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Decision date: 16 May 2024

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

Retrospective change of use from dwelling to STL.
At Flat 1 16 Eildon Street Warriston Edinburgh EH3 5JU

Application No: 23/04889/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 17 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 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 Policy 30(e) in respect of local amenity and loss of residential accommodation, as the use of this property 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 (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 or loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Benny Buckle directly at benny.buckle@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission STL
Flat 1, 16 Eildon Street, Warriston**

Proposal: Retrospective change of use from dwelling to STL.

**Item – Local Delegated Decision
Application Number – 23/04889/FULSTL
Ward – B05 - Inverleith**

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. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity or loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7.

SECTION A – Application Background

Site Description

The application property is a ground floor, two-bedroom flat situated on the north side of Eildon Street within a terrace. The property is accessed via a shared front door leading to a small communal hall. This access is used by further residential properties on the first and attic levels.

The dwelling has a direct access to the rear communal garden that is shared with the neighbouring property above. This garden is located within immediate proximity to neighbouring gardens and overlooked by neighbouring residential properties.

The surrounding area is residential in nature, which is reflected in the high-quality residential amenity that immediate neighbouring residential properties can expect.

The application property is located within the Inverleith Conservation Area.

Description Of The Proposal

The application proposal is for the retrospective change of use from residential to STL.

Relevant Site History

No relevant site history.

Other Relevant Site History

No further relevant site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 19 October 2023

Date of Advertisement: 27 October 2023

Date of Site Notice: 27 October 2023

Number of Contributors: 0

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

The application is in retrospect, with the applicant stating in the description of proposal that the operation of the property as a short term let commenced in November 2019. This is prior to 5 September 2022, when the Edinburgh short term let control area 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.

On the basis of the application form, the description of development, drawings and supporting information it is considered that the proposals constitute a material change of use under Section 26 of the Town and Country Planning (Scotland) Act 1997.

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 Inverleith Conservation Area Character Appraisal emphasises *"the predominance of Georgian, Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of public and private open space. The villa streets are complemented by a profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas are in a considerable variety of architectural styles, unified by the use of local building materials."*

There are no external changes proposed. The change of use from a residential premises to a short term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

Conclusion in relation to the conservation area

The proposals are acceptable with regards 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 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.
- 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 Guidance for Business (2024) 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.

Conservation Area

There are no external or internal works proposed and as such there will not be a significant impact on historic assets and 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 (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 (2024) 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.

Amenity

The character of the area is distinctly residential with a strong feeling of a quiet area. The use as a 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 a permanent resident. A transient visitor may also have less regard for neighbours' amenity than individuals using the property as a principal home.

The properties communal garden, shared access and immediate proximity to neighbouring residential properties increase the likelihood that STL users could have a detrimental impact on neighbouring residential amenity. The use as a STL is not consistent with the immediate residential neighbours and would have a detrimental effect to their residential amenity.

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.

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

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

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.

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

Permit parking is available on Eildon Street. This is an acceptable level of parking. Cycles could be stored inside the property.

The proposals comply with LDP Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

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

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.

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

The application received no public representation.

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 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 or loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion.

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 Policy 30(e) in respect of local amenity and loss of residential accommodation, as the use of this property 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: 17 October 2023

Drawing Numbers/Scheme

01 - 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Benny Buckle, Assistant Planning Officer
E-mail: benny.buckle@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: Benny Buckle

Date: 7 May 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: 15 May 2024