

Notice of meeting and agenda

Planning Local Review Body (Panel 2)

10.00 am Wednesday, 22nd March, 2023

Hybrid Meeting - Dean of Guild Court Room / Microsoft Teams

This is a public meeting and members of the public are welcome to watch the webcast live on the Council's website.

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1. Appointment of Convener

- 1.1 The Local Review Body is invited to appoint a Convener from its membership.

2. Order of Business

- 2.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

3. Declaration of Interests

- 3.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4. Minutes

- 4.1 Minute of the Local Review Body (Panel 2) – 22 March 2023 – submitted for approval as a correct record 9 - 28

5. Local Review Body - Procedure

- 5.1 Note of the outline procedure for consideration of all Requests for Review 29 - 32

6. Requests for Review - Continued

- 6.1 18 Spring Gardens, Edinburgh - Change of use from house to short stay commercial visitor accommodation - application no. 22/03161/FUL. 33 - 144

(a) Notice of Review and Supporting Documents

(b) Letters of Representation

(c) Further Reps and Response to Representations

(d) NPF4 Policy 30 Comments

Note: The applicant had requested that the review proceed on the basis of an assessment of the review documents only.

At the meeting of 18 January 2023, the Panel agreed to continue consideration of the application for further written submissions both from the appellant/ applicant and the planning officer with regards to Policy 30 Tourism of NPF 4.

7. Requests For Review - New

- 7.1 22 Coillesdene Crescent, Edinburgh - Replace existing roof to form mansard, form storey-and-a-half extension to rear, build garden studio - application no. 22/05269/FUL. 145 - 180

(a) Notice of Review and Supporting Documents

(b) Letters of Representation

Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.

- | | | |
|------------|--|-----------|
| 7.2 | 1A Cambridge Street, Edinburgh - Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis) - application no. 22/01652/FUL.

(a) Notice of Review and Supporting Documents

(b) Letters of Representation

Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only. | 181 - 342 |
| 7.3 | 13 Farrer Grove, Edinburgh - Loft conversion to include dormer and velux - application no. 22/03718/FUL.

(a) Notice of Review and Supporting Documents

(b) Letters of Representation

Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only. | 343 - 364 |
| 7.4 | 44 Jordan Lane, Edinburgh - Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect) - application no. 22/02875/FUL.

(a) Notice of Review and Supporting Documents

(b) Letters of Representation

Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only. | 365 - 546 |
| 7.5 | 9 (1F1) Sciennes House Place, Edinburgh - Change residential one bedroom property into a self catering outlet (in retrospect) - application no. 22/03018/FUL.

(a) Notice of Review and Supporting Documents

(b) Letters of Representation

Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only. | 547 - 570 |

8. Extracts of Relevant Policies from the Edinburgh Local Development Plan

8.1	Extracts of Relevant Policies from the Edinburgh Local Development Plan for the above review cases	571 - 582
	Local Development Plan Online	
	Extracts of Relevant Policies from the Edinburgh Local Development Plan for the above relevant cases	
	Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)	
	Edinburgh Local Development Plan Policy Del 2 (City Centre)	
	Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)	
	Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)	
	Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)	
	Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)	
	Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)	
	Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)	

9. Non-Statutory Guidance

9.1	The Relevant Scottish Planning Policy – Sustainable Development Principles	583 - 730
	Guidance for Businesses	
	Guidance for Householders	
	Listed Buildings and Conservation Areas	

[West End Conservation Area Character Appraisal](#)

[The Morningside Conservation Area Character Appraisal](#)

[The South Side Conservation Area Character Appraisal](#)

[Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent](#)

The Draft National Planning Framework 4

Managing Change in the Historic Environment – Setting

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

Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act

Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act)

Note: The above policy background papers are available to view on the Council's website www.edinburgh.gov.uk under Planning and Building Standards/local and strategic development plans/planning guidelines/conservation areas, or follow the links as above.

Nick Smith

Service Director, Legal and Assurance

Membership Panel

Councillor Alan Beal, Councillor Chas Booth, Councillor Euan Hyslop, Councillor Amy McNeese-Mechan and Councillor Joanna Mowat

Information about the Planning Local Review Body (Panel 2)

The City of Edinburgh Planning Local Review Body (LRB) has been established by the Council in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008. The LRB's remit is to determine any request for a review of a decision on a planning application submitted in terms of the Regulations.

The LRB comprises a panel of five Councillors drawn from the eleven members of the Planning Committee. The LRB usually meets every two weeks, with the members rotating in two panels of five Councillors.

This meeting of the LRB is a Hybrid Meeting - Dean of Guild Court Room / Microsoft Teams

Further information

Members of the LRB may appoint a substitute from the pool of trained members of the Planning Committee. No other member of the Council may substitute for a substantive member. Members appointing a substitute are asked to notify Committee Services (as detailed below) as soon as possible

If you have any questions about the agenda or meeting arrangements, please contact Blair Ritchie, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 4085, email blair.ritchie@edinburgh.gov.uk.

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Unless otherwise indicated on the agenda, no elected members of the Council, applicant, agent or other member of the public may address the meeting.

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Minutes

The City of Edinburgh Planning Local Review Body (Panel 2)

10.00 am, Wednesday 22 February 2023

Present: Councillors Beal, Booth, Hyslop, McNeese-Mechan and Mowat.

1. Appointment of Convener

Councillor Mowat was appointed as Convener.

2. Planning Local Review Body Procedure

Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted)

3. Minutes

To approve the minute of the Local Review Body (LRB Panel 1) of 18 January 2023 as a correct record.

4. Request for Review – 1 Commercial Street, Edinburgh

Details were submitted of a request for a review for the proposed new decking area for external tables and chairs including steel cladding, portable oak barrel planters with toughened glass sound diffusers, 2 parasols with 4m cover and brass lighting at 1 Commercial Street, Edinburgh. Application Number. 22/02836/FUL.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents and a site inspection. The LRB had also been provided with copies of the decision notice, the report of handling and further reps.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01-04, Scheme 1 being the drawings shown under the application reference number 22/02836/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the NPF4 and Edinburgh Local Development Plan, principally:
NPF4 Policy 7 Historic Assets and Places
Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
- 2) Relevant Non-Statutory Guidelines.
Guidance for Businesses
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether a site visit would be appropriate. It was determined a site visit was not necessary.
- Confirmation was sought as to whether the existing licence covering the outdoor seating area would cover the now proposed larger seating area. It was explained that the existing tables and chairs were not permanent and could be removed on a daily basis. Granting consent for the permanent structure would still require a licence.
- The existing licence was for the hours of 11am to 10pm.
- The site did not appear to be overlooked by flats, but there were flats near to site.
- It was difficult to confirm that if there were flats above the existing restaurant. It looked like it was potentially offices.
- The decking area that had been previously installed did not have planning permission. So how could they re-apply? It was explained that the detailing for this application was different in terms of the colour scheme and materials.

- Whether there was a comparison with the previous refusal and was there an image that showed the proposals in situ?
- The images were displayed which confirmed a lack of clarity.
- The previous scheme was not consistent with the character and appearance of the conservation area, but this appeared to be an improvement in terms of the colour scheme and materials.
- Whether the proposed toughened glass sound barrier would screen the noise from the diners.
- There were conflicting views on this application. The key issue was the potential impact on the conservation area. This proposal was probably an improvement but not sufficiently so to merit granting. One key issue was to determine this on planning grounds LDP Hou 7. Significantly, there was no objection from Environmental Protection. Another key issue was LDP policy Env 6 and the possible impact on the conservation area. The Panel might want to overturn this decision.
- The officer's report should be upheld and residents were dissatisfied with the way the applicant had managed the planning situation. The issue was not just tables and chairs but that the new decking area, which was more permanent.
- There was a considerable amount of outdoor seating in this part of Leith and anything that changed this area from a car park was a positive development. But there would still be impact on the conservation area.
- Residents nearby used the lane for parking, so there would be some movement of cars which would have safety issues.
- The toughened glass screens would probably not keep the sound contained, but it was agreed that the new colour scheme was an improvement.
- There were some concerns about impact on residential amenity and noise in the area. However, until 10:00 pm, there was already a significant amount of activity.

Having taken all the above matters into consideration and although one of the members was in disagreement, the LRB determined to overturn the decision of the Chief Planning Officer and granted planning permission for the following reasons:

- (a) The proposal was not contrary to LDP policy Env 6 and Section 64 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997. The proposal would preserve and enhance the character and appearance of the Leith Conservation Area.

- (b) The proposal was not contrary to LDP policy Hou 7 and the Council's Non-Statutory Guidance for Business as it would not have a detrimental impact on the amenity of neighbouring residents.

Decision

To not uphold the decision by the Chief Planning Officer and to grant planning permission,

Reasons:

- 1) The proposal was not contrary to LDP policy Env 6 and Section 64 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997. The proposal would preserve and enhance the character and appearance of the Leith Conservation Area.
- 2) The proposal was not contrary to LDP policy Hou 7 and the Council's Non-Statutory Guidance for Business as it would not have a detrimental impact on the amenity of neighbouring residents.

Informatives

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of this consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constituted a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
- (c) As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a Notice of Completion of Development must be given in writing to the Council.

(Reference – Decision Notice, Notice of Review, Report of Handling and supporting documents, submitted)

Dissent

Councillor Beal requested that his dissent be recorded in respect of the decision for the above item.

5. Request for Review – 8 (Flat 2) Dorset Place, Edinburgh

Details were submitted for a request for permission for change of use to enable property to be offered as a short term let at Flat 2, 8 Dorset Place, Edinburgh. Application Number. 22/02965/FUL.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an

assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01 -02, Scheme 1 being the drawings shown under the application reference number 22/02965/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the NPF4 and Edinburgh Local Development Plan, principally:
 - NPF4 Policy 30 Tourism
 - Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
 - Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)
 - Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Businesses
 - Edinburgh Design Guidance
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- The crucial issue, regarding the proposed change of use to enable property to be offered as a short term let, was shared access.
- There was not only shared access to a common hallway, but access into the gardens which would have a double impact on residential amenity. Additionally, there might be additional noise by short-term let visitors.

Having taken all the above matters into consideration, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

(Reference – Decision Notice, Notice of Review, Report of Handling and supporting documents, submitted)

6. Request for Review – 61 (3F1) Falcon Avenue, Edinburgh

Details were submitted for a request for a for a roof extension at 3F1, 61 Falcon Avenue, Edinburgh. Application Number. 22/04429/FUL.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents and a site inspection. The LRB had also been provided with copies of the decision notice, the report of handling and further representations.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01-07, Scheme 1 being the drawings shown under the application reference number 22/04429/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF4 policy 14 Design, Quality and Place
 - NPF4 policy 16 Quality Homes
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Householders

- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- It was confirmed that a site inspection of this property was not required.
- It was stated that the proposed materials for the proposed roof extension did not suit this building, but there were other buildings nearby that used this material.
- Planning policies made reference to taking the positive aspects of the context of the area and maybe matching that. The property at the back had some timber elements, but this particular property was obviously a stone-built tenement with a traditional slate roof.
- Clarification was sought regarding the positioning of the air source heat pump. It was confirmed that this was 8 metres from the nearest neighbouring window.
- It was understood why the applicant wanted to build a roof extension. Nevertheless, the Panel should uphold the officer's decision on the grounds of LDP Policies Des 1 and Des 12.
- There was agreement for this point of view as there would be a detrimental impact to the existing tenement. If anything, the report underplayed the impact on residential amenity. There was uncertainty about the principle of this. Here was a valuable street in terms of architectural homogeneity.
- The tenement should be kept in its present state. This might create a precedent. Also, there were concerns about the possible impact of noise
- There would be significant impact on the cupola roof. Not only with the proposals be visible from other properties, but proposal would also impact on the light entering the cupola and therefore the stairwell. This was a security consideration for residents and visitors when they went into the stairwell, which the report underplayed.
- It was important to retain the main architectural features of the building.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

1. The proposal failed to comply with policy Des 12 of the Edinburgh Local Development Plan as its design and form, choice of materials and positioning was not compatible with the character of the existing building, and it would be detrimental to neighbourhood character.
2. The proposal failed to comply with policy Des 1 of the Edinburgh Local Development Plan as its design and form, choice of materials and positioning was not compatible with the character of the existing building, and it would be detrimental to neighbourhood character.

(References – Decision Notice, Report of Handling, Notice of Review and supporting documents, submitted).

7. Request for Review – 1B (Flat 11) Grassmarket, Edinburgh

Details were submitted of a request for permission for a change of use from residential to short-term let (in retrospect) at Flat 11, 1B Grassmarket, Edinburgh. Application Number. 22/04143/FUL.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01-02, Scheme 1 being the drawings shown under the application reference number 22/04143/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF4 Policy 30 Tourism
 - Edinburgh Local Development Plan Policy Del 2 (City Centre)
 - Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
 - Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
 - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

Edinburgh Local Development Plan Policy Tra 4 (Design of Off-street Car and Cycle Parking)

2) Relevant Non-Statutory Guidelines.

The Old Town Conservation Area Character Appraisal

Listed Buildings and Conservation Area Guidance

Guidance for Businesses

Managing Change in the Historic Environment: Guidance on the principles of listed buildings

Managing Change in the Historic Environment: Setting

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether the spiral stair was needed to access the studio flat.
- It was confirmed that the residents used that stairwell.
- Whether there was a policy for refusing studio flats.
- It was confirmed that this was not the case as it was necessary to consider different options for providing accommodation of differing sizes.
- That the Draft National Planning Framework 4 (NPF4) had not been approved at the time of the report. Would using this as a reason for refusal complicate matters, or was LDP Policy Hou 7 in respect of inappropriate uses in residential areas, sufficient?
- It was confirmed that NPF4 Policy 30 now formed part of the Local Development Plan.
- As NPF4 formed part of the Local Development Plan, the Panel could use this in their decision making, therefore it would be appropriate to use, also, it strengthened the decision.
- It was thought that the officer's decision should be upheld.

Having taken all the above matters into consideration, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal was contrary to NPF4 Policy 30 in respect of Tourism and Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

(References – Decision Notice, Report of Handling, Notice of Review and supporting documents, submitted).

8. Request for Review – 45-47 Shandwick Place, Edinburgh

Details were submitted of a request on behalf of Santorinia Investments for change of use from Class 1 to Class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue at 45 - 47 Shandwick Place, Edinburgh. Application Number. 22/02672/FUL.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01-07, Scheme 1 being the drawings shown under the application reference number 22/02672/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF policy 27 – City, town, local and commercial centres
 - NPF4 policy 28 - Retail

Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)

Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)

Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Ret 9 (Alternative Use of Shop Units - Primary Frontages in the City Centre in Town Centres)

Edinburgh Local Development Plan Policy Ret 11 (Alternative Use of Shop Units in Other Locations)

2) Relevant Non-Statutory Guidelines.

The New Town Conservation Area Character Appraisal

City Centre Shopping and Leisure Supplementary Guidance - Policy CC 4

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether The Draft National Planning Framework 4 (NPF4) made reference to shopping areas.
- NPF4 Policies 27 and 28 on City Centre Town Local Commercial Centres addressed shopping centres. Policy 27 encouraged the development in cities and town centres, which should be vibrant, healthy, creative and enterprising. Development proposals should improve the vitality and viability of town centres, including proposals that increased the mix of uses. Proposals for non-retail uses would not be supported if these services undermined the character and amenity of the area.
- Policy 28 talked about encouraging investment to the most suitable locations, ensuring that centres were vibrant and supported a range of uses, not to the detriment of retail. These policies were consistent with existing LDP policies.
- That the property above seemed to be residential accommodation.
- This was a 2-storey building, but the plan did not give the relevant context.
- It was confirmed that Shandwick Place did not have much residential accommodation with only 9 such properties.

- If the Panel were to overturn the decision, how could they address this issues of amenity and noise and would it be possible to condition it?
- If the Panel were to condition it, then it would be necessary to find a suitable solution for noise abatement, but it was necessary to have that information beforehand. When adding a condition, the Panel had to be careful that this would provide a viable solution.
- It might be the case there was acceptable level of noise, there did not seem to be residential accommodation above, but the Panel did not have that information. This should not be approved in principle. The property had been on the market for some months. This was no longer a vibrant street, but it was a successful street for other uses. Considering the plans, there did not seem to be residential accommodation above this property. It had to be determined what else would be disturbed on a vibrant street.
- Regarding the potential noise aspect, what was behind the premises and would that affect any possible condition that the Panel might impose?
- Consideration should be given to any kind of noise impact and where the rear mounted kitchen extract flue would be exiting to.
- Considering the options for the panel, the amenity aspect had not been tested. The Panel could refuse or grant the application, but it might be unwise to grant the application, because they did not have all the necessary information.
- Would it be possible to get information for a better layout plan and where the flue exited? To make a proper assessment, it might be necessary to visit this property and also to get a technical report.
- Was there any scope for a reduced class 3 licencing, if the issue was noise from the extract flue? This approach had been used in the past whereby the applicant could only use a certain type of equipment.
- Regarding cooking on premises, it was probably not that which the applicant was looking for. They wanted an ancillary hot food takeaway, therefore that suggestion was not a plausible way forward.
- There was support for a site visit to check out amenity.
- That LDP Plan Policy Ret 9 would still apply, therefore, a site visit would be advantageous.
- The Panel determined to continue the application for further information regarding noise and ventilation, to seek further information regarding the policies in NPF4 and to visit the site to establish what was to the rear of the premises.

Having taken all the above matters into consideration, the LRB was unable to make a final decision and determined to continue consideration of the matter for further

information from the applicant on noise and ventilation, the impact of NPF4 and a site visit.

Decision

To continue consideration of the matter for further information from the applicant regarding the potential impact of noise and ventilation on neighbouring properties, the impact of the NPF4 policies 27 and 28, and for a site visit.

(References – Decision Notice, Report of Handling, Notice of Review and supporting documents, submitted).

9. Request for Review – 5 West Tollcross , Edinburgh

Details were submitted of a request for a review for mixed used development with ground floor restaurant (Class 3) and take-away (Sui Generis) and 3x apartments on upper floors at 5 West Tollcross, Edinburgh. Application Number. 22/01705/FUL.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents and a site inspection. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01 -03, Scheme 1 being the drawings shown under the application reference number 22/01705/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of NPF4 and the Edinburgh Local Development Plan, principally:
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 2 (Co-ordinated Development)
 - Edinburgh Local Development Plan Policy Des 4 (Development Design - Impact on Setting)
 - Edinburgh Local Development Plan Policy Des 5 (Development Design - Amenity)
 - Edinburgh Local Development Plan Policy Des 6 (Sustainable Buildings)
 - Edinburgh Local Development Plan Policy Del 2 (City Centre)

Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)

Edinburgh Local Development Plan Policy Env 8 (Protection of Important Remains)

Edinburgh Local Development Plan Policy Env 9 (Development of Sites of Archaeological Significance)

Edinburgh Local Development Plan Policy Env 21 (Flood Protection)

Edinburgh Local Development Plan Policy Hou 1 (Housing Development)

Edinburgh Local Development Plan Policy Hou 3 (Private Green Space in Housing Development)

Edinburgh Local Development Plan Policy Hou 4 (Housing Density)

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Ret 11 (Alternative Use of Shop Units in Other Locations)

Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

Edinburgh Local Development Plan Policy Tra 4 (Design of OffStreet Car and Cycle Parking)

2) Relevant Non-Statutory Guidelines.

Guidance for Businesses

Edinburgh Design Guidance

Managing Change in the Historic Environment: Guidance on the Principles of Listed Building Consent

Managing Change in the Historic Environment: Setting

West Tollcross Development Brief (January 2006)

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- One member was impressed with the proposed green wall and thought that there was a huge need for affordable housing in this area. There had been a

significant change from what had existed to a more environmentally focussed design. This was in keeping with an area that had changed its use over time and this was a natural evolution in that area. They were looking at new designs.

