded and possible safety issues.

Comments for Planning Application 23/04287/FULSTL

Application Summary

Application Number: 23/04287/FULSTL

Address: Flat 3 16 Easter Dalry Road Edinburgh EH11 2TS

Proposal: The property is solely used as self-catering unit-holiday let

Case Officer: Improvement Team

Customer Details

Name: K Simpson

Address: 3/8 Easter Dalry Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: With experiencing problems sleeping at certain times due to noise, as well as the frequent awakenings from noisy holidaymakers staying in nearby residential properties, I wish to object to the proposal of this property becoming a permanent holiday let in this residential estate. The estate was built as a residential area and I believe regular coming and goings of groups of holidaymakers would impact the nature of the housing development in terms of safety, noise and privacy of other residents.

Comments for Planning Application 23/04287/FULSTL

Application Summary

Application Number: 23/04287/FULSTL

Address: Flat 3 16 Easter Dalry Road Edinburgh EH11 2TS

Proposal: The property is solely used as self-catering unit-holiday let

Case Officer: Improvement Team

Customer Details

Name: Mr Julien Wolf

Address: 15/7 Easter Dalry Road Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the application by Jozef Toth of Holiday Homes Edinburgh Ltd. Resident at 2 High Street, Kirkliston EH29 9AY, for a short term let at 16 Easter Dalry Road, flat 3.

I believe that this development is incompatible with planning and development policies at both a local and national level.

The Edinburgh City Plan 2030 states that "[p]roposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted". Although the property has been a holiday let since 2008, every proposed holiday let could be a residential dwelling, and I do not believe that granting this application is in keeping with the policies outlined in the City Plan.

The plan goes on to state that "[d]evelopments, including change of use which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted." The impact of high concentrations of holiday lets on nearby rent levels is well documented, and we believe that granting this application will exacerbate the hardship faced by tenants in the community, and therefore is not in keeping with the City Plan.

The Scottish Government's National Planning Framework 4 (NPF4) Policy 30 (e) states:

"Development proposals for the reuse of existing buildings for short term holiday letting should not be supported if it would result in:

- i. an unacceptable impact on the local amenity or character of a neighbourhood or area; or
- ii. the loss of residential accommodation where such loss is not outweighed by local economic benefits."

Edinburgh's Local Development Plan (LDP) Policy Hou 6 - Loss of Housing notes:

"The demolition or change of use of an existing dwelling will only be permitted if it can be demonstrated that either:

- a) the property provides a poor living environment which could not readily be improved
- b) the proposal is for a use that will benefit the local community without loss of amenity for neighbouring residents."

The council's April 2023 non-statutory guidance for businesses with respect to NPF4 Policy 30 (e) (We) and LDP Policy Hou 7 makes the following observations:

"Where the street has a quiet nature or low ambient noise levels (particularly at night-time), STL will not generally be supported. No weight will be given to the existence of neighbouring unlawful STLs as justification for the grant of planning permission for an STL.

The Planning service will assess the merits of any proposal against its impact on the lawful planning use of nearby properties. Where the area is wholly residential, it is unlikely that short-term let proposals will be supported

[...]

If the property is accessed off a stair where there are other flats off that stair, it is very unlikely that a change of use will be supported.

[...]

Where parking is provided, this will be considered within the context of the Council's parking policies and guidance."

The property in question is situated in a quiet, wholly residential area off Dalry Road and forms part of the Caledonian Village development. It is accessed off a shared entrance in a building with 15 other residential properties and benefits of shared private parking. Each flat in the development is allocated one residential parking permit and parking space is very limited. I believe that the character and nature of the property and its wider area do not suit the use as a short term let based on the above guidance set out by the council in April 2023.

Our city is in the midst of a catastrophic housing crisis, and I believe that every holiday let is one less home for ordinary residents to live in. This development would exacerbate the crisis for all residents of the city, displacing people from their communities, driving up rents, and further reducing the desperately needed numbers of homes in the city. Planning decisions should first and foremost cater for the needs and interests of the city's residents, and this proposed development runs counter to that.

I strongly maintain that this development would have detrimental effects on the local amenity and character of the area by keeping what should be residential accommodation from local supply. I see no evidence that any local economic benefits outweigh this loss. It also seems clear that this development will place a significant burden on local services such as rubbish collection and public transport, negatively impacting all local residents within the community.

The designation of Edinburgh as a short-term let control area in 2022 had one goal: to limit the spread of short-term lets in order to improve affordability and make Edinburgh a better place to live for its residents. With that said, there should be no doubt whatsoever that this property should not be licenced to operate as a short term let.