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FAO Of Mr Andrew Megginson
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EH3 5DQ

V7 Business Ltd.
17 Fowler Terrace
Edinburgh
EH11 1DD

Decision date: 3 May 2024

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

Change of use from office accommodation to short term letting accommodation.
At 17 Fowler Terrace Polwarth Edinburgh EH11 1DD

Application No: 23/07524/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 10 January 2024, 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 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 4 Policy 30(e)(i) in respect of Local Amenity as the use of this dwelling as a short term let will result in an unacceptable impact on local amenity.

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 (STL) will have an unacceptable impact on neighbouring amenity. 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)(i) 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.



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
17 Fowler Terrace, Polwarth, Edinburgh**

Proposal: Change of use from office accommodation to short term letting accommodation.

**Item – Local Delegated Decision
Application Number – 23/07524/FULSTL
Ward – B09 - Fountainbridge/Craiglockhart**

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 (STL) will have an unacceptable impact on neighbouring amenity. 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)(i) 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 on the ground floor of a four storey tenement at 17 Fowler Terrace. The property is at the corner of Fowler Terrace and Bryson Road and is currently a commercial office. It has its own access off the main street. The change of use will create two bedrooms, a lounge/dining room, kitchen, auxiliary room, shower room and WC. There is a basement level which is currently used for office storage and this will be used for linen storage. There is access to a shared rear garden.

The immediate surrounding area is predominantly four storey residential. There is a general grocer's store at the opposite corner of Fowler Terrace. There are two commercial offices at the corner of Fowler Terrace and Watson Crescent.

Description Of The Proposal

The application is for a change of use from office to short term let (sui generis). No internal or external physical changes are proposed.

Supporting Information

Planning Statement.
Letter from acoustic consultants.

Relevant Site History

07/02803/FUL
17 Fowler Terrace
Edinburgh
EH11 1DD
Change of use from shop to office
Granted

2 August 2007

05/03337/FUL
17 Fowler Terrace
Edinburgh
EH11 1DD
Alterations and change of use of existing shop to form two 1 bedroom flats
Refused

7 November 2006

23/00087/FULSTL
17 Fowler Terrace
Edinburgh
EH11 1DD
Change of use from office to short term let.
Refused

24 August 2023

Other Relevant Site History

23/00198/REVREF
17 Fowler Terrace
Edinburgh
EH11 1DD
Change of use from office to short term let
Local Review Body (Decision upheld - application refused)

13 December 2023.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 3 May 2024

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 2

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

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 policies to be considered are:

- NPF4 Sustainable Places 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 (2024) is a material consideration that is relevant when considering LDP Policy Hou 7 and NPF4 policy 30.

Proposed Use

With regards to NPF 4 Policy 1, the proposals do not involve operational development. 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 relates to STL proposals.

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

Amenity

The application property has its own main door access off Fowler Terrace. The character of the surrounding area is predominantly residential with a grocer's shop opposite and two offices at the south end of Fowler Terrace.

As the area is primarily residential there is a fairly low ambient noise level and the introduction of an STL use in this location will have a negative impact on the amenity of the surrounding area. Although it has its own main door access, the use of this property as a short term let would have the potential to introduce an increased frequency of movement to the dwelling at unsociable hours. The proposed two bedroom short term use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity, and community cohesion, than individuals using the property as a principal home. The applicant has confirmed there will be no access for STL guests to the shared rear garden.

The applicant has provided a letter from an acoustic consultant to address noise impact. The letter suggests that as noise impact on the amenity of neighbours is a concern, planning conditions could be attached to a consent relating to: a) Installation of door closers to prevent doors being slammed, b) Installation of noise monitoring equipment to log noise and notify the owner of specific noise above certain DB limits, and c) Restriction on checking in/ checking out times to minimise noise impact during the night. The letter accepts that it is difficult to accurately measure noise associated with the operation of a short term let and the acoustic consultant is not familiar with any standards that could be applied.

Whilst the applicant appears to concede that noise could be an issue through the employment of an acoustic consultant, the conditions suggested are unacceptable in planning terms. Firstly, doors banging is only a small part of the noise source from STL guests. The second and third suggested conditions are not enforceable. The main noise source is the activity patterns of groups of guests arriving and staying at the premises for short periods of time, as described above, which is different from the behaviour of permanent residents.

The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbance, further impacting on neighbouring amenity. However, this would be of lesser impact as it is likely that servicing would be conducted during the daytime.

The potential for noise described above would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions and amenity of nearby residents. 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.

The property is currently a commercial office, therefore NPF 4 policy 30 (e) part (ii) is not applicable to this application.