- This was affordable housing where it was needed, but it failed to address potential noise impact. There were also issues with the design of the property, so it should be refused. If the design was modified, this might be a way forward.
- The proposals were described as affordable housing by the applicant, however, it was confirmed that this was not affordable housing as required by the local authority.
- There were some welcome aspects to this application, but the fundamental problem was the concentration of restaurants and takeaways in Tollcross, therefore, Panel should uphold the officer's decision and refuse the application.
- Housing should be affordable. There was a need for a fire station in the centre of the town, such as the one at Tollcross. Also, another operator might come along and operate the takeaway in a different manner. The idea of having a green wall in this area was attractive, but not one which was north facing. The proposals could prejudice development on adjacent sites.
- There was some indication that this was a positive development and should be granted, because of the need for affordable housing.

Having taken all the above matters into consideration and although there was some sympathy for the proposals and one of the members was in disagreement, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

1. The proposal was contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as it would have a detrimental impact on residential amenity by way of noise and disturbance.
2. The proposal was contrary to the Local Development Plan Policy Ret 11 in respect of Food and Drink Establishments, as it would intensify the concentration of food and drink establishments adversely affecting amenity.
3. The proposal was contrary to the Local Development Plan Policy Des 5 in respect of Development Design - Amenity, as it would harm neighbouring residential developments and not provide future occupiers with an acceptable level of amenity

4. The proposal was contrary to the Local Development Plan Policy Des 2 in respect of Co-ordinated Development, as it would compromise the effective development of adjacent land and the regeneration of West Tollcross.
5. The proposal was contrary to Local Development Plan policies Des 1, Des 2, Des 5, Des 4 and Hou 4 in respect of design as the scale form and design was not compatible with the characteristics of the wider townscape, the proposal, it failed to draw on the positive qualities of the area and would be damaging to the character and appearance of the surrounding area.
6. The proposal was contrary to Local Development Plan Policy Hou 3 - Private Green Space in Housing Development as it would not provide a satisfactory living environment.

(References – Decision Notice, Report of Handling, Notice of Review and supporting documents, submitted).

Dissent

Councillor McNeese-Mechan requested that her dissent be recorded in respect of the decision for the above item.

10. Request for Review – 221 Webster’s Land, Edinburgh

Details were submitted of a request for a review for the proposed change of use from residential to short-term let at 221 Webster's Land, Edinburgh. Application Number. 22/04558/FUL.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01-02, being the drawings shown under the application reference number 22/04558/FUL on the Council’s Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of NPF4 and the Edinburgh Local Development Plan, principally:
NPF4 Policy 30 Tourism

Edinburgh Local Development Plan Policy Del 2 (City Centre)
Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
Edinburgh Local Development Plan Policy Env 8 (Protection of Important Remains)
Edinburgh Local Development Plan Policy Hou 1 (Housing Development)
Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)
Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

2) Relevant Non-Statutory Guidelines.

Guidance for Businesses

The Old Town Conservation Area Character Appraisal

Managing Change in the Historic Environment: Interim Guidance on Conservation Areas

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- It might be necessary to add Policy 30 of National Planning Framework 4 (NPF4) as a reason for refusal.
- This property had always been used for small number of people for a limited time, but it was not possible to add a condition to that effect.
- The decision of the officer should be upheld. Policy 30 of NPF4 should be added as a reason for refusal.

Having taken all the above matters into consideration, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer, with the addition of policy 30 of NPF4 as a reason for refusal.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal was contrary to NPF4 Policy 30 in respect of Tourism and Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

(References – Decision Notice, Report of Handling, Notice of Review and supporting documents, submitted).

11. Request for Review – 7 (GF) Strathearn Place, Edinburgh

Details were submitted of a request for a review for the removal of existing extension and internal alterations. Erection of a new extension and garden room to the rear of the property at 7 (GF) Strathearn Place, Edinburgh. Application Number. 22/03235/FUL.

At the meeting of 18 January 2023, the Panel agreed to continue the matter to allow consideration of the DPEA appeal decision on the listed building application in due course.

Assessment

At the meeting on 22 February 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice, the report of handling, further representations and the DPEA decision on the Listed Building Consent appeal.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 1-3, Scheme 1 being the drawings shown under the application reference number 22/03235/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF4 Policy 7 – Historic assets and places
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 4 (Listed Buildings - Alterations and Extensions)

Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)

- 2) Relevant Non-Statutory Guidelines.
 - Listed Buildings and Conservation Area Guidance
 - Other Relevant policy guidance
 - Merchiston & Greenhill Conservation Area Character Appraisal
 - Managing Change in the Historic Environment – Extensions
 - Managing Change in the Historic Environment – Interiors
 - Managing Change in the Historic Environment – Roofs
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Confirmation was provided regarding the Listed Building Consent having been appealed to the DPEA and that appeal had been dismissed by the Reporter.
- Given the DPEA's decision and that the refusal was based on the impact on the listed building, the Panel should uphold the officer's decision. However, the DPEA also said there was no impact on the conservation area.
- There was agreement with that suggestion. The panel should retain Env 4 as a reason for refusal, however as the impact on the character and appearance of the Conservation Area was not significant that reason for refusal should be removed.
- The Panel should remove Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, from the decision as grounds for refusal.

Having taken all the above matters into consideration, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer, for the following reasons:

- 1) The proposal was contrary to the Development Plan and NPF4 Policy 7 and Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposal would have a detrimental impact on the architectural merits of the property.

- 2) The proposal was not acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or the development plan and non-statutory guidance.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

- 1) The proposal was contrary to the Development Plan and NPF4 Policy 7 and Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposal would have a detrimental impact on the architectural merits of the property.
- 2) The proposal was not acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or the development plan and non-statutory guidance.

(References – Planning Local Review Body of 18 January 2023 (Item 9); Decision Notice, Report of Handling, Notice of Review and supporting documents, submitted).

City of Edinburgh Planning Local Review Body (the LRB)

General

1. Each meeting of the LRB shall appoint a Convener. A quorum of a meeting of the LRB will be three members.
2. The Clerk will introduce and deal with statutory items (Order of Business and Declarations of Interest) and will introduce each request for review.
3. The LRB will normally invite the planning adviser to highlight the issues raised in the review.
4. The LRB will only accept new information where there are exceptional circumstances as to why it was not available at the time of the planning application. The LRB will formally decide whether this new information should be taken into account in the review.

The LRB may at any time ask questions of the planning adviser, the Clerk, or the legal adviser, if present.

5. Having considered the applicant's preference for the procedure to be used, and other information before it, the LRB shall decide how to proceed with the review.
6. If the LRB decides that it has sufficient information before it, it may proceed to consider the review using only the information circulated to it. The LRB may decide it has insufficient information at any stage prior to the formal decision being taken.
7. If the LRB decides that it does not have sufficient information before it, it will decide which one of, or combination of, the following procedures will be used:
 - further written submissions;
 - the holding of one or more hearing sessions; and/or
 - an accompanied or unaccompanied inspection of the land to which the review relates.
8. Whichever option the LRB selects, it shall comply with legislation set out in the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (the Regulations).

The LRB may hold a pre-examination meeting to decide upon the manner in which the review, or any part of it, is to be conducted.

If the LRB decides to seek further information, it will specify what further information is required in a written notice to be issued to the applicant, Chief Planning Officer and any interested parties. The content of any further submissions must be restricted to the matters specified in the written notice.

In determining the outcome of the review, the LRB will have regard to the requirements of paragraphs 11 and 12 below.

9. The LRB may adjourn any meeting to such time and date as it may then or later decide.

Considering the Request for Review

10. Unless material considerations indicate otherwise, the LRB's determination must be made in accordance with the development plan that is legally in force. Any un-adopted development plan does not have the same weight but will be a material consideration. The LRB is making a new decision on the application and must take the 'de novo' approach.
11. The LRB will:
 - Identify the relevant policies of the Development Plan and interpret any provisions relating to the proposal, for and against, and decide whether the proposal accords with the Development Plan;
 - identify all other material planning considerations relevant to the proposal and assess the weight to be given to these, for and against, and whether there are considerations of such weight as to indicate that the Development Plan should not be given priority;
 - take into account only those issues which are relevant planning considerations;
 - ensure that the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are assessed when the review relates to a listed building and/or conservation area; and
 - in coming to a determination, only review the information presented in the Notice of Review or that from further procedure.
12. The LRB will then determine the review. It may:
 - uphold the officer's determination;
 - uphold the officer's determination subject to amendments or additions to the reasons for refusal;
 - grant planning permission, in full or in part;
 - impose conditions, or vary conditions imposed in the original determination;
 - determine the review in cases of non-determination.

Procedure after determination

13. The Clerk will record the LRB's decision.
14. In every case, the LRB must give notice of the decision ("a decision notice") to the applicant. Every person who has made, and has not withdrawn, representations in respect of the review, will be notified of the location where a copy of the decision notice is available for inspection. Depending on the decision, the planning adviser may provide assistance with the framing of conditions of consent or with amended reasons for refusal.
15. The Decision Notice will comply with the requirements of regulation 22.
16. The decision of the LRB is final, subject to the right of the applicant to question the validity of the decision by making an application to the Court of Session. Such application must be made within 6 weeks of the date of the decision. The applicant will be advised of these and other rights by means of a Notice as specified in Schedule 2 to the regulations.

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Holder Planning Ltd.
FAO: Robin Holder
139 Comiston Road
Edinburgh
EH10 5QN

Mr Cran
18 Spring Gardens
Edinburgh
EH8 8HX

Decision date: 30 August 2022

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

Change of use from house to short stay commercial visitor accommodation.
At 18 Spring Gardens Edinburgh EH8 8HX

Application No: 22/03161/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 16 June 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;

Conditions:-

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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:

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
18 Spring Gardens, Edinburgh, EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Item – Local Delegated Decision
Application Number – 22/03161/FUL
Ward – B14 - Craigentinny/Duddingston

Recommendation

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

Summary

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a four-storey townhouse on an end terrace plot at 18 Spring Gardens, Abbeyhill. The property has its own main front door, private back garden and integral garage. There is a shared courtyard to the front of the property.

Spring Gardens is the central section of a main road which connects Abbey Mount in the west to Queens Park in the east. The application property is located around a 15 minute walk from the main shopping centre at Abbeyhill / London Road. The property is in a predominantly residential area some distance from the city centre. Public transport links are available on London Road. Abbeyhill/Meadowbank is the nearest area where there are mixed uses including cafes, shops, restaurants and hospitality venues.

Description Of The Proposal

The application is for a change of use from a house to short stay visitor accommodation (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used for short term let since 2016.

The property is the subject of an enforcement notice served by the Council stating that the property breaches planning legislation through use of the dwelling as a short term let. The notice states that the applicant should submit a planning application for change of use from residential to short term let. The applicant appealed the notice to the Scottish Government, who has agreed to sist the appeal until the outcome of any planning application is known. This sets out the context for this planning application.

Supporting Information

Planning statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

22/00045/ENFORC
21/00596/ESHORT
19/00476/ESHORT
18/00584/ECOU

21/01541/FUL.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 28 June 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 15

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;

- 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 comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP policy Hou 7.

Proposed use/Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA 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.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

The application property is a four storey townhouse which has a main door, a private garden to the rear and a shared courtyard to the front. The supporting statement confirms that the property to which the application relates has been used for the purposes of short term lets since 2016. Although the property has its own main door, there is a shared courtyard to the front which is used by the residents of the other four townhouses in the terrace. This will result in direct interaction between users of the short term letting accommodation and long term residents of the surrounding residential properties.

The property is located on Spring Gardens which is a predominantly residential street. The use of the property as a short term let would likely introduce an increased frequency of movement to the house at unsociable hours. The proposed four bedroom short stay use would enable eight or more related or unrelated 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. Any restriction on the number of people residing at the property at any one time is not enforceable through planning legislation. There is also 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect. The proposed change of use could also bring additional noise and disturbance into the shared courtyard area. This could also pose a risk to security for other residents. One objector has listed a number of specific incidents relating to excessive noise and disturbance from the property.

Anti-social behaviour such as noise disturbance can be dealt with through relevant legislation, such as Police Scotland or Environmental Health Acts.

The property is the subject of an enforcement notice served by the Council stating that the property breaches planning legislation through use of the dwelling as a short term visitor use. The notice states that the applicant should submit a planning application for change of use from residential to short term let. The applicant appealed the notice to the Scottish Government, who has agreed to sist the appeal until the outcome of any planning application is known.

The applicant states that they would be willing to accept a consent which is subject to the following conditions relating to short term use:-

- a personal permission;;
- maximum of 120 nights per year, and
- for three years only.

A personal consent would not be appropriate in the case of a short term let, The suggested condition restricting the number of days it could be used is unenforceable.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. This property is in neither a town centre nor a local centre, although it is not too far from local services and amenities on London Road.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7.

Parking Standards

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

The property has an integral garage. One objector has commented that there are often visitors to this property parking on the street. The site is a 15 minute walk from key public transport routes. There is no cycle parking standards for SCVA's. 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 proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that outweigh this conclusion.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material objections

- Negative impact on residential amenity (noise, safety, security, privacy).Addressed in a) above.
- Negative economic impact. Addressed in a) above.
- Increase waste levels. A waste strategy should be agreed between applicant and CEC's Waste Services.
- Results in displacement of community. Addressed in a) above.
- Does not comply with LDP policy Hou 7. Addressed in a) above.
- There are existing issues with parking. Addressed in a) above.

non-material objections

- House prices/rents will rise. This is a commercial consideration not covered by planning policy.
- Encourages anti-social behaviour. This is a matter for Police Scotland.
- Negative impact on mental health of neighbours. This is a public health issue and not a material planning consideration.
- Poor attitude of users. Not a material consideration.
- Negative impact on insurance. This is not material planning consideration.
- Impact on traditional guest houses. This is not a material planning consideration.

material letters of support

- Will have no negative impact on residential amenity. Addressed in a) above.
- Neighbour has not experienced noise issues from this property. Addressed in a) above.
- Edinburgh needs tourists. Addressed in a) above.

non-material letters of support

- Happy to support application. Too general.
- No objection. Too general.
- Applicants have put together rigorous policies to alleviate concerns. Not specific.

Conclusion in relation to identified material considerations

The proposal does not raise any other material considerations.

Overall conclusion

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let

will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 16 June 2022

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.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Mrs julie laroche

Address: 20/3 spring gardens edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:we are happy to support this application - thank you

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Mr Steve Fisher

Address: 16 Spring Gardens Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:As immediate neighbours we are happy to support the application as outlined.

We have never had issues with the visiting guests at No 18 and whilst 'the past is never a guarantee of the future', given the precautions that we know are taken by the owners (Mike and Cheryl) we do not expect there to be any in issues in future that would not be dealt with by appropriate remedial action and common sense measures being taken.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Mrs Margaret Saunders

Address: Flat 7 20 Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

- Councillor's Reference

Comment: I wish to register my support for the above application. I have read and understood the terms of the application and am confident that it will no way be detrimental to the peace, sobriety or security of the development. I have every confidence in the goodwill and responsibility of the individuals making the application and have faith that they do so with due care and respect for all their neighbours.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Mrs Sarah Yaxley

Address: Flat 6 20 Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: The applicants have put together rigorous policies to alleviate concerns regarding short term lets. There are many others on the same street who have not had to do this. We support the owners in their application.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Ms Hie Cho Ling

Address: Flat 5 20 Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: No objection

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Ms Katherine Chisholm

Address: 16 Carlyle Place Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:

Tenement type properties on all floors are unsuitable for commercial short-term letting due to the high level of disturbance brought and the impact on the safety and security of neighbouring families. This is supported by scores of planning DPEA decisions and the testimony of neighbours.

The unsuitability of flats for short-term letting incentivises main door properties for this use. This will have an impact on the availability of accessible homes if they are not protected. All main door or Colony/Mews type properties should not be used for short-term letting for all the reasons contained within.

Edinburgh is recognised as a city of high housing costs, so affordable homes need extra protection to support our businesses and services by ensuring that lower paid workers can afford to live in the city.

Negative impacts

Economic costs - The Economic Policy Institute finds that the economic costs imposed by short-term letting likely outweigh the benefits. Property owners may benefit but the beneficiaries are disproportionately high-wealth individuals who can own more than one property. Claimed increases in economic activity are often vastly overstated because the spending would have occurred anyway by travellers staying in other accommodations. The Economic Policy Institute finds that there is little evidence that cities with an increasing supply of short-term Airbnb rental accommodations are seeing a large increase in travellers. Instead, accommodations supplied via Airbnb seem to be a nearly pure substitution for other forms of accommodation. Furthermore, the

shift from traditional hotels to Airbnb lodging leads to less-reliable tax payments to cities[1]. Scottish Government figures report that there has been no significant increase in income from tourism since 2011. In fact, 2018 had the second lowest total tourist spend since 2011.[2]

Privacy - Residents of flats or properties with shared gardens are forced to share communal but still private areas of their homes with fee-paying strangers who they have never met before and are unlikely to meet again. This had been found unacceptable in planning and civil law. Colony type housing is particularly subject to horrific impacts of private gardens being directly outside lower doors bedrooms/sittingrooms. This is not acceptable.

Security - The security of communal spaces and gardens/outdoor area is completely lost. Neighbours cannot tell who is supposed to be in the property and who is not, or who has keys to shared areas. The insecurity of a shared building is advertised by key safes which are installed without permission from neighbours or listed building consent. Anecdotally there is evidence that short-term let customers are more likely to leave shared entrance doors open, which has resulted in residents coming home to unknown people using drugs, and engaging in other antisocial or threatening activities in their mutual shared areas.

Anti-social behaviour - Neighbours of short-term lets are almost guaranteed to experience anti-social behaviour from customers. Alcohol is a regular contributing factor which makes these situations particularly unpredictable and intimidating to deal with. Have first hand issues relating to waste disposal, parking issues, noise, people returning late at night or arriving early in the morning, customers ringing the wrong doorbells or trying to enter the wrong doors, banging on doors, setting off fire alarms, barking dogs when animals are not allowed, friends of "guests" attending the property, parties, over-occupation, verbal abuse, damage to property, intoxication, intrusion into private space, drinking and smoking in communal spaces, and tampering with residents' property.

Disturbance and noise - It is well established through planning and civil law that short-term lets bring an increased level of noise and disturbance. The groups occupying the property on a short-term basis are almost always on holiday with the associated holiday mindset seven days a week. Due to there being no personal belongings in short-term let businesses there is nothing to soak up sound resulting in an echo chamber being created where previously there would have been no noise pollution to neighbours, every scrape of a chair and conversation can be heard. Likewise, most properties in Scotland do not have carpeted entrances and hallways as hotels do, so the banging of suitcases at all hours and the excited chatter of customers echoes at entrances and in hallways. There is additional noise and disturbance as groups bring their belongings in and out of properties, including dragging suitcases and banging them off walls and doors, damaging the paintwork. Cleaners and greeters attend to turn over each property between every short-term let, which can mean banging and vacuuming past midnight. Cleaners and laundry companies may leave trip hazards in shared areas such as large laundry bags. Some letting agencies offer "luggage drop off" services where suitcases are then left in common stairs to be retrieved by

customers later.

Mental health impacts - Residents draw huge comfort from a home which has a basic level of familiarity, stability and security. The regular intrusion of transient pleasure-seeking strangers is deeply unsettling. Neighbours of short-term lets regularly describe feeling stress, anxiety and other mental health impacts. This disproportionately impacts on disabled people, people with long term health conditions, people who live alone, children and young people. During the pandemic neighbours of short-term lets found themselves in ghost towns, with no neighbours to rely on or have any connection with. As so many of the short-term let properties use key boxes for picking up the keys that mean that there is no one to complain to for the neighbours. Having key boxes attached to shared buildings also adds to a feeling of a loss of control of a person's home environment. In addition, the uncertainty that a stream of customers that are in charge of utilities, that they may not understand, creates additional risk that is not a risk in hotels or B&Bs. This may impact on a neighbour's mental health.

Attitudes of customers - Although most customers are not ill-intentioned, they simply have their own priorities and expectations about how they can use their "short-term let". They have paid handsomely to occupy the space and understandably wish to use it to maximise their enjoyment. The payment of money to what appears to be a reputable company seems to banish any conscience with regard to the invasion of privacy of any neighbours. They have no awareness of their impact or that of the scores of groups who have preceded and will follow them. Indeed their behaviour is encouraged by the advertisements of profiteering websites and absentee hosts, who beseech them to "live like a local" and "belong anywhere" without any of the responsibilities that brings.

Overcrowding - Short-term rentals often bring more than the advertised number of customers. Groups will also often invite their friends to visit and enjoy their short-term let bringing additional disturbance. Short-term let businesses often advertise for far more customers to stay than would normally reside in a property in relation to its size.

Waste disposal - Recycling is rarely carried out. Communal bins are often used and permanent residents are expected to manage putting out and collecting bins on behalf of the absent owners. Rubbish bags are often left out in communal stairs. Cleaners usually clean inside the short-term let properties but do not usually clean any shared areas. Sometimes, the cleaners drag the refuse bags down the stairs, they rip open, and leave a mess. This leaves the residents to clear up after the customers or live in a poorer quality environment. More waste can be created in short-term lets as they buy food that cannot be eaten in the time of their stay, unlike permanent residents.

Effect of multiple lets - Where multiple lets are operating, the issues are multiplied similarly and the burdens are shouldered by even fewer residents. This effect is most intense during July and August - a time when families most wish to enjoy the peace and privacy of their homes and gardens.

Displacement of community - Our places need to be inhabited to stay habitable. As more and more dwellings are turned into short-term lets, an area loses its community. The burden of reporting issues with antisocial behaviour, disturbance or noise falls to fewer and fewer people who eventually give up and move on. The long term impact is to see no one noticing or addressing the maintenance of the fabric of the building.

Displacement of workers - There is high levels of concern about stifling economic development due to lack of labour caused by housing shortages.

Safety - There is no requirement for any safety checks putting visitors and neighbouring properties at risk.

Insurances - Short-term letting requires specialist insurance which many do not have, especially where title deeds prohibit commercial usage. The voiding of communal insurances has been the matter of a court case in London.

Impact on rents and housing prices - A property which is used solely for short-term letting is no longer part of the housing stock. Dwindling numbers of properties will obviously impact housing availability, house prices and rents. It is suggested by Shelter that this forces people into accommodation that they cannot afford, leading to homelessness and people living in unsuitable housing. For every commercial short-term let that is changed from being a home, another household is displaced to live in hotels and other temporary accommodation, or pushed into poverty. The social and economic impacts of this are likely to cost public services more in the long term. There appears to be a growing pattern of previously long term rented accommodation being changed to student lets for Oct-May and for the remainder of the year being short-term let businesses. This provides owners with short-term letting opportunities over all the holiday periods while making it harder for students to develop long term relationships with their neighbours. Four months of intensive holiday letting over the summer will certainly have unlawful impacts on amenity for close neighbours.

Impact on traditional guest houses, bed and breakfasts and other lawful accommodation providers - There is evidence that traditional accommodation providers are being significantly disadvantaged by the proliferation of unlawful short-term letting businesses. Lawful accommodation providers struggle to compete with unlawful lets who can often offer lower prices by avoiding the costs of compliance.

Reduced spending by tourists - Research commonly finds that visitors staying in properties with self-catering facilities spend a third less than those in hotel-type accommodation, often buying supermarket meals rather than using local cafes and restaurants. We do not believe that tourism should be limited to high-wealth individuals, however, where residential accommodation is being repurposed for holiday lets under the auspices of boosting tourism, a clear knowledge of the true

benefits and costs is essential.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Ms Susan Gow

Address: 24 Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Spring Gardens has been my home for 12 years. I see undesirable change over these years. This is due to short term residences that surround my home. Parking is a significant issue due to daily movements of vehicles belonging to people who do not live here. To have another property at 18 to continue as a short stay commercial visitor accommodation compounds the constant changeover of vehicles. While the property has a small parking space and garage, visitors there regularly park on the street to the front of my home. In addition, the frequent coming and going of diesel engined taxis cause disturbance very regularly. The application is for a large family home. It attracts varied groups and ages which are not monitored. They may not actually be causing disturbance intentionally but a large vehicle dropping off 8 people with lots of luggage, including noisy wheelie cases inevitably causes noise and disturbance. The nature of short-term letting results in a constancy of disturbance from not only those arriving and departing but also, at each change over the vehicle with cleaners also visit between lets. I would like to think planning also takes account of the community demographic. 21 and 23 Spring Gardens also house a constant turnover of residents who almost daily require intervention from police and ambulance services. This is always a concern but I recognise the need for vulnerable people to be housed temporarily. To learn of 18 to be a short stay commercial visitor accommodation adds nothing beneficial to the community here. Most flats around here are let by their owners so hopefully a better balance can be created by rejecting this application.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Mr Richard Blades

Address: 8 Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Application for the change of use for this property is objected to for the following reasons:

Spring Gardens is a quiet residential street and the change of use of 18 Spring Gardens from a residential dwelling to short - stay commercial visitor accommodation already has a materially detrimental impact on the living conditions of nearby residents due to its Inappropriate Use in a Residential Area. It historically and currently has a negative effect on the living conditions of nearby residents by virtue of increased traffic, noise and disturbance to the detriment of residential amenity.

The letting of this property is managed directly by the owners who live a considerable distance and are absent. There is no local on-site management, agent, concierge to uphold or police 'house rules' or attend to problems.

The proposal is contrary to adopted Edinburgh Local Development Plan and Policy Hou 7.

This property currently has an enforcement notice served.

Impact on loss of amenity of neighbouring residents is listed but not limited to the following examples:

Location and proximity. The main entrance to No.18 Spring Gardens is within meters of the main frontage of our property at No.8 Spring Gardens. Our main front door, primary reception rooms, two bedrooms of which one is for a child are all faced onto the shared courtyard and the increase of noise and disruption due to the uncharacteristic movements which occur due to No.18 being

used in this manner creates a loss of amenity. The quantity and frequency of visitors to the property for short-term visitor accommodation has an impact on our privacy.

In terms of scale of the operation. Always at, or approaching capacity, of the number of people this property sleeps, i.e 8 people and not always all from same household. It is more often than not, large groups who book the property, it would be unusual and unlikely for 1-2 people to book a property of this capacity using platforms such as AirBnB/Vrbo which means the property regularly attracts the maximum capacity.

Turnover of guests can be up-to three times per week and many service visits in between. Total number of visitors combined with the numerous cleaning and service visits is vastly different from the standard comings and goings of the property than if it had permanent residents. A log for 2022 is available and is of similar pattern to all previous years out-with the restrictions of the Covid-19 pandemic.

Shared area. The primary and only access to this property is via a shared courtyard. No.18 is situated nearest to the entrance of the courtyard and the large numbers and frequency of turnovers and increase in pedestrian and vehicular traffic creates a restriction in neighbours entrance and egress. The entrance area to the courtyard is regularly where the visitors congregate in large groups whilst arriving, departing, awaiting taxis, etc.

Parking and multiple vehicles attending. On occasion when visitors attend the property they will arrive in multiple vehicles which creates an increase in traffic and on-street parking demand. Some groups of visitors have arrived in mini-bus vehicles. Some arrive in multiple taxis which can all arrive at the same time. Some examples of these situations are available.

Night-time arrivals during unsocial hours have caused noise disturbance. One example of this was a self-drive mini-bus that arrived between 1AM and 2AM. The length of time and noise created it took for the visitors to fully unload people and luggage, gain entry to the property and eventually park the mini-bus and also park an accompanying separate car was a 1.5hrs in the middle of the night which woke our child twice.

Although there has been mention of 'House Rules' for visiting guests. There is no on-site presence from anyone who manages the letting or the owners to uphold any rules.

Specific incidents.

There have been a number of specific incidences which have occurred. There was a situation with a guest who arrived just before 6PM on a Friday evening and urinated within the courtyard. There have been numerous situations when guests have arrived they have blocked access to the courtyard with their vehicles and has been required to ask them to move vehicles to allow entry. This can be unsettling when coming home from work and not knowing whether there is access or not. There was a situation when a large group with significant amount of luggage stacked near the entry/exit to the courtyard awaiting taxis to collect them which then required a request to be made

for them to move to allow me to take my child to school. We had to awake guests at 7AM on another occasion as they had parked a mini-van in the centre of the courtyard with no way to exit.

A large group of young men had booked the property in February 2022 and the comings and goings of the visitors was frequent all night throughout the night. A group of separate females had also been brought back to the property for overnight stay. My family had the unfortunate situation of witnessing the girls leave the property the following morning.

There is no differentiation between types of bookings. The applicants proposal suggest not allowing bookings for particular events. Whether attendees to the property are visiting for any particular local event is irrelevant as it is the fact that large groups are attending that is the problem. None of the aforementioned issues causing loss of amenity can directly be correlated to whether visitors are there for sporting events, music concerts, etc.

The applicant's statement suggests since all properties have double glazing windows that noise should not be an issue, however it is unreasonable to expect other residents within the development to not open their windows to gain fresh-air within their own property.

Police Scotland calls. There have been situations which have required Police Scotland to be involved. The most notable being a visitor who urinated within the courtyard. It transpired this individual may have had a medical condition which everyone can show empathy toward, however this kind of unpleasant and unacceptable occurrence arises only as a result of individuals attending this property for short term visitor accommodation.

Environment team. No specific commercial refuse waste uplift arrangements are in place and if instated adds to traffic, noise, etc. There were previous communications with the littering and environmental team with complaint regarding cigarette ends being discarded from visitors to the property. 'House Rules' state that smoking is not permitted within the property or the grounds of the property this then requires smokers to exit onto the public pathway and the shared courtyard, to smoke which in turn creates noise and smoke pollution in our home. Discarded cigarette ends are then left on the road or pathway.

Maintenance/service visits

There can be up-to four individual attendances by commercial cleaning teams to the property in between turnovers which can be up to three turnovers of guests per week.

The title deeds for the properties which are combined with the entire development state the properties are for private residential use only and for no other purpose and therefore a change of use would then subsequently be against the terms of the title deed.

In relation to comments made as part of the related DPEA appeal, I wish to highlight that living within a challenging situation caused by the short term letting at No 18 has on occasion created highly emotive situations.

The applicant's proposal has stated that they would consider being content with the permission to

be given to the individuals and not the property and to be capped at a maximum time-frame. This has no bearing to the historic, current and future loss of amenity occurring as a result of the operation of the property as short term visitor accommodation.

There may be some employment generated to trades for the turnover of 'guests' and maintenance required to the property (which in itself generates traffic and noise). This should not be of consequence when consideration is being given to the application as this has little significance when balanced against the negative impact of quality of living for residents who live within the vicinity. It is important that the residential nature of the area is maintained and in particular as it is within close proximity to Holyrood Park.

There are other properties within the development which are not owner occupied and offer more traditional longer term letting. There has been no noted issues with this manner of letting that I am aware of. Longer term letting or full time residency may bring benefit as a longer term resident will show more desire to maintain the area in which they live whereas a transient visitor will not. There is a probability that some of the other letters of support are from owner(s) who are not full-time resident.

The granting of this application will have an unacceptable impact on the neighbourhood amenity and could open avenues for more properties within the development or area in general to commence short-term visitor accommodation.

Had we known there was a commercial visitor accommodation operating within meters when purchasing our home then our consideration to choose Spring Gardens for the location to raise our family may have differed.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Org PLACE Edinburgh

Address: n/a n/a

Comment Details

Commenter Type: Other

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Planning Committee and Planning Department,

18 Spring Gardens - objection to (retrospective) change of use from house to SSCVA

We are writing to lend weight to the objections raised by neighbours of the property at 18 Spring Gardens where a retrospective planning application has been submitted.

You may not be aware that 18 Spring Gardens has already been subject to an enforcement notice (ENA-230-2217) due to the negative impacts on neighbours amenity due to increased noise levels, increased traffic, and security concerns. The owner has appealed to the DPEA to have this decision overturned and this planning application forms part of that appeal.

In addition, until recently, 17 Spring Gardens was also running a short-term let without planning authorisation. A retrospective planning application was also refused (21/01541/FUL) due to the detrimental impacts on neighbours and the short-term let was sold. A family now lives there.

Given that the negative impacts on neighbours have already been demonstrated by the existing enforcement notice and refused planning application, and that those negative impacts have already been assessed and found material by the planning department we hope this application will be rejected and the peace and community of this area will be protected.

In addition, we hope the commitment to resisting the loss of housing to short-term rentals set out in the Edinburgh City Plan 2030 (Hou 7 Loss of Housing) and in the new National Planning Framework can also form a material planning consideration. Proposed development plans are listed as a material consideration in Planning Circular 3/2013: Development management

procedures.

Many thanks,

PLACE

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Dr Martin Bishop

Address: 22 Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Edinburgh presents itself as a festival City, with all that implies for welcoming visitors, and has a long tradition of short term lets for visitors to the Festival and other events.

This application simply seeks to continue that well established pattern of alternating domestic and guest use. I suspect it is a pattern the Architects of the New Town would have recognised and valued.

Regarding noise and nuisance, this seems little more than a red herring - in my time, No 22's amenity has never been affected by lettings at No 18 or any other nearby property. The street hubbub of passing revellers is the most noticable intrusion at Spring Gardens - as it is in much of Edinburgh, save the most genteel parts.

This planning application is strongly supported, without reservation.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Mr David Keegan

Address: 20 /4 Spring gardens Edinburgh, scotland Edinburgh, scotland

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:I have no objection to the above action

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Mrs Rebecca McFarland

Address: 6 Spring Gardens Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I support the Cran's application for planning permission. The guests visiting number 18 have never caused a disturbance to us. I walk in the park twice a day and have never witnessed any noise or disturbance in the garden or coming from the house. As the house is desirable and not a cheap to rent flat, I strongly suspect the guests are responsible and respectable - the lifeblood of Edinburgh is tourism and the city needs its visitors, especially those who will spend money.

I have no issue with planning permission being granted.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Dr Amy McNeese-Mechan

Address: City Chambers 249 High Street Edinburgh

Comment Details

Commenter Type: Ward Councillor

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: It is not a suitable use for this residential area and would negatively impact on amenities.

Comments for Planning Application 22/03161/FUL

Application Summary

Application Number: 22/03161/FUL

Address: 18 Spring Gardens Edinburgh EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Case Officer: Lesley Porteous

Customer Details

Name: Ms OLD TOWN ASSOCIATION

Address: 1 Trunks Close, 55 High Street, Edinburgh EH1 1SR

Comment Details

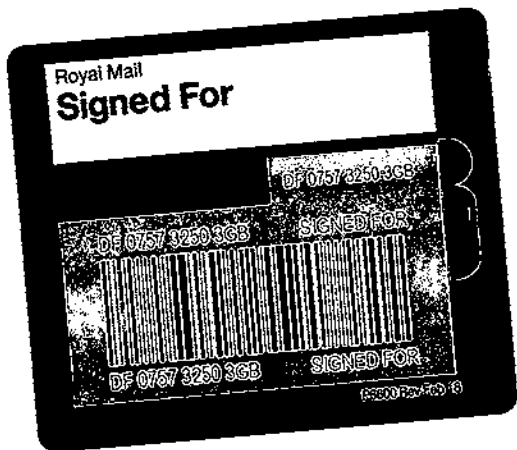
Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This application should be refused as the use of a residential house for short-term letting means loss of residential accommodation. Short-term lets result in noise and other disturbance for the neighbours. Short-term lets as a whole destroy communities and lead to a sense of insecurity amongst remaining residents.

CHIEF PLANNING OFFICER
PLACE
CITY OF EDINBURGH COUNCIL
WAVERLEY COURT
4 EAST MARKET STREET
EDINBURGH
EH8 8BG



8 Spring Gardens
Edinburgh
EH8 8HX

Chief Planning Office/Planning Committee
City of Edinburgh Council
Waverly Court
4 East Market Street
Edinburgh
EH8 8BG

14th July 2022

Ref: 22/03161/FUL (18 Spring Gardens, Edinburgh EH8 8HX)

To whom it may concern

Application for the change of use for this property is objected to for the following reasons:

Spring Gardens is a quiet residential street and the change of use of 18 Spring Gardens from a residential dwelling to short - stay commercial visitor accommodation already has a materially detrimental impact on the living conditions of nearby residents due to its Inappropriate Use in a Residential Area. It historically and currently has a negative effect on the living conditions of nearby residents by virtue of increased traffic, noise and disturbance to the detriment of residential amenity.

The letting of this property is managed directly by the owners who live a considerable distance and are absent. There is no local on-site management, agent, concierge to uphold or police 'house rules' or attend to problems.

The proposal is contrary to adopted Edinburgh Local Development Plan and Policy Hou 7.

This property currently has an enforcement notice served.

Impact on loss of amenity of neighbouring residents is listed but not limited to the following examples:

Location and proximity. The main entrance to No.18 Spring Gardens is within meters of the main frontage of our property at No.8 Spring Gardens. Our main front door, primary

reception rooms, two bedrooms of which one is for a child are all faced onto the shared courtyard and the increase of noise and disruption due to the uncharacteristic movements which occur due to No.18 being used in this manner creates a loss of amenity. The quantity and frequency of visitors to the property for short-term visitor accommodation has an impact on our privacy.

In terms of scale of the operation. Always at, or approaching capacity, of the number of people this property sleeps, i.e 8 people and not always all from same household. It is more often than not, large groups who book the property, it would be unusual and unlikely for 1-2 people to book a property of this capacity using platforms such as AirBnB/Vrbo which means the property regularly attracts the maximum capacity.

Turnover of guests can be up-to three times per week and many service visits in between. Total number of visitors combined with the numerous cleaning and service visits is vastly different from the standard comings and goings of the property than if it had permanent residents. A log for 2022 is available and is of similar pattern to all previous years out-with the restrictions of the Covid-19 pandemic.

Shared area. The primary and only access to this property is via a shared courtyard. No.18 is situated nearest to the entrance of the courtyard and the large numbers and frequency of turnovers and increase in pedestrian and vehicular traffic creates a restriction in neighbours entrance and egress. The entrance area to the courtyard is regularly where the visitors congregate in large groups whilst arriving, departing, awaiting taxis, etc.

Parking and multiple vehicles attending. On occasion when visitors attend the property they will arrive in multiple vehicles which creates an increase in traffic and on-street parking demand. Some groups of visitors have arrived in mini-bus vehicles. Some arrive in multiple taxis which can all arrive at the same time. Some examples of these situations are available.

Night-time arrivals during unsocial hours have caused noise disturbance. One example of this was a self-drive mini-bus that arrived between 1AM and 2AM. The length of time and noise created it took for the visitors to fully unload people and luggage, gain entry to the property and eventually park the mini-bus and also park an accompanying separate car was a 1.5hrs in the middle of the night which woke our child twice.

Although there has been mention of 'House Rules' for visiting guests. There is no on-site presence from anyone who manages the letting or the owners to uphold any rules.

Specific incidents.

There have been a number of specific incidences which have occurred. There was a situation with a guest who arrived just before 6PM on a Friday evening and urinated within the courtyard. There have been numerous situations when guests have arrived they have blocked access to the courtyard with their vehicles and has been required to ask them to move vehicles to allow entry. This can be unsettling when coming home from work and not knowing whether there is access or not. There was a situation when a large group with significant amount of luggage stacked near the entry/exit to the courtyard awaiting taxis to collect them which then required a request to be made for them to move to allow me to

take my child to school. We had to awake guests at 7AM on another occasion as they had parked a mini-van in the centre of the courtyard with no way to exit.