Parking standards

There is no allocated car parking at the application property. The site is accessible by public transport within a 5 minute walk. There is no cycle parking standards for STLs. Bikes could be parked within the property if required. 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. There is no loss of residential accommodation. 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) (i) 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

On 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

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

Two representations have been received. Both are objections. A summary is provided below:

material considerations

- Negative impact on residential amenity, particularly shared rear garden. Addressed in a) above.
- Negative impact on housing stock. Addressed in a) above.
- Loss of community cohesion. Addressed in a) above.
- Suggested noise mitigation measures cannot be enforced. Addressed in a) above.
- Parking issues will worsen. Addressed in a) above.

non-material considerations

- Too many STLs in the area. Each application must be considered on its individual merits.
- There will be more waste/litter. The applicant should agree a waste strategy with CEC Waste Services.

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 an STL will have an unacceptable impact on neighbouring amenity. 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)(i) 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 property 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 4 Policy 30(e)(i) in respect of Local Amenity as the use of this dwelling as a short term let will result in an unacceptable impact on local amenity.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 10 January 2024

Drawing Numbers/Scheme

01, 02

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

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: Lesley Porteous

Date: 12 April 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): Damian McAfee

Date: 3 May 2024

Comments for Planning Application 23/07524/FULSTL

Application Summary

Application Number: 23/07524/FULSTL

Address: 17 Fowler Terrace Polwarth Edinburgh EH11 1DD

Proposal: Change of use from office accommodation to short term letting accommodation.

Case Officer: Improvement Team

Customer Details

Name: Ms Julie Molina

Address: 8 Bryson Road Edinburgh

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This property shares a garden with mine. My daughters bedroom faces the garden (we are ground floor) and I do not want strangers able to see into their bedroom, I assume this will be another dreaded Airb&b with an influx of different people during Summer, using the garden for barbecues and parties etc. This is a quiet residential street. There is currently a housing crisis which is very evident in this city and I totally morally object to Airb&b during these times. I'm quite sure owners themselves wouldn't like to live near one, with the constant sound of suitcases on trolleys, parties etc. And also the lack of community which as a residential street is important to us. The people who applied for this change of status have already tried and assume they think we, the neighbours and residents, can't be bothered complaining anymore.

Comments for Planning Application 23/07524/FULSTL

Application Summary

Application Number: 23/07524/FULSTL

Address: 17 Fowler Terrace Polwarth Edinburgh EH11 1DD

Proposal: Change of use from office accommodation to short term letting accommodation.

Case Officer: Improvement Team

Customer Details

Name: Miss Kay Smith

Address: 3F1 7 Bryson Road EDINBURGH

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Planning Application 23/00087/FULSTL Response to appeal against refusal of application for change of use of premises from offices to short term letting accommodation. 17 Fowler Terrace.

Kay Smith Flat 3F1 7 Bryson Road EH11 1ED 30th Jan 24.

1. The applicant argues that since there are already a large number of short term lets in the area so why not have one more? This is not reasonable. I stress that there are already 614 Air BnBs from mid Gorgie to Bruntsfield. And within the immediate North Merchiston area there are 144. A line therefore has to be drawn to cap the numbers of this type of accommodation.

In addition there is already a considerable concentration of student accommodation in the area (eg for 700 persons in Napier University's Bainfield development on off Dundee Road - and there is a proposal to build further accommodation for 200 students round the corner on Dundee Terrace . Plus there is a new block of students flats (Silk Mills) already operating on Dundee Street, and other Napier University development on West Bryson Road which in the past has attracted complaints from residents passed onto Merchiston Community Council.

2. The applicant has proposed a number of internal measures aimed at mitigating noise impact - an admission in itself that extra noise impact is anticipated. And who is going to ensure such promises are enforced?. And a lot of disturbing noise can occur outside the very narrow 11pm - 7am times span proposed for guests to check in and out.

3 There may be space between the front door of no 17 and next door but only because of the large amount of wall space taken up by shop style large windows which in themselves will provide

little insulation from sounds within the property transmitting to the outside.

4. This October new style bin hubs have been installed in surrounding streets including Bryson Road. These have already attracted a considerable number of complaints to local city councillors and to Merchiston Community Council because of the increase in noise not only from glass recycling bins but also from bins intended for bagged waste.

A constant turnover of residents who because they are on holiday will be partying/entertaining will increase the use of these bins. There are 18 in Bryson Road alone - more in Fowler Terrace.

5. There may be only two bedrooms but there is no cap on the number of guests who can occupy these rooms and enjoy the large communal space. And just because guests will not have parking permits and there are bus routes close by does not mean that the guests will use these buses and will not bring cars into the area, particularly at weekends when there are no traffic wardens on duty. At weekends and evenings on street parking is already beyond saturation point.

6. I live in a tenement building in which the ground floor let out. Tenants are not permitted to use the back garden. However they can and have caused annoyance particularly in summer months by opening windows and have broken rules by climbing out of windows and spoiling the grass area at the back of the property. Managing this kind of situation will be much more difficult with tenants who come and go on a short term basis..

6. In all short term lets will further reduce the amenity of the area for long term residents.

7, There were over 20 objections to the first submission. Objections will no doubt fall in number for the revised application but not because of any substantive improvement in the revised submission but because of the burden to objectors and lack of clarity of doing so.

Please note the contents of my objections to the original proposal along with this submission.