A large group of young men had booked the property in February 2022 and the comings and goings of the visitors was frequent all night throughout the night. A group of separate females had also been brought back to the property for overnight stay. My family had the unfortunate situation of witnessing the girls leave the property the following morning.

There is no differentiation between types of bookings. The applicants proposal suggest not allowing bookings for particular events. Whether attendees to the property are visiting for any particular local event is irrelevant as it is the fact that large groups are attending that is the problem. None of the aforementioned issues causing loss of amenity can directly be correlated to whether visitors are there for sporting events, music concerts, etc.

The applicant's statement suggests since all properties have double glazing windows that noise should not be an issue, however it is unreasonable to expect other residents within the development to not open their windows to gain fresh-air within their own property.

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Maintenance/service visits

There can be up-to four individual attendances by commercial cleaning teams to the property in between turnovers which can be up to three turnovers of guests per week.

The title deeds for the properties which are combined with the entire development state the properties are for private residential use only and for no other purpose and therefore a change of use would then subsequently be against the terms of the title deed.

In relation to comments made as part of the related DPEA appeal, I wish to highlight that living within a challenging situation caused by the short term letting at No 18 has on occasion created highly emotive situations.

The applicant's proposal has stated that they would consider being content with the permission to be given to the individuals and not the property and to be capped at a maximum time-frame. This has no bearing to the historic, current and future loss of

amenity occurring as a result of the operation of the property as short term visitor accommodation.

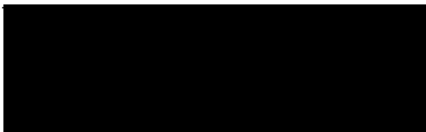
There may be some employment generated to trades for the turnover of 'guests' and maintenance required to the property (which in itself generates traffic and noise). This should not be of consequence when consideration is being given to the application as this has little significance when balanced against the negative impact of quality of living for residents who live within the vicinity. It is important that the residential nature of the area is maintained and in particular as it is within close proximity to Holyrood Park.

There are other properties within the development which are not owner occupied and offer more traditional longer term letting. There has been no noted issues with this manner of letting that I am aware of. Longer term letting or full time residency may bring benefit as a longer term resident will show more desire to maintain the area in which they live whereas a transient visitor will not. There is a probability that some of the other letters of support are from owner(s) who are not full-time resident.

The granting of this application will have an unacceptable impact on the neighbourhood amenity and could open avenues for more properties within the development or area in general to commence short-term visitor accommodation.

Had we known there was a commercial visitor accommodation operating within meters when purchasing our home then our consideration to choose Spring Gardens for the location to raise our family may have differed.

Your sincerely

A solid black rectangular box used to redact the signature of the sender.

Richard Blades

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100607811-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Holder Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Robin	Building Name:	
Last Name: *	Holder	Building Number:	139
Telephone Number: *	07585 008650	Address 1 (Street): *	Comiston Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH10 5QN
Email Address: *	robin@holderplanning.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Michael"/>	Building Number:	<input type="text" value="18"/>
Last Name: *	<input type="text" value="Cran"/>	Address 1 (Street): *	<input type="text" value="Spring Gardens"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH8 8HX"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="18 SPRING GARDENS"/>
Address 2:	<input type="text" value="ABBEYHILL"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH8 8HX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="674150"/>	Easting	<input type="text" value="327395"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use from House to Short Stay Commercial Visitor Accommodation

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Review Statement attached.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Enforcement Notice Appeal Decision Review Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/03161/FUL

What date was the application submitted to the planning authority? *

16/06/2022

What date was the decision issued by the planning authority? *

30/08/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Robin Holder

Declaration Date: 24/11/2022

APPLICANT: MICHAEL & CHERYL CRAN

REVIEW STATEMENT

Application for a Change of Use from House to Short-Stay Commercial Visitor Accommodation.

18 Spring Gardens, Edinburgh, EH8 8HX

Date: November 2022

HolderPlanning

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1.0 INTRODUCTION

- 1.1 This is an unusual case, with a unique background, and we request that LRB Members give it particularly careful attention.
- 1.2 As we explain below, since the delegated decision to refuse the application, a Scottish Government Appeal Reporter has decided that the short-term let use will not have any harmful impacts on the amenity of neighbours. This conclusion is the opposite of that reached by planning officers on this application and is a very significant material consideration for the LRB to take into account.
- 1.3 Mr & Mrs Cran live in their home in Edinburgh, which is a house and not a flat, and rent it out on a short-term let basis for significantly less than half of the year for the 7 years over which they have rented it. They bought the house with the intention of retiring to it, within the next 2 – 3 years now, and in the meantime frequently live there to be close to their daughter. To make that affordable, they rent the property out some of the time that they are not resident.
- 1.4 None of their closest neighbours, including one with a party wall, object to this arrangement, indeed they wrote letters of support for this application. However, the planning case officer decided that most of these letters of support should not be taken into account because they did not explain why they supported the application. We do not think that was fair because it provided perhaps the best evidence that the use is not a nuisance to those who would be most affected.
- 1.5 However, more weight appears to have been given in the officer's Report of Handling to the objection of a single party, living a number of houses away from 18 Spring Gardens, who has made spurious assertions regarding the use and whose previous complaints led to a misjudged and failed Enforcement action by the Council. As we explain below, Mr and Mrs Cran were very upset by the spurious content of the objection to the planning application and the complaints that led to the enforcement action. That upset was compounded because the Report of Handling made reference to the objector's comments but made no reference Mr and Mrs Cran's submission explaining in detail why that objection was spurious and exaggerated. Their impression, therefore, was that they had not been given a fair hearing.
- 1.6 The complaints from this party began in 2018, which compelled the Council to open its first Enforcement investigation. That investigation was closed with no further action being taken by the Council, we assume because there was no case to answer. A second complaint was made in 2019, which again led to an enforcement investigation and again this was closed with no further action being taken. At that time, the applicant was advised by the Council that that the part-time use as a short-term let did not need planning permission because the use, because of its low level nature, was not materially different to the residential use which was predominant. The complainant, however, persisted and the Council undertook a third enforcement investigation in 2021.
- 1.7 Throughout this period, Mr & Mrs Cran were obviously very upset that a vexatious party was continuing to make complaints which in their view amounted to harassment by proxy, the unwitting proxy being the Council.

- 1.8 It is therefore not an exaggeration to say that they were horrified and distressed when the Council decided to serve an Enforcement Notice in 2022 against the continuation of use as a result of that third complaint, particularly because there had been no material change of circumstances since the Enforcement Officer had advised them that they did not need planning permission.
- 1.9 Given the possible criminal consequences of an Enforcement Notice and their certainty that the allegations against them were unfounded, Mr & Mrs Cran decided (at significant expense) to take professional advice and appeal against the Enforcement Notice advice. They knew that the appeal Reporter would have to consider all of the issues and address in detail the arguments being made by the Council and the objector. They were understandably very relieved when on 18 October 2022, the Reporter upheld the appeal, quashed the Enforcement Notice, and reached the following conclusion in the his Decision (Document 1 – Enforcement Notice Appeal Decision):

9. The planning authority relies on the intensification of the use of the property for short stay commercial visitor accommodation as the basis for a material change of use having taken place. However, I find that the planning authority's submitted evidence has limited value in supporting this position. The extracts from the Airbnb and VRBO websites only indicate that the property has been used for short stay commercial visitor accommodation. They do not establish the level of bookings which have taken place or that these levels have indeed intensified in the intervening period since August 2019. On this basis, I do not find evidence that an intensification of the use of the property for short stay commercial visitor accommodation has ensued. Therefore, I do not find the intensification of use provides a basis that a material change of use has occurred in this case.

10. From my site visit I established that this residential property is a terraced house, as opposed to a flatted property, and as such would normally fall within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Class 9 does not differentiate between people living together as a family in their sole main residence and a family living together in a short term let. In simple terms letting a dwellinghouse, and living in it as a family, for any length of time would normally fit within the description of a Class 9 use.

11. The property benefits from a separate front entrance door with no communal internal space linked with neighbouring properties and overall, I find the property to be self-contained. The appellants let the whole property at one time, and it is marketed as accommodating up to eight guests. There is no indication that it has been advertised for or occupied at any point by more than eight guests or as a party or event venue. The current internal layout of the property with three double bedrooms, a single bedroom and single sofa bed would lead me to conclude that eight guests occupying the property as a family is within the normal designed occupancy of the house.

12. The planning authority highlights that the shared courtyard could result in direct interaction between guests at Number 18 and surrounding permanent residents resulting in a detriment to amenity and safety. The courtyard runs parallel to the street and while the majority of this space is set behind a wall there is no security gate in place. This allows unrestricted access to the courtyard for residents and visitors and its use by guests

visiting number 18 would not therefore reduce the current level of security offered to the residents sharing the courtyard.

13. Furthermore Number 18 is located directly across from the vehicular access and open to the road. This layout limits the requirement for guests to pass by the neighbouring properties within the terrace when leaving or returning on foot or in vehicles. I recognise that the other residents are required to pass Number 18 to reach their properties but based on the courtyard layout, lack of secure access and its proximity to the public road I do not consider this to create any significant amenity or safety concerns. In my view families or friends holidaying together tend to leave and return as a group, either on foot or by vehicle, thereby limiting the periods guests spend within the courtyard and further minimising any disruption caused.

14. Similar to the appeal property, with the exception of Number 8 Spring Gardens, the remaining properties within the terraced block do not appear to have habitable rooms on the ground floor overlooking the courtyard. This layout would reduce the impact of any activity in the area immediately in front of the appeal property. Number 8 has a single bedroom window facing onto the courtyard. However, it is located approximately 20 metres from the appeal property which I consider provides a sufficient distance to reduce possible disturbance from guests arriving or departing at Number 18.

15. It is indicated by the appellants that the vast majority of guests arrive by foot, public transport, or taxi. This may indeed be the case, although guests may also arrive by private vehicle, which could result in two or more vehicles arriving at the property. Visits by the cleaning company are also generally by private vehicle. Guests have access to the internal garage which can accommodate a single car and a further unmarked parking space is located to the front of the property within the courtyard. It is possible that guests may not appreciate the boundaries of the unmarked space, and this could lead to some tension with other residents if a mistake is made. However, I do not find this risk so great, that it would lead to a significant change in the nature of the occupancy of the dwellinghouse. I observed that there is free on street parking available on Spring Gardens and the surrounding streets to accommodate any additional vehicles generated by guests or the cleaning company.”

1.10 These conclusions from an experienced Reporter, who has very carefully considered the different points of view, are very significant considerations for this Review.

1.11 This is because the refusal of the application was wholly based upon the issue of amenity impact on nearby residents, as referred to in the refusal reason i.e.

“The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.”

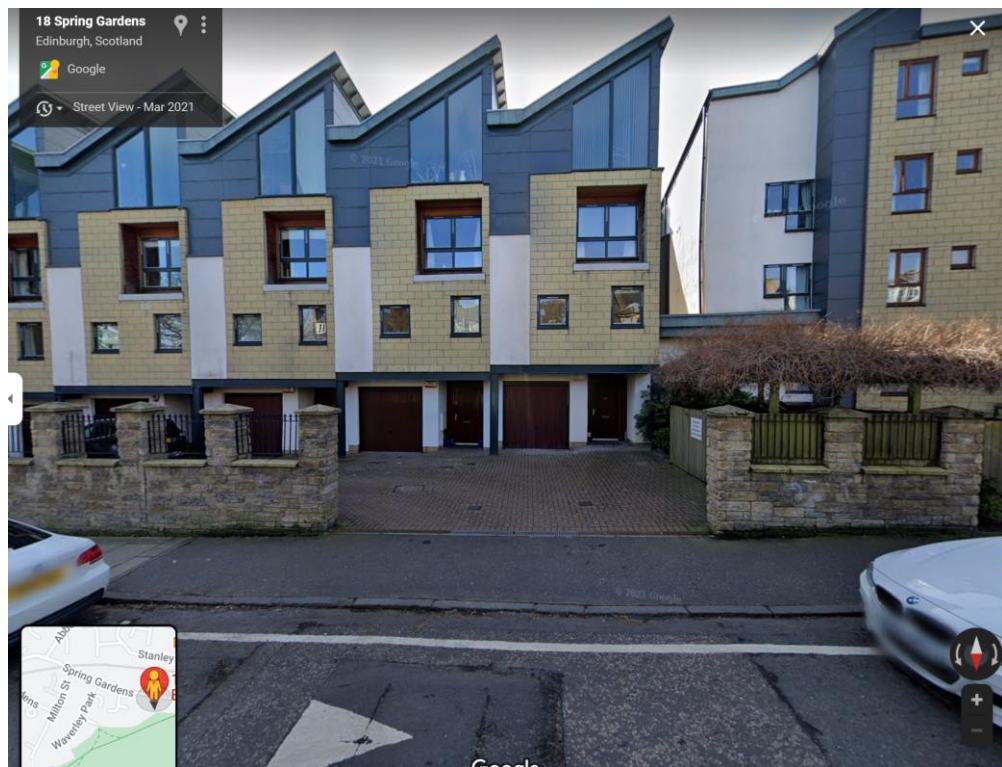
1.12 We can understand that the LRB Members may wish to place weight on the planning officers’ view on this matter, but the officer’s Report of Handling does not suggest that as much depth of consideration was given to issues as that given by the Appeal Reporter. The comments in the Report of Handling give the impression that the officer was of the view

that a short-term let use of virtually any magnitude and nature would materially harm the amenity of neighbours, despite the fact that there was no reliable evidence that such harm was actually occurring. Respectfully, that cannot be right. The Appeal Reporter did consider in detail the specific circumstances of the case, including a site visit to view the property inside and out, and its surroundings. He also asked questions of both the Crans and the Council Officer in order to better understand the precise nature of the use of the house.

- 1.13** We acknowledge that the Council's planning function has resource pressures, but we were disappointed that the planning case officer would not discuss the application with us despite repeated requests.

2.0 THE PROPOSAL

- 2.1 The application was submitted by Mr & Mrs Cran in the circumstances of the Council having served an Enforcement Notice (21I00596/ESHORT) alleging that the property has been subject to a material change of use to visitor accommodation. As referred to above, that appeal succeeded and the Enforcement Notice has now been quashed.
- 2.2 Despite this, the Crans wish to secure a planning permission for the proposed use to assist with their forthcoming Short-Term Let Licence application, now required because of the designation of the STL Control Area.
- 2.3 Michael & Cheryl Cran have owned 18 Spring Gardens since 2015. Since 2016 they have made the house available for short-term visitor stays on a commercial basis when they or their family are not living in it.
- 2.4 The frontage of the property is pictured below in a google street view image. No. 18 is the righthand end terrace property, comprising a 4-storey townhouse with its own main front door, private back garden, internal single garage, and one dedicated parking space.



- 2.5 They advertise the property on two well-known and reputable letting websites – AirBnB and VRBO.
- 2.6 The use by guests is not the predominant use of the property i.e. it is occupied by them and their family, or is vacant, significantly more often than it is occupied by guests. This is demonstrated in the following table, which shows the number of nights the property was either occupied by guests, the Crans or was empty since 2019.

Financial Year	Bookings	Guest Nights	Cran Nights	Empty Nights	% Guest Nights
2019 - 2020	25	117	151	97	32.1%
2020 - 2021	0	0	171	194	0%
2021 - 2022	21	97	85	183	26.6%

- 2.7 It should be noted that Mr & Mrs Cran’s daughter is now living in Edinburgh, and it is the Cran’s intention to spend more time at Spring Gardens, to be close to her, than in previous years. The number of guests staying will therefore decrease accordingly. Their current intention is to live there permanently when they retire in 2 - 3 years.
- 2.8 Following the enforcement investigation by the Council in 2019, the owners have adopted a policy of restricting the letting use of the property to less than that occurring in 2019/2020 (i.e. less than 32% of nights per year). They also now do not let the property on Edinburgh Rugby International weekends. **In the future, the applicant therefore does not intend to rent the property for any more nights/year than in 2019/2020, and would be content to accept a planning condition restricting guest nights to no more than 120 guest nights per year.**
- 2.9 Michael and Cheryl Cran are scrupulous in their management of the letting of the property, observing all rules and regulations to the letter, and making all efforts to ensure that there is little or no opportunity for guests to disturb neighbours in any way.
- 2.10 The AirBnB and VRBO websites for the property can be viewed on the following links:
https://www.vrbo.com/en-gb/p1894878?noDates=true&uni_id=3608113
https://www.airbnb.co.uk/rooms/8624109?adults=8&federated_search_id=4ab15299-1fe1-4e6a-8aff-15d7067b2334&source_impression_id=p3_1650612255_YqgSBTcUOqX4DqPV
- 2.11 The websites include clearly stated house rules, including the following:
- No parties or events.
 - No smoking inside the house, garden, balcony or front courtyard.
 - Noise to be kept to a minimum, especially at night.
 - Minimum age of primary renter not less than 25 years.
- 2.12 The owners also monitor activity at the front of the property via a CCTV camera.
- 2.13 The nature of the house and the rental price is such that the vast majority of guests are family groups visiting Edinburgh for a normal holiday.
- 2.14 The nature of the property is also such that guests can access the house with no disturbance to neighbours. The fact that it is a house and not a flat and has its own front door means that there is no interaction with neighbours in a shared stairway. Although

there is a shared outside courtyard to the front of the property, 18 Spring Gardens is the first property accessed from that courtyard, and therefore guests do not have to walk past other houses in the terrace. The house is an end terrace so only has one party wall. All of the properties in the terrace have double glazing and should not therefore be materially impacted by any minor levels of noise that might arise as guests arrive/depart.

- 2.15 The property has two private car parking spaces allocated to it, one within the internal garage. This minimises the risk that guests arriving with cars would impact on neighbour parking, within the courtyard and beyond.
- 2.16 Consequently, there is no reason to think that the use of the property by guests should lead to any material impact on neighbours, and certainly no more than if the house was permanently occupied on a long-term basis – in fact such impacts would likely be greater if the house was occupied on a permanent basis.
- 2.17 In April 2022 the applicants canvassed their 4 immediate neighbours in the courtyard for their opinion of the use of the property. All of the responses stated that there had been no nuisance at all and were happy with the way in which the use was managed. More recently, the applicants have contacted these neighbours again and their immediate neighbour has given support for this application, as has one other in the development. An additional neighbour has said they would not object if the use was restricted to the current owners and be on a temporary basis with lettings restricted to a set number of days, and the applicants are content for such restrictions to be imposed in respect to this application.
- 2.18 The Crans have also contacted 7 other neighbours within 20 metres of their property, and 5 of these neighbours have indicated their full support for this application and 2 have not replied.
- 2.19 The Crans are aware of one resident in the group of houses (not an adjacent or close neighbour), who they consider to be unreasonable and, on some occasions, aggressive. They assume that this person is the source of a complaint to the Council that led to the Enforcement Notice and previous Enforcement investigations. They are quite happy to provide further information in respect to that unreasonable behaviour if necessary.
- 2.20 However, perhaps that is unnecessary now that an independent Reporter has carefully considered the objection by that party, and agrees that the use does not result in any material harm to local residential amenity.
- 2.21 In granting permission, the applicant is content for one or both of the following conditions to be applied to the permission:
 - It is a temporary permission granted for 3 years.
 - That the property is occupied by guests on a commercial basis for no more than 120 nights/year (i.e. less than a third of the year).
- 2.22 The Report of Handling says that a temporary permission is inappropriate for a short-term let, but without explaining why. In our considerable experience of development management, we cannot think of any reason to justify that conclusion. In fact, it is precisely the kind of situation where the planning authority may consider such a

restriction, so that it may consider a possible application for an extension to the time limit in the knowledge of its impact over that period.

- 2.23 In terms of restricting the occupation by guests to no more than 120 days/year, the Report of Handling states that such a condition would be unenforceable. Although we accept that such a condition, like many analogous conditions that planning authorities apply, would require to be monitored, but that does not mean it would be unenforceable. A straightforward approach would be for the applicant to be required to provide the Council with an annual account of guest stays, supported by evidence that this was accurate.

3.0 PLANNING ASSESSMENT

- 3.1 The principal policy for the consideration of this planning application is Policy HOU 7 of the Edinburgh Local Development Plan, which states the following:

Policy Hou 7 Inappropriate Uses in Residential Areas

Developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

- 3.2 Paragraph 234 of the LDP provides further explanation of Policy HOU 7, as follows:

“The intention of the policy is firstly, to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation (i.e. for five or more people). Further advice is set out in Council Guidance.”

- 3.3 We note the content of the Edinburgh Council Guidance for Business (2021), which sets out the following guidance:

“Short Term Commercial Visitor Accommodation

The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had 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.”*

- 3.4 From the underlined words above, it is clear this provides guidance on deciding whether planning permission is required rather than giving guidance on assessing applications themselves. Consequently, it is not relevant to the determination of this application and, respectfully, the Report of Handling is incorrect to say that it is.

- 3.5 Policy HOU 7 is straightforward in its terms, i.e. a proposal for a change of use from a house to a short-term commercial let should be permitted unless there is a **“materially detrimental impact on the living conditions of neighbours”**.

We have indicated the conclusions of the Reporter on the Enforcement Notice Appeal in the introduction to this statement in respect to the impact on the living conditions of neighbours, where he reaches the conclusive view that there are no materially detrimental impacts. That view is shared by near neighbours, including one with a party wall to 18 Spring Gardens.

4.0 CONCLUSION

- 4.1 We respectfully request that the LRB grant planning permission for the following reasons:
- Since the application was refused, an Appeal Reporter, after lengthy and careful consideration, has concluded that the change of use would not have a harmful impact on the residential amenity of the area. We acknowledge that this conclusion is in direct contradiction of the reason for refusal of the application, but in our view is based on a more comprehensive assessment of the issues than is apparent from the officer's Report of Handling, including a thorough site visit, and where questions were asked of the Mr & Mrs Cran and the Council Officer.
 - We acknowledge that the Council is concerned about the proliferation of short-term lets in the City, but we assume that does not mean a 'total ban', and that there is acknowledgement that some short-term lets are acceptable in circumstances where there is no conflict with planning policies. The Crans are thoughtful and diligent hosts, who liaise frequently with their near neighbours on any issues that may arise. Those neighbours do not consider the use to be of any nuisance whatsoever.
 - In recognition of any remaining concerns the Council may have, the applicant is happy to accept conditions to the permission, as explained in this statement i.e. a temporary permission for 3 years and/or a limitation on the number of days the property can be let to no more than 120/year.
- 4.2 The circumstances of this case are unusual and unique, with an experienced Appeal Reporter having considered the issue of 'amenity impacts' in considerable detail since the refusal of planning permission by the Council. As his conclusion was in the context of an Enforcement Notice, planning permission has not yet been granted per se, and so the Crans have lodged this Review to regularise the position.
- 4.3 Granting planning permission will not in any way undermine the Council's objective to ensure that only well-managed and appropriate properties are used for short-term lets. This property is not a flat and is not used for events that might lead to inappropriate behaviour or noise. Quite the contrary, it is very carefully managed and monitored to ensure that there is little, if any, possibility of disturbance to neighbours. They provide clear house rules for their guests in this regard and have regular communication with their neighbours to keep on top of any minor issues that may arise.
- 4.4 Mrs Cran intends retiring from her work in England in 2 -3 years' time, and the couple can then return to Scotland where they look forward to living permanently at 18 Spring Gardens.



Appeal Decision Notice

Decision by Euan McLaughlin, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-230-2217
- Site address: 18 Spring Gardens, Abbeyhill, Edinburgh, EH8 8HX
- Appeal by Mr Michael Cran and Mrs Cheryl Cran against the enforcement notice dated 28 March 2022 served by The City of Edinburgh Council
- The alleged breach of planning control: without planning permission, the material change of use of the property from a residential property to short stay commercial visitor accommodation
- Date of site visit by Reporter: 18 October 2022

Date of appeal decision: 16 November 2022

Decision

I allow the appeal and direct that the enforcement notice dated 28 March 2022 be quashed.

Preliminary matters

This appeal was sisted on 1 June 2022 to allow for the submission of a planning application. Planning application 22/02161/FUL was registered on 16 June 2022 for “Change of use from house to short stay visitor accommodation.” The application was refused with the decision issued on 30 August 2022.

On 12 September 2022 it was confirmed with all parties that this appeal would progress.

The appellants have directed me to an error within the enforcement notice where the property is described as a “flat” in section 4. Section 2 of the notice provides an accurate description of the property and I find this single reference to a “flat” within section 4 of the notice does not impact on its overall validity.

Reasoning

1. The appeal property is a four-storey townhouse which forms the end plot of a terrace set back from the road within a private shared courtyard. The property has an internal garage with a further unmarked parking space located within the courtyard. To the rear is a private garden for exclusive use of the dwelling which backs onto Holyrood Park. The appeal property comprises of four bedrooms on the ground and first floors. A kitchen, dining and lounge area is located on the second floor with the third floor containing an office and further living space. The ground floor bedroom is at the rear of the property and no occupied rooms face onto the courtyard at ground level.

2. While an application for planning permission has been submitted for a change of use, and subsequently refused, the appellants have not modified their grounds of appeal

and remain resolute that a breach of planning control has not occurred. Notwithstanding the outcome of this application process, I am required to consider the enforcement notice appeal and the various grounds presented by the appellants.

3. The appeal against the enforcement notice was made on the following grounds as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997:
- Ground b) that the matters which, by virtue of section 128(1) (a) have been stated in the notice have not occurred;
 - Ground c) those matters (if they occurred) do not constitute a breach of planning control;
 - Ground d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
 - Ground e) the copies of the enforcement notice were not served as required by section 127;
 - Ground f) the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case maybe, to remedy any injury to amenity which has been caused by any such breach; and
 - Ground g) that any period specified in the notice in accordance with section 128(9) falls short of what should reasonably be allowed.

Ground b)

4. All parties agree that the property has been let on a commercial and short-term basis since 2015 and on that foundation the matters which are detailed in the enforcement notice have occurred.

5. The appeal on ground b) would only fail if the use of the property for short stay commercial visitor accommodation is considered a material change of use and therefore a breach of planning control under ground c). I deal with that matter in more detail below.

Ground c)

6. As the property is being used intermittently for short stay commercial visitor accommodation, for ground c) to succeed it must be demonstrated that this use does not constitute a breach of planning control. The appellants maintain that there has been no change in circumstances since the planning authority found, twice before, that this use did not represent a material change of use.

7. Based on the information before me I understand the relevant background matters to be:

- The appeal property was first advertised for short stay commercial visitor accommodation in November 2015, with the first booking occurring in early 2016.
- On 12 February 2019, the investigation under 18/00584/ECOU was closed with the planning authority concluding that the occasional let for short stay commercial visitor accommodation was incidental to the established use of the property. The level of short stay commercial letting used to establish this position is not before me.
- The appellants indicate that for the fiscal year 2019/2020 the property was occupied for short stay commercial visitor accommodation for 117 nights (32.1%) and as a single-family residence for 151 nights (41.3%). It was unoccupied for the remainder of the year.

- On 12 August 2019 in relation to enforcement case 19/00476/ESHORT, the planning authority confirmed that based on seven bookings between 12 February 2019 and 01 August 2019 that there was no material change in the operation of the house and that no breach of planning control had occurred.
- During the fiscal year 2020/2021 the property was exclusively used as a single-family residence.
- For the fiscal year 2021/2022 the property was occupied for short stay commercial visitor accommodation for 97 nights (26.6%) and as a single-family residence for 85 nights (23.3%). It was unoccupied for the remainder of the year.
- Enforcement case 21/00596/ESHORT was opened on 30 November 2021. This determined that a material change of use had occurred as the planning authority found the property to be more intensively occupied for short-term letting than when previously investigated.
- Through these periods the minimum length of booking was three nights with the appellants records showing since 2019 the average individual booking was for 4.6 nights.

8. From this overview it is understandable that the appellants consider that letting the property on the same basis as was previously considered acceptable by the planning authority does not represent a breach of planning control. While I note this position, the past decisions by the planning authority do not constitute a certificate of lawfulness for the activity which occurred at that time or since August 2019. It is within the planning authority's power to make a revised assessment based on the level of activity they have identified since 2019.

9. The planning authority relies on the intensification of the use of the property for short stay commercial visitor accommodation as the basis for a material change of use having taken place. However, I find that the planning authority's submitted evidence has limited value in supporting this position. The extracts from the Airbnb and VRBO websites only indicate that the property has been used for short stay commercial visitor accommodation. They do not establish the level of bookings which have taken place or that these levels have indeed intensified in the intervening period since August 2019. On this basis, I do not find evidence that an intensification of the use of the property for short stay commercial visitor accommodation has ensued. Therefore, I do not find the intensification of use provides a basis that a material change of use has occurred in this case.

10. From my site visit I established that this residential property is a terraced house, as opposed to a flatted property, and as such would normally fall within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Class 9 does not differentiate between people living together as a family in their sole main residence and a family living together in a short term let. In simple terms letting a dwellinghouse, and living in it as a family, for any length of time would normally fit within the description of a Class 9 use.

11. The property benefits from a separate front entrance door with no communal internal space linked with neighbouring properties and overall, I find the property to be self-contained. The appellants let the whole property at one time, and it is marketed as accommodating up to eight guests. There is no indication that it has been advertised for or occupied at any point by more than eight guests or as a party or event venue. The current internal layout of the property with three double bedrooms, a single bedroom and single sofa bed would lead me to conclude that eight guests occupying the property as a family is within the normal designed occupancy of the house.

12. The planning authority highlights that the shared courtyard could result in direct interaction between guests at Number 18 and surrounding permanent residents resulting in a detriment to amenity and safety. The courtyard runs parallel to the street and while the majority of this space is set behind a wall there is no security gate in place. This allows unrestricted access to the courtyard for residents and visitors and its use by guests visiting Number 18 would not therefore reduce the current level of security offered to the residents sharing the courtyard.

13. Furthermore Number 18 is located directly across from the vehicular access and open to the road. This layout limits the requirement for guests to pass by the neighbouring properties within the terrace when leaving or returning on foot or in vehicles. I recognise that the other residents are required to pass Number 18 to reach their properties but based on the courtyard layout, lack of secure access and its proximity to the public road I do not consider this to create any significant amenity or safety concerns. In my view families or friends holidaying together tend to leave and return as a group, either on foot or by vehicle, thereby limiting the periods guests spend within the courtyard and further minimising any disruption caused.

14. Similar to the appeal property, with the exception of Number 8 Spring Gardens, the remaining properties within the terraced block do not appear to have habitable rooms on the ground floor overlooking the courtyard. This layout would reduce the impact of any activity in the area immediately in front of the appeal property. Number 8 has a single bedroom window facing onto the courtyard. However, it is located approximately 20 metres from the appeal property which I consider provides a sufficient distance to reduce possible disturbance from guests arriving or departing at Number 18.

15. It is indicated by the appellants that the vast majority of guests arrive by foot, public transport, or taxi. This may indeed be the case, although guests may also arrive by private vehicle, which could result in two or more vehicles arriving at the property. Visits by the cleaning company are also generally by private vehicle. Guests have access to the internal garage which can accommodate a single car and a further unmarked parking space is located to the front of the property within the courtyard. It is possible that guests may not appreciate the boundaries of the unmarked space, and this could lead to some tension with other residents if a mistake is made. However, I do not find this risk so great, that it would lead to a significant change in the nature of the occupancy of the dwellinghouse. I observed that there is free on street parking available on Spring Gardens and the surrounding streets to accommodate any additional vehicles generated by guests or the cleaning company.

16. This case is unusual in that since the enforcement notice was served, planning permission for change of use to short stay commercial visitor accommodation has been applied for and refused. Normally such an outcome would confirm that there is a material change of use involved and that the continuation of such a use would be a breach of planning control. However, within the auspices of the enforcement notice appeal process I am still required to assess whether the property's use for short stay commercial visitor accommodation, on the basis of fact and degree, constitutes a material change.

17. Notwithstanding the submission of the planning application the appellants maintain their stance that no change of use has occurred. Taking account of the appellants' grounds of appeal I am of the view that the submission of the planning application was made in an effort to overcome the enforcement notice, rather than accepting that a material change has taken place. Its submission and the subsequent outcome are therefore not a defining consideration in the determination of this appeal.

18. Overall, I find that the evidence presented by the planning authority on the pattern and intensity of bookings since 2019 fails to demonstrate an intensification of use has occurred. Even when balanced against the refusal of the planning application my assessment of the level of bookings, associated cleaning activity, self-contained nature of the property and parking arrangements leads me to conclude that this level of activity would not be materially different to that of a normal dwellinghouse of this size. On this basis, the use of the property for short stay commercial visitor accommodation would not result in a material change to the existing residential character of the dwellinghouse. I therefore conclude that the use of the property for short stay commercial visitor accommodation would be incidental to the use of the property as a Class 9 dwellinghouse. The appeal on ground c), and therefore ground b), succeeds.

Ground d)

19. For ground d) to succeed it must be demonstrated that the enforcement notice was issued out with the statutory time limits that enforcement action could be taken. The appellants state that the planning authority is barred from taking further enforcement action due to the previous decision in 2019 and no supporting evidence of intensification of use being presented. The appellants do not expand further on this assertion and have not directed me to specific supporting legislation. As set out above the letters from the planning authority in 2019 are not certificates of lawfulness so I find no reason that the planning authority is barred from raising further enforcement action.

20. The property was first advertised for short stay commercial visitor accommodation in November 2015. On 28 March 2022, the enforcement notice was issued. Consequently, I find that the notice has been issued within 10 years of the date on which the alleged breach began and within the statutory limits contained in section 124(3) of the Town and Country Planning (Scotland) Act 1997. The appeal would have failed on ground d).

Ground e)

21. For ground e) to succeed it must be demonstrated that the enforcement notice has not been served on the relevant parties or within the prescribed timescale. In accordance with section 127(2)(b) of The Town and Country Planning (Scotland) Act 1997 the notice is to be served “on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.” The planning authority has confirmed that it is not its general practice to serve enforcement notices on the mortgage provider even where they may have a financial interest.

22. Section 127(3) of the same Act requires a notice to be served:

- (a) not more than 28 days after its date of issue, and
- (b) not less than 28 days before the date specified in it as the date on which it is to take effect.

23. The enforcement notice is dated 28 March 2022. The planning authority confirms that the enforcement notice addressed to the “Owner, Occupier and Lessee” was hand delivered to 18 Spring Gardens, Edinburgh, EH8 8HX on 29 March 2022. A further copy of the notice was sent to the appellants at their home address on the same day. The appellants have confirmed that they received the hand delivered notice when attending 18 Spring Gardens on 30 March 2022. The enforcement notice takes effect on 2 May 2022. I am therefore satisfied that it was delivered within the time limits set by the Act. The appeal would have failed on ground e).

Ground f) and Ground g)

24. As I have quashed the enforcement notice I have not considered grounds f) and g).

Other Matters

25. The planning authority refer me to two previous appeal decisions; ENA-230-2129 and ENA-230-2210 which are before me in full. These decisions relate to residential flats which do not fall under Class 9 and therefore differ from the appeal property. In any case I have judged this appeal on its own merits, and I am not bound to reach the same conclusion as those reporters did in each of those separate decisions.

26. On 5 September 2022, The City of Edinburgh Council designated the whole of the council area as a Short-term Let Control Area for the purposes of Section 26B of the Town and Country Planning (Scotland) Act 1997. My understanding is that the designation, which renders any short-term letting use a material change of use, does not apply retrospectively to any such activity already carried out before 5 September. The planning authority does not rely on the designation in determining that planning permission is required and consequently I do not find it impacts on my assessment of whether a breach has occurred.

Representations

27. I have received a representation from a local resident setting out their concerns regarding the impact of the use of the appeal property. These concerns relate to the pattern of use and resulting increase in noise, traffic, access issues and disturbances impacting on the amenity of the area. Specific incidents are also detailed and extracts from CCTV footage submitted in support of the claims. The appellants refute these assertions as unfounded and provide a number of representations from neighbouring residents within the terrace in support of the use of the property for short stay commercial visitor accommodation.

28. The purpose of this appeal decision is to establish whether the use of the property for short stay commercial visitor accommodation constitutes a material change of use. I have therefore only taken account of the representations insofar as they confirm the use of the property for short stay commercial visitor accommodation occurs, which is not disputed.

Conclusion

29. I find that the property has been used for short stay commercial visitor accommodation but that this use does not represent a material change of use. For the reasons I have given above I find that the appeal succeeds on ground b) and ground c). I have taken all matters raised in this case into account but there are none which would lead me to alter my conclusions.


Reporter

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To: [REDACTED]
Subject: [Local Review Body](#)
Date: Reference: 23/03161/FUL
09 December 2022 08:56:23

To whom it concerns

Yesterday, we were made aware that a Notification of Notice of Review has been sent to those who commented on this matter when planning permission was being sought. We have not received this notification and, as we share a party wall with number 18, we would like to comment and offer our support for the Crans' application.

Mike and Cheryl Cran use their Edinburgh home a considerable amount. We know, for example, that they spent two weeks in October in the house plus three long weekends in November. Like last year, they will be spending Christmas and New Year in the house. The Christmas and New Year period would be particularly lucrative if they wished to let out the property and the fact that they choose to spend that time in the house demonstrates that they are not running this as a purely commercial activity. Their short term letting is on a relatively small scale and when they do have guests it is mostly family groups. You only have to read the reviews to gain an understanding of the type of people who stay there.

We must emphasise that the guests who use the house do not cause any disturbance; as we share a party wall we would hear if there were raucous gatherings or excessive noise and this has never been the case. Like the other properties in the development, we have two bedrooms, a dining room and a top floor studio overlooking the courtyard and have never experienced any noise or other disturbance from number 18's guests. There is definitely no loss of amenity as a result of guests staying at number 18.

There has been a suggestion that there is interaction between guests and residents in the courtyard. We have never seen anyone congregating in the courtyard; there is no reason to. As number 18 is directly opposite the entrance/exit to the development, anyone visiting the property does not have to pass in front of the other properties.

The Crans have our full support to continue using their home for short term lets.

Jan and Steve Fisher (16 Spring Gardens)

From: [REDACTED]
To: [Local Review Body](#)
Subject: 18 Spring Gardens Your Ref: 22/00179/REVREF
Date: 02 December 2022 14:07:39

Your Ref: 22/00179/REVREF - 18 SPRING GARDENS

Dear Sir/Madam

I am writing to support the application concerning 18 Spring Gardens. The short term letting has never caused a disturbance to us and has not had a detrimental affect on our living conditions and amenities. Their guests are generally family groups and the house is rarely at full capacity. I know that the owners frequently stay at the house themselves and owner occupation and empty nights outweigh guest stay occupancy by a fair margin.

*Yours faithfully
R McFarland*

6 Spring Gardens, Edinburgh EH8 8HX

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Planning appl. 22/03161/FUL M Cran , 18 Spring Gdns EH8 8HX
Date: 06 December 2022 16:26:58

Dear Sirs,

My family property, 20/3 Spring Gardens, is in close proximity to Number 18 and whilst we as a family are aware that Mike and Cheryl Cran run short term lets we understand that their guests are mostly family groups who do not cause any disturbance, and certainly no loss of amenity to neighbours. Having spoken to Mike Cran we know that he liaises very closely with the guests and as a result there are no guest difficulties.

Mike and Cheryl use the property a considerable amount themselves and as far as I am aware their letting is on a relatively small level.

Can I conclude by saying that I fully support their application.

Yours faithfully,
Julie La Roche.
(Owner, 20/3).

From: [REDACTED]
To: [Local Review Body](#)
Subject: Support for no 18 Spring Gardens.
Date: 02 December 2022 05:24:57

would like to offer my complete support to Mike and Cheryl for the continued use of their home, 18 Spring Gardens, for short term letting. My home overlooks their home and their guests have never caused a disturbance to the neighbouring properties. They normally have family groups staying who are quiet and respectful and they certainly don't cause any problems. Mike and Cheryl use their home a great deal and their letting is done on a fairly small scale. Any guests I have ever met as I walk my dog, are respectful and friendly.

David keegan... 20/4 spring gardens

8 Spring Gardens
Edinburgh
EH8 8HX

e: 

Planning Committee
Local Review Body
City of Edinburgh Council
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

7th December 2022

Ref: 22/03161/FUL (18 Spring Gardens, Edinburgh EH8 8HX)

To whom it may concern

Application for the change of use for this property was previously objected to and I wish to make further submissions in regard to the referral to the Local Review Body. Ref: *22/00179/REVREF*

The owners of No. 18 Spring Gardens have stated they live in the property and any short-term letting is a consequence to when they are not resident. This is not accurate. The owners of the property do not use this property as their primary residence and the pattern of residency by themselves is irregular and infrequent. They arrive with their chattels and depart with their chattels no different from a fee-paying 'Guest' to the short term let.

There has been an emphasis by the appellants on unanimous support to the operating of the property as a short-term let. During initial submissions of application, the context of the question used was not disclosed to obtain this "support". It further transpired the appellants had emailed the other townhouse residents within the development asking specifically if they had problems with visiting guests. The responses were mixed saying there were occasional issues however those responses were then used by the applicants to support their application for change of use to permanent commercial use. There were further open communications between the townhouse owners in which a number of them stated they wished any support to be removed, when it became apparent these responses were being used to support an application for change of use to commercial.

During the Neighbourhood notification process, there were supportive responses. It transpired of these support responses, only two were from individuals who have full-time residency with the immediate vicinity, one of whom also offers short-term letting. The remainder of the people who responded offering support do not live locally and some are resident overseas.

Figures provided on the occupancy and usage of the property by the applicants are significantly inaccurate. The appellants stated within their records they resided themselves within the property for 85 nights, it was empty for 183 nights and there has been 97 nights of short term letting. This is not accurate. I included a log with my original objection to the planning application which shows an accurate pattern of the commercial use of the property.

There is evidence of the capacity and disruption the level of use and function of the property causes to our household. Evidence to support this has previously been provided and further submissions are available. There have been various anti-social behaviour situations which have caused disruption.

Planning permission being granted is against the Local Development Plan Hou7. Change to Commercial use also goes against Guidance for Business based on the use of the property in respect of inappropriate use in residential areas and this short-term let has evidence that it does have an impact on neighbouring amenity. All of this still remains relevant. Granting of permission of change of use for this property will also go against any emerging policies.

During the DPEA case, the allocated reporter had been invited to view evidence such as CCTV footage of the disruption and invited to enter my property to view the aspect internally, including the shared courtyard, this offer was not undertaken.

There were inaccuracies within the report stating my property only had one inhabited room facing onto the shared courtyard, there are four habitable rooms.

The shared courtyard means there are regular interactions due to the shared access, between visitors to the short-term let and permanent residents. Most of these interactions are asking large groups of congregated people to move aside to alleviate entry and egress issues. This has a material harm on neighbouring amenity. There has been a history of complaints for valid reasons and not vexatious as suggested. Background noise and the comings and goings are different from what permanent residents would come to expect due to the scale and capacity of the short term letting.

The operating of the property as a short term let at this scale and capacity cannot be controlled by planning conditions. There is unsupervised entry and exit allowed by the owners for guests.

While the property functions as short-term letting, use of my property as my home can become challenging day to day. There have been continued complaints and reports regarding No.18 Spring Gardens as any direct complaint to the owners were fruitless. It is evident they are working hard to protect a commercial profit making business, however I am simply trying to provide a safe and secure liveable environment for a family in a home

which was built for families for residential use not for commercial use, with title deeds reflecting same.

Granting permission for this property to operate commercially is contrary to current policy and guidance as this short term let brings no enhancement to the character and appearance of the general area. The overall character of the area is residential. The current management of the property is via an absentee landlord and cannot be conditioned. Additionally future change of ownership could permit further and increasing difficulties. Should this be approved, it may displace families from full-time residency within the area.

Your sincerely



Richard Blades

From: [REDACTED]
To: [Local Review Body](#)
Cc: [REDACTED] 22/03161/FUL M Cran , 18 Spring Gdns EH8 8HX
Date: 06 December 2022 16:26:58

Dear Sirs,

My family property, 20/3 Spring Gardens, is in close proximity to Number 18 and whilst we as a family are aware that Mike and Cheryl Cran run short term lets we understand that their guests are mostly family groups who do not cause any disturbance, and certainly no loss of amenity to neighbours. Having spoken to Mike Cran we know that he liaises very closely with the guests and as a result there are no guest difficulties.

Mike and Cheryl use the property a considerable amount themselves and as far as I am aware their letting is on a relatively small level.

Can I conclude by saying that I fully support their application.

Yours faithfully,
Julie La Roche.
(Owner, 20/3).

Report of Handling

Application for Planning Permission
18 Spring Gardens, Edinburgh, EH8 8HX

Proposal: Change of use from house to short stay commercial visitor accommodation.

Item – Local Delegated Decision
Application Number – 22/03161/FUL
Ward – B14 - Craigentinny/Duddingston

Recommendation

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

Summary

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a four-storey townhouse on an end terrace plot at 18 Spring Gardens, Abbeyhill. The property has its own main front door, private back garden and integral garage. There is a shared courtyard to the front of the property.

Spring Gardens is the central section of a main road which connects Abbey Mount in the west to Queens Park in the east. The application property is located around a 15 minute walk from the main shopping centre at Abbeyhill / London Road. The property is in a predominantly residential area some distance from the city centre. Public transport links are available on London Road. Abbeyhill/Meadowbank is the nearest area where there are mixed uses including cafes, shops, restaurants and hospitality venues.

Description Of The Proposal

The application is for a change of use from a house to short stay visitor accommodation (sui-generis). No internal or external physical changes are proposed. The applicant has advised that the property has been used for short term let since 2016.

The property is the subject of an enforcement notice served by the Council stating that the property breaches planning legislation through use of the dwelling as a short term let. The notice states that the applicant should submit a planning application for change of use from residential to short term let. The applicant appealed the notice to the Scottish Government, who has agreed to sist the appeal until the outcome of any planning application is known. This sets out the context for this planning application.

Supporting Information

Planning statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

22/00045/ENFORC
21/00596/ESHORT
19/00476/ESHORT
18/00584/ECOU

21/01541/FUL.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 28 June 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 15

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;

- 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 comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering LDP policy Hou 7.

Proposed use/Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to SCVA 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.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

The application property is a four storey townhouse which has a main door, a private garden to the rear and a shared courtyard to the front. The supporting statement confirms that the property to which the application relates has been used for the purposes of short term lets since 2016. Although the property has its own main door, there is a shared courtyard to the front which is used by the residents of the other four townhouses in the terrace. This will result in direct interaction between users of the short term letting accommodation and long term residents of the surrounding residential properties.

The property is located on Spring Gardens which is a predominantly residential street. The use of the property as a short term let would likely introduce an increased frequency of movement to the house at unsociable hours. The proposed four bedroom short stay use would enable eight or more related or unrelated 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. Any restriction on the number of people residing at the property at any one time is not enforceable through planning legislation. There is also 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect. The proposed change of use could also bring additional noise and disturbance into the shared courtyard area. This could also pose a risk to security for other residents. One objector has listed a number of specific incidents relating to excessive noise and disturbance from the property.

Anti-social behaviour such as noise disturbance can be dealt with through relevant legislation, such as Police Scotland or Environmental Health Acts.

The property is the subject of an enforcement notice served by the Council stating that the property breaches planning legislation through use of the dwelling as a short term visitor use. The notice states that the applicant should submit a planning application for change of use from residential to short term let. The applicant appealed the notice to the Scottish Government, who has agreed to sist the appeal until the outcome of any planning application is known.

The applicant states that they would be willing to accept a consent which is subject to the following conditions relating to short term use:-

- a personal permission;;
- maximum of 120 nights per year, and
- for three years only.

A personal consent would not be appropriate in the case of a short term let, The suggested condition restricting the number of days it could be used is unenforceable.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. This property is in neither a town centre nor a local centre, although it is not too far from local services and amenities on London Road.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7.

Parking Standards

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

The property has an integral garage. One objector has commented that there are often visitors to this property parking on the street. The site is a 15 minute walk from key public transport routes. There is no cycle parking standards for SCVA's. 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 proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that outweigh this conclusion.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material objections

- Negative impact on residential amenity (noise, safety, security, privacy).Addressed in a) above.
- Negative economic impact. Addressed in a) above.
- Increase waste levels. A waste strategy should be agreed between applicant and CEC's Waste Services.
- Results in displacement of community. Addressed in a) above.
- Does not comply with LDP policy Hou 7. Addressed in a) above.
- There are existing issues with parking. Addressed in a) above.

non-material objections

- House prices/rents will rise. This is a commercial consideration not covered by planning policy.
- Encourages anti-social behaviour. This is a matter for Police Scotland.
- Negative impact on mental health of neighbours. This is a public health issue and not a material planning consideration.
- Poor attitude of users. Not a material consideration.
- Negative impact on insurance. This is not material planning consideration.
- Impact on traditional guest houses. This is not a material planning consideration.

material letters of support

- Will have no negative impact on residential amenity. Addressed in a) above.
- Neighbour has not experienced noise issues from this property. Addressed in a) above.
- Edinburgh needs tourists. Addressed in a) above.

non-material letters of support

- Happy to support application. Too general.
- No objection.Too general.
- Applicants have put together rigorous policies to alleviate concerns. Not specific.

Conclusion in relation to identified material considerations

The proposal does not raise any other material consierations.

Overall conclusion

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let

will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 16 June 2022

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.

8 Spring Gardens
Edinburgh
EH8 8HX



Chief Planning Office/Planning Committee
City of Edinburgh Council
Waverly Court
4 East Market Street
Edinburgh
EH8 8BG

14th July 2022

Ref: 22/03161/FUL (18 Spring Gardens, Edinburgh EH8 8HX)

To whom it may concern

Application for the change of use for this property is objected to for the following reasons:

Spring Gardens is a quiet residential street and the change of use of 18 Spring Gardens from a residential dwelling to short - stay commercial visitor accommodation already has a materially detrimental impact on the living conditions of nearby residents due to its Inappropriate Use in a Residential Area. It historically and currently has a negative effect on the living conditions of nearby residents by virtue of increased traffic, noise and disturbance to the detriment of residential amenity.

The letting of this property is managed directly by the owners who live a considerable distance and are absent. There is no local on-site management, agent, concierge to uphold or police 'house rules' or attend to problems.

The proposal is contrary to adopted Edinburgh Local Development Plan and Policy Hou 7.

This property currently has an enforcement notice served.

Impact on loss of amenity of neighbouring residents is listed but not limited to the following examples:

Location and proximity. The main entrance to No.18 Spring Gardens is within meters of the main frontage of our property at No.8 Spring Gardens. Our main front door, primary

reception rooms, two bedrooms of which one is for a child are all faced onto the shared courtyard and the increase of noise and disruption due to the uncharacteristic movements which occur due to No.18 being used in this manner creates a loss of amenity. The quantity and frequency of visitors to the property for short-term visitor accommodation has an impact on our privacy.

In terms of scale of the operation. Always at, or approaching capacity, of the number of people this property sleeps, i.e 8 people and not always all from same household. It is more often than not, large groups who book the property, it would be unusual and unlikely for 1-2 people to book a property of this capacity using platforms such as AirBnB/Vrbo which means the property regularly attracts the maximum capacity.

Turnover of guests can be up-to three times per week and many service visits in between. Total number of visitors combined with the numerous cleaning and service visits is vastly different from the standard comings and goings of the property than if it had permanent residents. A log for 2022 is available and is of similar pattern to all previous years out-with the restrictions of the Covid-19 pandemic.

Shared area. The primary and only access to this property is via a shared courtyard. No.18 is situated nearest to the entrance of the courtyard and the large numbers and frequency of turnovers and increase in pedestrian and vehicular traffic creates a restriction in neighbours entrance and egress. The entrance area to the courtyard is regularly where the visitors congregate in large groups whilst arriving, departing, awaiting taxis, etc.

Parking and multiple vehicles attending. On occasion when visitors attend the property they will arrive in multiple vehicles which creates an increase in traffic and on-street parking demand. Some groups of visitors have arrived in mini-bus vehicles. Some arrive in multiple taxis which can all arrive at the same time. Some examples of these situations are available.

Night-time arrivals during unsocial hours have caused noise disturbance. One example of this was a self-drive mini-bus that arrived between 1AM and 2AM. The length of time and noise created it took for the visitors to fully unload people and luggage, gain entry to the property and eventually park the mini-bus and also park an accompanying separate car was a 1.5hrs in the middle of the night which woke our child twice.

Although there has been mention of 'House Rules' for visiting guests. There is no on-site presence from anyone who manages the letting or the owners to uphold any rules.

Specific incidents.

There have been a number of specific incidences which have occurred. There was a situation with a guest who arrived just before 6PM on a Friday evening and urinated within the courtyard. There have been numerous situations when guests have arrived they have blocked access to the courtyard with their vehicles and has been required to ask them to move vehicles to allow entry. This can be unsettling when coming home from work and not knowing whether there is access or not. There was a situation when a large group with significant amount of luggage stacked near the entry/exit to the courtyard awaiting taxis to collect them which then required a request to be made for them to move to allow me to

take my child to school. We had to awake guests at 7AM on another occasion as they had parked a mini-van in the centre of the courtyard with no way to exit.

A large group of young men had booked the property in February 2022 and the comings and goings of the visitors was frequent all night throughout the night. A group of separate females had also been brought back to the property for overnight stay. My family had the unfortunate situation of witnessing the girls leave the property the following morning.

There is no differentiation between types of bookings. The applicants proposal suggest not allowing bookings for particular events. Whether attendees to the property are visiting for any particular local event is irrelevant as it is the fact that large groups are attending that is the problem. None of the aforementioned issues causing loss of amenity can directly be correlated to whether visitors are there for sporting events, music concerts, etc.

The applicant's statement suggests since all properties have double glazing windows that noise should not be an issue, however it is unreasonable to expect other residents within the development to not open their windows to gain fresh-air within their own property.

Police Scotland calls. There have been situations which have required Police Scotland to be involved. The most notable being a visitor who urinated within the courtyard. It transpired this individual may have had a medical condition which everyone can show empathy toward, however this kind of unpleasant and unacceptable occurrence arises only as a result of individuals attending this property for short term visitor accommodation.

Environment team. No specific commercial refuse waste uplift arrangements are in place and if instated adds to traffic, noise, etc. There were previous communications with the littering and environmental team with complaint regarding cigarette ends being discarded from visitors to the property. 'House Rules' state that smoking is not permitted within the property or the grounds of the property this then requires smokers to exit onto the public pathway and the shared courtyard, to smoke which in turn creates noise and smoke pollution in our home. Discarded cigarette ends are then left on the road or pathway.

Maintenance/service visits

There can be up-to four individual attendances by commercial cleaning teams to the property in between turnovers which can be up to three turnovers of guests per week.

The title deeds for the properties which are combined with the entire development state the properties are for private residential use only and for no other purpose and therefore a change of use would then subsequently be against the terms of the title deed.

In relation to comments made as part of the related DPEA appeal, I wish to highlight that living within a challenging situation caused by the short term letting at No 18 has on occasion created highly emotive situations.

The applicant's proposal has stated that they would consider being content with the permission to be given to the individuals and not the property and to be capped at a maximum time-frame. This has no bearing to the historic, current and future loss of

amenity occurring as a result of the operation of the property as short term visitor accommodation.

There may be some employment generated to trades for the turnover of 'guests' and maintenance required to the property (which in itself generates traffic and noise). This should not be of consequence when consideration is being given to the application as this has little significance when balanced against the negative impact of quality of living for residents who live within the vicinity. It is important that the residential nature of the area is maintained and in particular as it is within close proximity to Holyrood Park.

There are other properties within the development which are not owner occupied and offer more traditional longer term letting. There has been no noted issues with this manner of letting that I am aware of. Longer term letting or full time residency may bring benefit as a longer term resident will show more desire to maintain the area in which they live whereas a transient visitor will not. There is a probability that some of the other letters of support are from owner(s) who are not full-time resident.

The granting of this application will have an unacceptable impact on the neighbourhood amenity and could open avenues for more properties within the development or area in general to commence short-term visitor accommodation.

Had we known there was a commercial visitor accommodation operating within meters when purchasing our home then our consideration to choose Spring Gardens for the location to raise our family may have differed.

Your sincerely

Richard Blades

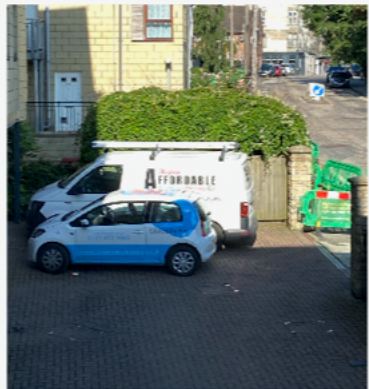
07-Feb	Owner	3x cleaner visits	1x maintenance van
08-Feb		1x cleaner visit	
11-Feb		Guests	Car parked awkward, large group outside
12-Feb		Guests	
13-Feb		Guests	
14-Feb		Guests	Large group over two vehicles departing and congregating. Smoking/vaping
14-Feb		Cleaner	
15-Feb		Cleaner	
16-Feb		Cleaner	
17-Feb		Cleaner	
25-Feb		Cleaner	
25-Feb		Guests	Large group congregating at front of property
26-Feb		Guests	Large group males
27-Feb		Guests	Groups of males coming and going throughout night
27-Feb		Guests	Three girls leaving after overnight stay.
28-Feb		Guests	Large group departing.
28-Feb		2x Cleaner visits	
01-Mar		2x Cleaner visits	
02-Mar		Cleaner	
03-Mar		Cleaner	
10-Mar		Maintenance vehicle x2	
10-Mar		Guests	
11-Mar		Guests	Group congregated at driveway. Smoking and ends littered.
12-Mar		Guests	
13-Mar		Guests	
14-Mar		Guests	
14-Mar		Cleaner visit	
16-Mar		Cleaner visit x3	Cleaner visits 2x vehicles at same time
17-Mar		Cleaner visit	
26-Mar		Cleaner visit	
26-Mar		Guests	
27-Mar		Guests	
28-Mar		Guests	
29-Mar		Guests	
30-Mar		Guests	
30-Mar		Cleaner visit	Multiple cleaners attending in multiple cars.
30-Mar		Owner	
31-Mar		Owner	
01-Apr		Owner	
02-Apr		Owner	
03-Apr		Owner	
04-Apr		Owner	
05-Apr		Owner	
06-Apr		Owner	
07-Apr		Owner	
08-Apr		Owner	

08-Apr	Guests	Cleaner visit
09-Apr	Guests	
10-Apr	Guests	
11-Apr	Guests	Cleaner visit
12-Apr	Guests	
13-Apr	Guests	
14-Apr	Guests	
15-Apr	Guests	
16-Apr	Guests	
17-Apr	Guests	
18-Apr	Guests	3x Cleaner visits
19-Apr	Guests	
20-Apr	Guests	
21-Apr	Guests	
22-Apr	Guests	Large group of golfers and equipment congregated in courtyard
23-Apr	Guests	
24-Apr	Guests	3x Cleaner visits with 3 separate vehicles
25-Apr		
26-Apr		
27-Apr	Owner	
28-Jul	Owner	
29-Apr	Cleaner visit	
29-Apr	Guests	
30-Apr	Guests	
01-May	Guests	
02-May	Guests	2x Cleaner Visits
03-May		Service/Maintenance visits
05-May	Guests	Overnight arrival of mini-bus (1:40AM) with unloading and attempt to put bus in garage.
06-May	Guests	
07-May	Guests	Driveway blocked by guests congregating, mini-van and car. Large group leaving over prolonged period of time.
08-May		2x Cleaner visit
11-May	Guests	Large group loud and arrived in two mini-vans
12-May	Guests	
13-May	Guests	
14-May	Guests	
15-May	Guests	Group congregated preventing car exit
16-May	Guests	
17-May	Guests	
18-May	Guests	2x Large group early morning congregating and loading into taxis
18-May		2x Cleaner visit
19-May		Cleaner visit
20-May		Cleaner visit
20-May	Guests	Guests arriving, car parked over entrance to drive
21-May	Guests	
22-May	Guests	
23-May	Guests	Service vehicle

25-May		Maintenance van 2x visits
26-May		Maintenance van, 2x cleaner visits
27-May	Guests	Urinating issue. Police Scotland call
28-May	Guests	Guest apology, residents email circular
29-May	Guests	
30-May	Guests	
31-May	Guests	
01-Jun	Guests	Large group congregating awaiting uplift. Also blocking car exit
01-Jun	Guests	2x Cleaner visit
02-Jun	Guests	
03-Jun	Guests	
04-Jun	Guests	
05-Jun	Guests	Cleaner visit, cleaner car parked across drive entrance whilst guests depart
05-Jun	Guests	
06-Jun	Guests	
07-Jun	Guests	
08-Jun	Guests	
09-Jun	Guests	Cleaner visit
09-Jun	Guests	Large noisy group arriving in mini-bus
10-Jun	Guests	Large loud group congregated on driveway preventing access
11-Jun	Guests	
12-Jun	Guests	Large loud group congregated early morning
13-Jun	Guests	Large group congregated
14-Jun	Guests	Large group preventing exit and taxi parked across driveway
14-Jun		Cleaner visit
15-Jun		Cleaner visit
24-Jun	Guests	
25-Jun	Guests	
26-Jun	Guests	
27-Jun	Guests	
28-Jun	Guests	
29-Jun		Cleaner visit
30-Jun	Guests	Cleaner visit Issues with guests arriving with multiple cars blocking access to courtyard Large group congregated x2
01-Jul	Guests	
02-Jul	Guests	
03-Jul	Guests	
04-Jul	Guests	Cleaner visit. Large group congregated
05-Jul	Guests	.
06-Jul	Guests	
09-Jul	Guests	Cleaner visit. Guests and cleaners congregated outside
10-Jul	Guests	
11-Jul	Guests	
12-Jul	Guests	Large group congregated. Cleaner visit x2
12-Jul	Guests	Large group arrival in multiple taxis

13-Jul
14-Jul

Guests
Guests



22/00179/REVREF - Objection to conversion of 18 Spring Gardens to short term let

PLACE is a grassroots network of residents personally affected by the rapid expansion of largely unlawful whole property short-term lets in our buildings and communities. The network was set up in April 2019 to share information on how to report short-term lets that are operating without planning permission or in breach of title conditions; and to lobby the City of Edinburgh Council and the Scottish Government to take action to protect residents' rights to peaceful, private and affordable homes.

We write to support residents who have been affected by the property in this case and to request that planning permission is again rejected. Their words echo many that we have received from residents who find their home affected by commercial activity operating within and near their homes.

We understand that proposals for a change of use will be assessed in terms of their likely impact on neighboring residential properties. We note that there is no private access from the street to this property and that the property is very close to several others with no shielding or separation.

We cite several cases relating to similar main door properties where a decision has been made which concludes that their impact would be detrimental to neighboring residential properties.

✓ 2021 - An Teagh Gael, The Lane, Dullatur, G68 0AU

Such gatherings or celebrations, whether described as a party or not, are likely to lead to additional activity, noise or disturbance at the property particularly at the weekends and in the evenings... These conclusions regarding the scale, character and regularity of the letting activity lead me to conclude that the short term letting is an ongoing commercial activity integrated with the appellants' occupancy of the property but carried out in a way that is not ancillary to the lawful dwellinghouse use.

- Neighbors already describe such additional activity and noise affecting their home.

✓ 2021 - 6 Campbell's Close , 87 Canongate , Edinburgh , EH8 8JJ

The appeal flat does not share an internal access stair with other flats. But the external steps used for its access pass very close to noise-sensitive parts of other residential properties. I assess this case on its own merits, and I believe that on balance it would not accord with policy Hou 7 of the Edinburgh Local Development Plan. This says that changes of use which would have a materially detrimental effect on the living conditions of nearby residents will not be permitted.

✓ 2019 - 1F, 11 Royal Circus, Edinburgh, EH3 6TL

"The communal entrance door is situated directly adjacent to the door and windows of the flats at number 13 Royal Circus and is in close proximity to the basement flat at Number 11B. Residents of those properties may also experience noise and disturbance, albeit to a lesser degree."

- This property is similarly close to neighboring homes.

✓ 2020 - Flat 1, 9 Elsie Inglis Way, Edinburgh, EH7 5FQ

I am not persuaded that the use of the French doors, via this space, is practical or indeed appropriate given the communal nature of the landscaping and given there is a clearly demarcated footpath to the communal entrance, only meters away. I am also not persuaded that the suggested use, only, of the French doors to the front of the property by short stay commercial visitors would avoid disturbance to neighbours in the adjacent ground floor flat. This is due to the proximity of the French doors of the appeal property to the nearest window in the adjacent flat and due to the potential number of visitors arriving and departing, the frequency of arrivals and departures and the times of arrivals and departures. Similarly, I am not persuaded that this would avoid disturbance to neighbours in the flat above which has French doors (and Juliet balcony) directly above the French doors to the appeal property.

- The balcony area has similar potential for noise to and from other homes.

✓ 2020 - 7 Lochmill Holdings, Antermony Road, Milton Of Campsie, G66 8AE

The council points out that the proximity of the holiday homes to the house at 7 Lochmill Holdings could lead to noise and disruption for residents at number 7. I agree that people often behave differently in holiday homes than they would at home. Holiday homes can also often be used for parties or social events when more noise could be expected. Frequent changeovers of guests would also mean more coming and going than would be normal in mainstream houses. Consequently, I agree with the council that the proximity of the holiday homes to number 7 could well lead to a reduction in residential amenity for residents in the latter house.

- This again describes the potential for impact to other main door homes as in this case.

✓ 2019 - Greenloaning, The Loan, West Linton, EH46 7HE

“...The house is accessed from an unsurfaced road in the north-east part of West Linton and is in an area characterised by large, in the main, detached houses set in substantial garden grounds in a semi-rural part of the village... the unauthorised use of ‘Greenloaning’ has an unacceptable impact on the character of the established amenity in this generally quiet part of West Linton.”

- This home is in a similar residential area. The impact of short-term lets are felt strongly here as in this case.

From: [REDACTED]
To: [Local Review Body](#)
Cc: [REDACTED]
Subject: Local Review No 22/03161/FUL
Date: 11 December 2022 16:25:28

Ref: 22/00179/REVREF

You request further written submissions regarding reference.

Firstly, we draw your attention to the remarks made in our submission of support to the planning application and commend those remarks to the Local review body.

Secondly, we note that an Enforcement Notice against broadly the proposed use has been quashed.

Finally, for the avoidance of doubt, we reiterate our support for planning consent in regard of the subject application.

Martin Bishop

22 Spring Gardens
Edinburgh
EH8 8HX

[REDACTED]

From: [Gina Bellhouse](#)
To: [Robin Holder](#)
Cc: [Local Review Body](#)
Subject: Local Review Body Request for Further Written Submissions - 22/03161/FUL, 18 SPRING GARDENS, EDINBURGH
Date: 25 January 2023 10:28:32
Attachments: [image002.png](#)
[image004.png](#)

Dear Robin,

Further to the attached decision notice, you will be aware that at the meeting of the Local Review Body on 18 January 2023 the Panel made a request under [The Town and Country Planning \(Schemes of Delegation and Local Review Procedure \(Scotland\) Regulations 2013](#) Regulation 15, for further written submissions, and specifically:

‘To continue consideration of the application for further written submissions both from the appellant/applicant and the planning officer with regards to Policy 30 Tourism of NPF 4.’

In accordance with Regulation 15, you now have 14 days to provide your comments in regards to the above. When responding please reply to all copied into this email to ensure the relevant parties have sight of your submission.

As you will see, the request for further written submissions was also made to the planning officer. Once both parties have prepared and submitted their comments, these will be exchanged and you will have a further 14 days to comment on the planning officer’s response.

Following receipt of all comments the case will be returned to the next available Panel 2 LRB meeting (potentially 22 March 2023).

If you gave any queries regarding the above, please do not hesitate to get in touch.

Regards,
Gina

Gina Bellhouse | Team Manager | Service Development and Appeals | Planning and Building Standards | Sustainable Development | Place Directorate | The City of Edinburgh Council | Waverley Court | Level G:3 | 4 East Market Street | Edinburgh | EH8 8BG | (Mon to Thurs) | gina.bellhouse@edinburgh.gov.uk | www.edinburgh.gov.uk Latest Planning updates <http://twitter.com/planningedin> and <http://planningedinburgh.com/>

Our office is still closed and we are working from our homes using email and other online communications.

Have you signed up to the [Planning Blog](#)? We will be using the Planning Blog to communicate and consult on important changes and improvements to the Planning service in 2021. Please sign up to the [Planning Blog](#) to make sure you are up-to-date.

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From: Blair Ritchie <Blair.Ritchie@edinburgh.gov.uk>
Sent: 24 January 2023 11:03
To: Robin Holder <robin@holderplanning.co.uk>
Subject: local review body

Dear Mr Holder,
**THE CITY OF EDINBURGH PLANNING LOCAL REVIEW BODY
REQUEST FOR REVIEW – APPLICATION NO. 22/03161/FUL.
REQUEST FOR REVIEW – 18 SPRING GARDENS,
EDINBURGH
TOWN AND PLANNING (SCOTLAND) ACT 1997 AS AMENDED BY THE
PLANNING ETC (SCOTLAND) ACT 2006**

I refer to your request for a review, on behalf of Mr Cran for the change of use from house to short stay commercial visitor accommodation at 18 Spring Gardens, Edinburgh.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 18 January 2023.

The Lead Planning Officer outlined Determining Issues for Planning Applications following parliamentary approval of NPF4, which should be taken into account when determining applications.

Decision

To continue consideration of the application for further written submissions both from the appellant/applicant and the planning officer with regards to Policy 30 Tourism of NPF 4.

Assessment

At the meeting on 18 January 2023, the LRB had been provided with copies of the notice of review submitted by you including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice, the report of handling and further information.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01,02, Scheme 1 being the drawings shown under the application reference number 22/03161/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan, principally:

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

2) Relevant Non-Statutory Guidelines.

The Relevant Scottish Planning Policy – Sustainable Development Principles

Guidance for Businesses

Revised Draft NPF4

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- What specifically were the objectors' complaints regarding noise in the communal space?
- It was advised that the objections were provided in full in the papers, and covered a range of issues, but mainly in relation to the loss of residential accommodation and the impact on the surrounding residents. The main complainant had listed the arrivals and departures to the property. This included visitors, staff and parked cars. This was all related to increased activity and that permanent residents might be more mindful of neighbours than visitors would be.
- This was more complicated than the previous short-term let which had been considered. If the Panel were to consider including grounds for NPF4, would it prudent to tell the appellant and those commenting to say that the Panel was considering this. Could they then appeal to the DPEA on the grounds of non-determination?
- It was explained that there would be no issue regarding non-determination. The decision would still remain with the Panel.
- It was explained that the Panel could request further written submissions from the appellant in respect of NPF4, and in particular Policy 30 on tourism. The Panel might want to get information from case officers, though probably not from objectors.
- There was some confusion with the reporter's decision. It was explained that the enforcement notice was served on the basis that a material change of use had occurred. The reporter was looking at this, on the basis of frequency of use and they thought that short term let use was sufficiently infrequent not to warrant a change of use, so they quashed the enforcement notice. Therefore, the status of the property remained residential. Now, there was a short term let control area in place, if someone wanted to use their property as a short term let, they now needed planning permissions, to get a licence.
- Why would personal permission be inappropriate for short-term lets?

When applying conditions, it is necessary to consider whether they are appropriate, reasonable and enforceable. The authority would need to know who was operating the short term let. And when considered alongside restricting the number of nights the premises could be let it would not be possible to monitor.

- It was appreciated that the number of nights per year was difficult to enforce and given government guidance, they said they did not want to look at restricted numbers. It was the issue of the personal licence of 3 years. Was it just the fact that it was put together with a number of conditions or was it was it personal licences that officers had concerns about?
- It was explained that there were tests for conditions as to whether there were reasonable grounds for enforcement. If it was appropriate to be operated as a short term let, it might be more appropriate to grant it in perpetuity.
- The application was for change of use to a short-term let, they had not specifically applied for a number of nights.
- It might be possible to continue consideration to allow the appellant to comment on the applicability of NPF 30 regarding tourism. The refusal was based on LDP Policy Hou 7. There were also the comments from the DPEA regarding the appeal. It was probable that there were insufficient grounds to refuse the application.
- One of the members disagreed. They did not think that section 30 of NPF4 was of sufficient relevance. The Panel should make a decision at this meeting. It was not normal practice to take into account the way a property was managed.
- Continuation would be useful, because of its complex nature, regarding communal space and the impact that had in the Panel's determination in respect to LDP Policy Hou 7, it was advisable to proceed with caution and ask for more information on NPF4.
- When the Panel used LDP Policy Hou 7 on amenity, it tended to be for the potential impact on shared stairs and this was a small shared communal area. There was a mixture of views from those residents in the surrounding area, there was also an enforcement issue. The individual house would be deemed suitable. Given this, the Panel should indicate they had considered Policy 30 Tourism of NPF4 and ask the officer and appellant to assess this in light of this.

-

Having taken all the above matters into consideration and although one of the members was in disagreement, the LRB was unable to make a final decision and determined to continue consideration of the matter to a further meeting of the Local Review Body (Panel 2) for further written submissions both from the appellant/applicant and the planning officer with regards to Policy 30 Tourism of NPF 4.

Contact

Please contact Blair Ritchie by e-mail blair.ritchie@edinburgh.gov.uk if you have any queries about this letter.

Yours sincerely

Blair Ritchie

for the Clerk to the Review Body

Notes:

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within six weeks of the date of the decision.
- 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 the 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 in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Blair Ritchie | Assistant Committee Officer | Committee Services | Corporate Services | City of Edinburgh Council | Waverley Court, Business Centre 2.1 | 4 East Market Street, Edinburgh, EH8 8BG | ☎: 0131 529 4085 | ✉:blair.ritchie@edinburgh.gov.uk

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APPLICANT: MICHAEL & CHERYL CRAN

RESPONSE TO REPRESENTATIONS

Application for a Change of Use from House to Short-Stay Commercial Visitor Accommodation.

18 Spring Gardens, Edinburgh, EH8 8HX

Date: December 2022

HolderPlanning

- 1.1 This document contains our response to the representations that have been made by parties to this Review.
- 1.2 We note that there have been 2 representations objecting to the proposed change of use and 4 representations in favour of it.
- 1.3 In our view, the most compelling submission made is that by the next door neighbour to 18 Spring Gardens, who shares the only party wall with the property. His comments are as follows (as directly quoted from an email made to the Review process):

“Mike and Cheryl Cran use their Edinburgh home a considerable amount. We know, for example, that they spent two weeks in October in the house plus three long weekends in November. Like last year, they will be spending Christmas and New Year in the house. The Christmas and New Year period would be particularly lucrative if they wished to let out the property and the fact that they choose to spend that time in the house demonstrates that they are not running this as a purely commercial activity. Their short term letting is on a relatively small scale and when they do have guests it is mostly family groups. You only have to read the reviews to gain an understanding of the type of people who stay there.

We must emphasise that the guests who use the house do not cause any disturbance; as we share a party wall we would hear if there were raucous gatherings or excessive noise and this has never been the case. Like the other properties in the development, we have two bedrooms, a dining room and a top floor studio overlooking the courtyard and have never experienced any noise or other disturbance from number 18's guests. There is definitely no loss of amenity as a result of guests staying at number 18.

There has been a suggestion that there is interaction between guests and residents in the courtyard. We have never seen anyone congregating in the courtyard; there is no reason to. As number 18 is directly opposite the entrance/exit to the development, anyone visiting the property does not have to pass in front of the other properties.

The Crans have our full support to continue using their home for short term lets.

P.S. This whole issue is the result of a vindictive campaign by one houseowner who happens to be the one who lives furthest away from the Crans and would thus be the least affected by any issues (if there had even been any). I find it almost unbelievable how much time and effort is being wasted as a result of this. I would be happy to discuss further as required.”

- 1.4 We note that there is only one objection to the Review, from the party referred to by the next door neighbour above. We have referred to that party in our main Review submission, making the point that they have been making misleading and vexatious complaints to the Council regarding the letting operation for a number of years now. Their most recent submission continues to make misleading and false allegations.
- 1.5 Moreover, an experienced Reporter has recently carefully considered the complainant’s case and has very firmly rejected their assertion that there is any harmful impact on their residential amenity. The Reporter reached this view after visiting the site, and carefully considering all of the relevant issues. Moreover, a number of near neighbours, including the one with a party wall, have written in support of the application.

- 1.6 This is despite the fact that the complainant has lobbied neighbours to object. The complainant has suggested that only two of the supporting neighbours are full time residents and that some are resident overseas. This is inaccurate. None live overseas and three are full time residents. One resident does a weekly commute, residing at weekends.
- 1.7 The complainant says the neighbour's responses were mixed. That is misleading as there is universal support from neighbours, albeit some who would prefer that the permission was temporary. This is because they are content with the way that the Cran's manage the property and understand that it is their intention to retire to the property about 3 years hence. As indicated in our Review statement, the applicant would welcome a condition which limits the permission to 3 years. An example of a competent way to deal with would be to apply a condition as follows:

This planning permission is granted for a temporary period of 3 years.

Reason: To limit the duration of the permission to a reasonable period of time, after which a future application can be considered in respect to the use's impact on the residential amenity of neighbours and any other relevant policies at that time.

- 1.8 The complainant has provided inaccurate information regarding dates of occupation. The Crans are scrupulous and honest in their affairs and are concerned that a vexatious party is allowed to provide such misleading information. The Cran's records are obtained from the websites bookings, which can be verified, and there have been no other bookings. It is notable that the complainant once accosted Mr Cran at the entrance to his home, swearing at the taxi driver who brought him there because the taxi was briefly in the shared parking area to drop Mr Cran off. Perhaps the complainant mistook Mr Cran for a guest. Aside from this highlighting that the complainant may be wrongly attributing the Cran's visits to guest visits, his abusive behaviour towards a taxi driver dropping off a fare demonstrates an unreasonably intolerant attitude to those around him.
- 1.9 The complainant says that the Reporter did not agree to view the complainant's CCTV footage of the applicant's property. We will leave the LRB members to form a view as to why the Reporter declined to view this footage, but it is clearly inappropriate for the complainant to film and retain images of the comings and goings of their neighbours. The complainant has submitted still photographs, which do not appear to indicate any significant issues, and are isolated in nature. The Reporter, who considered the information submitted by the complainant, including photographs, did not consider there to be any matters causing harm to their residential amenity.
- 1.10 The complainant says that their complaints are not vexatious and that there are various interactions between guests and neighbours in the courtyard. This claim is not verified by others and, if they have occurred, may well have involved the complainants themselves. In addition, we would suggest that the account of the Cran's next door neighbour is more reliable, who has stated that there have been no interactions they are aware of.
- 1.11 The complainant says there have been a number of complaints but does not mention that they have been the only complainant, making numerous complaints.
- 1.12 The complainant says that they are concerned that a change of ownership could make things worse. The applicant has indicated that it is willing to accept that the permission is temporary for 3 years.

For this reason, it is not accurate for the complainant to say that the letting is displacing another household, which in any case is not a planning policy consideration.

- 1.13 The other objection received for the Review process is from an organisation called PLACE, who describe themselves as a lobby group against short-term lets which they consider to be unlawful. They do not acknowledge that a Reporter has recently determined that the use is lawful. We are not aware that they have visited the site.
- 1.14 The very generalised comments made by PLACE lead one to the conclusion that they have not properly considered the particular circumstances of this case. They refer to number of appeal decisions on other applications which have been refused, which have no similarity to this case. All of these appeals relate to flats with shared internal stairs and/or where there has been clear evidence of anti-social behaviour and/or groups of guests into double figures, and complaints from a number of neighbours.
- 1.15 Although PLACE has referred to a number of appeal decisions, for some reason it has not mentioned the most relevant and recent appeal decision for 18 Spring Gardens itself, and where the Reporter concluded that the use as a short-term let had no harmful impact on nearby residential amenity.
- 1.16 In conclusion, therefore, the submissions made in response to the Review of this application do not raise any matters which suggest that this application is contrary to Policy Hou 2 of the LDP. Indeed, quite the contrary in our view.

This document comprises the Applicant's (Michael & Cheryl Cran) response to the Council's comments on Policy 30 of NPF4. The Council's comments are copied in full below, and our comments inserted in red.

For the reasons we give, it is our view that a fair reading of NPF4 leads to the unquestionable conclusion that the application accords with Policy 30 and LDP Policy Hou 7.

Application: 22/03161/FUL

At 18 Spring Gardens

Planning Services further written comments on NPF4 policy 30 Tourism:

On 18 January the Local Review Body continued consideration of application 22/03161/FUL at 18 Spring Gardens for the change of use from residential to a short term let. Specifically, further written submissions were requested from both from the appellant/applicant and the planning officer with regards to NPF4 Policy 30 Tourism.

Policy Framework:

Revised Draft National Planning Framework 4 was approved by the Scottish Parliament on 11 January 2023 to proceed to adoption. Adoption is likely to take place on 13 February 2023. On adoption the Revised Draft NPF4 will form part of the Council's Development Plan. **NPF4 has now been adopted as expected.**

The following policies are therefore relevant to the determination of this application:

LDP Policy Hou 7 Inappropriate Uses in Residential Areas

Developments, including changes of use, which would have a materially detrimental effect on living conditions of nearby residents, will not be permitted. **We agree that LDP Policy Hou 7 is a relevant consideration as the LDP remains part of the Development Plan, and which now also includes NPF4.**

Approved NPF4 Tourism

Policy Intent: 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.

Policy Outcomes: Communities and places enjoy economic, social, and cultural benefits from tourism, supporting resilience and stimulating job creation.

Local Development Plans:

LDPs should support the recovery, growth, and long-term resilience of the tourism sector. The spatial strategy should identify suitable locations which reflect opportunities for tourism

development by taking full account of the needs of communities, visitors, the industry, and the environment. Relevant national and local sector driven tourism strategies should also be taken into account.

The spatial strategy should also identify areas of pressure where existing tourism provision is having adverse impacts on the environment or the quality of life and health and wellbeing of local communities, and where further development is not appropriate.

Policy 30

a) Development proposals for new or extended tourist facilities or accommodation, including caravan and camping sites, in locations identified in the LDP, will be supported.

b) Proposals for tourism related development will take into account:

i. The contribution made to the local economy;

ii. Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;

iii. Impacts on communities, for example by hindering the provision of homes and services for local people;

iv. Opportunities for sustainable travel and appropriate management of parking and traffic generation and scope for sustaining public transport services particularly in rural areas;

v. Accessibility for disabled people;

vi. Measures taken to minimise carbon emissions;

vii. Opportunities to provide access to the natural environment.

c) Development proposals that involve the change of use of a tourism-related facility will only be supported where it is demonstrated that the existing use is no longer viable and that there is no requirement for alternative tourism-related facilities in the area.

d) Proposals for huts will be supported where the nature and scale of the development is compatible with the surrounding area and the proposal complies with relevant good practice guidance.

e) Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or

ii. The loss of residential accommodation where such loss is not outweighed by demonstrable

local economic benefits.

Short Term Let Control Area :

Section 17 of the Planning (Scotland) Act 2019 introduced powers for local authorities to designate Short-term Let Control Areas. The purpose of control areas is to: Help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood); **There is no evidence of high concentrations of secondary lettings on Spring Gardens and there is no other secondary letting in the terraced group of townhouses which share courtyard parking here. This application does not therefore conflict with or undermine the basis of the STL Control Area.**

- Restrict or prevent short-term lets in places or types of building where it is not appropriate; **18 Spring Gardens is a town house with main door access and a private garden and garage for car parking. The absence of an internal shared stairway means there is minimal opportunity for interaction between guests and residents. The fact that it is not a flat means that noise disturbance to neighbours does not occur between floors. Including the nearest neighbour with a party wall, a total of seven neighbours (between No 6 and No 22 Spring Gardens) have gone out of their way to write to the Council, expressing their support for the application. As we explain below, the planning officer has not concluded that there would be harm to residential amenity and an independent Reporter has concluded that there would be no harm. The significant number of neighbours supporting the application, all of whom have day-to-day experience of the use, contradicts the exaggerated and false account of the single objector who lives locally. The next door neighbour has confirmed in writing to the Council that guests do not congregate in the courtyard. The kind of guests that rent the house have no wish to 'loiter' in what is effectively a car park, but in any case the Crans advise all of their guests to respect their neighbours' privacy and amenity, which they do. A Reporter has recently considered the possibility of disturbance arising from activity in the courtyard (or anywhere else) and concluded that this is not a concern (see below).**
- Help local authorities ensure that homes are used to best effect in their areas. **The property is the Cran's second home presently, which will become their principal home when they retire there in about 3 years. Before they retire, it is being used to best effect for their area because there is use by visitors to Edinburgh when they are not resident.**

The Council's designation of the whole of the city as a Short Term Let Control Area came into effect on 5th September 2022.

Within this control area, planning permission is always required for the change of use of an entire dwellinghouse, that is not a principal home, to a short-term let (STL).

Edinburgh operates as a single housing market. There are high levels of demand and need for affordable housing which have been identified through an analysis of housing need and demand. Most properties operating as STLs were or are residential dwellings and any residential dwelling not being used for that purpose reduces the availability of housing in Edinburgh. **Perhaps this is true of “most” STLs in Edinburgh, but not in this particular case. As previously explained, the Crans live in the house on a very regular basis. If they were not allowed to rent the property as a short-term let, they have no intention of selling the house or making it available for a long-term let. Therefore, it would be categorically wrong to reach the view that the part time use as an STL reduces the availability of housing in Edinburgh. Moreover, although we acknowledge that there is high demand and need for affordable housing in the City for many reasons, the value of this property (£700,000 +) means it would never be available at anything close to an ‘affordable’ value as defined by the Council.**

A licensing scheme, The Civic Government (Scotland) Act 1982 (Licensing of Short term Lets) Order 2021 has now been approved requiring that, from July 2024, all STLs obtain a licence. The licensing scheme is complimentary to the control area and does not provide any regulation over the number of STLs or allow consideration of planning matters.

Comments :

NPF4 policy 30 Tourism overlaps considerably with LDP policy Hou 7. Both LDP policy Hou 7 and NPF4 policy 30, seek to protect local amenity and living conditions for existing residents.

NPF4 policy 30, whilst recognising the economic, social, and cultural benefits of a thriving tourism industry, acknowledges that it can also have adverse impacts on the environment or the quality of life and health and wellbeing of local communities, and the policy requires Local Development Plans to identify areas that may be subject to these pressures. Acutely aware of these pressures, the Council designated the whole of the city as a Short Term Let Control Area on 5th September 2022.

NPF4 Policy 30 Part b) sections i, ii, iii are particularly applicable to the use of residential properties as short term let accommodation within areas that are predominantly residential, are in close proximity to other residential uses and/or where the premises may share communal spaces with other residential developments.

NPF4 Policy 30 Part e) states development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal **will result in (our emphasis):**

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

With regards to the property at 18 Spring Gardens, the use of the premises as a short term let is considered in the Report of Handling to be unacceptable due to the impact this **could have (our emphasis)** on residents both within the immediate development of four townhouses, and also on the wider residential area. **It is therefore apparent that the planning officer has incorrectly assessed the proposal against Policy 30(e) i.e. the planning officer has concluded that it is contrary to Policy 30e(i) on the basis of a speculative assumption whilst the policy requires a definitive view that the use “will result in” an unacceptable impact. The planning officer has reported that there is a single objection from someone who lives locally, but at no point has the planning officer indicated that they agree with the objector or have any of their own evidence to support it.**

Moreover, as this is a retrospective application, the **actual** impact of the use on the amenity of the area can be readily assessed, which has helpfully been very recently thoroughly investigated by a Scottish Government Reporter. The Reporter concluded that there was no harm to the amenity of the area, concluding in paragraph 13 of his appeal decision that:

“Number 18 is located directly across from the vehicular access and open to the road. This layout limits the requirement for guests to pass by the neighbouring properties within the terrace when leaving or returning on foot or in vehicles. I recognise that the other residents are required to pass Number 18 to reach their properties but based on the courtyard layout, lack of secure access and its proximity to the public road I do not consider this to create any significant amenity or safety concerns. In my view families or friends holidaying together tend to leave and return as a group, either on foot or by vehicle, thereby limiting the periods guests spend within the courtyard and further minimising any disruption caused.”

We note that LDP Policy Hou 7 is phrased in similar terms to NPF4 Policy 30(e), as follows, using the word “would” rather than “could”:

“Developments, including changes of use, which would (our emphasis) have a materially detrimental effect on the living conditions of nearby residents, will not be permitted”

It would therefore be incorrect for the LRB to refuse this application on the basis of an unevicenced possibility that the use will cause harm to the living conditions of nearby residents. In 7 years of the part-time letting of the property, there have never been significant harmful impacts arising, and there is no reason to believe that there could be in the future. Seven neighbours have gone out of their way to support the application, and an independent Reporter has recently concluded that no harmful impacts will arise from the use.

All but one objection are from people who do not live locally and appear to have an ‘in principle’ objection to short term lets, providing generic comments on short-term lets, mostly in respect to flats.

The proposal therefore fails to comply with NPF4 Policy 30 part e) i. **For the reasons given above, that is incorrect because the planning officer has misinterpreted this policy on the basis that the phrase “will not result in” is analogous to ‘could result in’. Such misinterpretation appears wrong in law, and any decision founded upon it would leave that decision susceptible to legal challenge (judicial review). Moreover, even if NPF4 and LDP Policy used the word “could” instead of “would” or “will”, the Reporter’s conclusion and the overwhelming support of near neighbours for the application provides compelling evidence that it is not reasonable to even conclude that the use ‘could’ harm the living conditions of neighbours.**

With regards to NPF4 Policy 30 part e) ii, the use of the property as a short term let would result in the loss of a residential property. Analysis has identified that there are high levels of both need and demand for housing in Edinburgh. It is important therefore in meeting this need to retain existing dwellings in residential use. **As we have explained above, the dwelling is in regular residential use by the Crans. If this application is refused the Crans will continue to live there and will not be selling the property. So, as a matter of fact, there will be no loss of an existing dwelling, and it would be perverse to conclude otherwise. If the LRB was to conclude that this application does result in the loss of a residential property, that conclusion would therefore be susceptible to judicial review.** The entire Council area has been designated as a short-term let control area in acknowledgment of this need. It is recognised that whether in use as a residential dwelling or a short term let local economic benefit would be generated. There is no evidence of local economic benefits from use of this property as a short-term let which outweigh the loss of residential accommodation in the context of the recognised need for housing in Edinburgh. **Given that there is no loss of a house in the first place, this part of Policy 30e(ii) is not applicable in this case. However, even if it was applicable, the planning officer’s statement that there is no evidence of local economic benefits is wrong. As we have stated in our main submission on NPF4, the guests will visit paid attractions and spend money in bars and restaurants. If there were no guests then the house would be empty when the Crans are not there, and there would be no economic activity at all. Therefore, as a matter of fact, there will be local economic benefits from letting the property. A finding by the LRB that the part time STL use of this particular property does not have any economic benefits would therefore also be susceptible to judicial review.**

The proposal therefore fails to comply with NPF4 Policy 30 part e) ii.

In conclusion, a fair and lawful reading of NPF4 Policy 30 cannot lead to the conclusion that this application fails to comply with it. The same is true in respect to LDP Policy Hou 2. We therefore

respectfully request that planning permission be granted.

08/02/23

APPLICANT: MICHAEL & CHERYL CRAN

COMMENTS ON NPF4 POLICY 30

Application for a Change of Use from House to Short-Stay Commercial Visitor Accommodation.

18 Spring Gardens, Edinburgh, EH8 8HX

Date: January 2022

HolderPlanning

- 1.1 This document contains our response to the LRB’s request for comments on Policy 30 (Tourism) of NPF4.
- 1.2 Briefly, to explain the status of NPF4; on 13th February 2023, NPF4 will be adopted and will form one of two parts of the statutory development plan, the other part being the Edinburgh LDP 2016. As LRB Members will be aware, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 1.3 From our reading of NPF4 and the adopted LDP, the two documents are not in conflict with each other in respect to the consideration of this application. However, NPF4 Policy 30 contains specific provisions in respect to tourism and short-term let applications which are absent from the LDP, which we address below.
- 1.4 Policy 30 contains two clauses – (b) and (e) – which are relevant. Clauses (a), (c) and (d) are not relevant in our view.

Policy 30 – Clause (b)

Policy 30(b) states:

Proposals for tourism related development will take into account:

- i. The contribution made to the local economy;**
- ii. Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;**
- iii. Impacts on communities, for example by hindering the provision of homes and services for local people;**
- iv. Opportunities for sustainable travel and appropriate management of parking and traffic generation and scope for sustaining public transport services particularly in rural areas;**
- v. Accessibility for disabled people;**
- vi. Measures taken to minimise carbon emissions;**
- vii. Opportunities to provide access to the natural environment.**

- 1.5 At the outset, it should be noted that Policy 30(b) does not require all of its provisions to be met for permission to be granted. Rather, it refers to matters to be taken into account. Notwithstanding that point, the proposal is supported by all of the provisions.
- 1.6 On sub-clause (i) it is difficult to precisely quantify the contribution to the local economy. However, the property is usually let to family groups holidaying in Edinburgh from the UK and abroad. They will therefore usually visit Edinburgh’s paid attractions, including dining out more frequently than your average full-time resident. Guests attend the Military Tattoo (which both Mike and Cheryl Cran have worked at), the Yarn festival, the Science festival, the International Children’s Festival, the

Edinburgh Marathon and play golf, amongst other things. They will therefore make a contribution to the City's economy, over and above the owner's part time residence and expenditure, and their payment of Council tax.

- 1.7 With regard to clause (b)(ii), the use is compatible with the surrounding area. This part of the policy is analogous to Policy Hou 7 of the LDP which is of course already part of the LRB's consideration. The LRB will have already noted that there is only one person living locally who has raised concerns regarding amenity impact and their complaints have led to Enforcement actions by the Council (even though the Council had no corroborating evidence that there was a problem as alleged). The applicant appealed against the Enforcement Notice and the Reporter, who visited the site and very thoroughly assessed the position, concluded that there was no significant impact on neighbouring amenity – from the courtyard area or anywhere else. Although we accept that different people have varying tolerance to 'disturbance', the clear evidence is that this one objector is unreasonably intolerant to the slightest inconvenience as he/she perceives it. There are a number of representations supporting the use and also corroborating comments from neighbours that the objector is not reasonable. It should also be noted that the planning handling report contains no direct evidence of any disturbance to residential amenity – instead it refers to the objection and the potential for disturbance.
- 1.8 In summary, therefore, there is only one objector who is alleging a harmful impact of the use. Whereas A Scottish Government Reporter and nearer neighbours, including the one with a party wall, all agree that there is no harmful impact on their residential amenity. It would therefore not be reasonable to accept the objector's exaggerated and untrue account of matters.
- 1.9 Policy 30 b(iii) refers to *"impacts on communities, for example by hindering the provision of homes and services for local people"*. **This is definitively not the case here.** This is one of two homes owned by the applicant, bought with the intent of retiring there, at which point they will sell their other home. The Crans intend to retain ownership 18 Spring Gardens in any circumstances, and so there is no question that the house's part-time use for short-term letting is hindering homes and services for local people. **Indeed, Mr and Mrs Cran are local people** because they currently live there every month, usually for 5 days to 2 weeks and participate in community affairs. They are members of Edinburgh Leisure and use the new Meadowbank Gym practically everyday they are there.
- 1.10 Policy 30 b(iv) refers to sustainable travel and appropriate management of parking and traffic generation. Spring Gardens is located close to bus routes and is in easy walking distance of some of Edinburgh's main attractions, including Holyrood Palace, the Scottish Parliament, Holyrood Park and the High Street. Most of the guest arrive by public transport, on foot or by taxi. The house has two dedicated parking spaces which are more than enough to cater for guests on occasions where they have a car. The one objector mentions that cars or taxis arriving have blocked immediate access/egress to their house. This has happened on only 2 occasions in 7 years of letting and as very isolated incidents cannot in our view be reasonably described as a problem.

- 1.11 Policy 30 b(v) refers to access for the disabled. In this regard the house, being quite new, meets modern building standards for disabled access, including a bedroom and shower-room on the ground floor. The Crans make a particular effort to accommodate those who are not as enabled as most, often accommodating family groups that need a safe and convenient space for one or more elderly or impaired relatives, which is not available in most hotels. For example, they are shortly to accommodate two guests with significant learning difficulties and their two carers. They will each be able to have their own bedroom, which would be unaffordable in an hotel. Also, one family group from the USA, who are regular visitors and have a forthcoming booking, have a daughter with Down's Syndrome. That guest has kindly emailed Crans on 3rd February 2023 when they heard that there was an objection to the house being let, as follows:

*I have stayed at Mike and Cheryl Cran's house on 2 separate occasions with my daughter, Lauren who has some learning needs. The house offered us the opportunity for Lauren to be more independent than if we had stayed at an hotel in the city She has some sensory processing issues, and being able to stay in her own space and set up her things in her way, was invaluable. It allowed her quiet time to decompress while still being able to relax to the beautiful view. Each bedroom has its own bathroom and there are 2 sitting areas each with a television so that a family can have plenty of space to relax. This house is very well equipped for guests to eat in and is conveniently located close enough to the city centre to allow you to walk to restaurants. The house offers the type of space which I couldn't expect from an hotel. I understand there is some objections because of the communal court yard. However nobody hangs around in this area - it is simply a space between the pavement and the front door and the location of Mike and Cheryl's house means that you don't pass in front of any other property.
This property has quickly felt like our home away from home and we would stay there again and again. The availability of this property brings great peace and happiness to our family and the Cran's are kind, accomidating and helpful.
My daughter cannot wait to plan our next stay at the Cran's home*

*Sincerely
Jennifer Visnesky*

- 1.12 Policy 30 b(vi) refers to minimising carbon emissions. Given the house is quite new, it well insulated with efficient heating. However, in our view this part of the policy is of limited relevance to the proposal, because a residential use would, in principle, have the same carbon footprint as a short-term let.
- 1.13 Finally, Policy 30 b(vii) refers to opportunities to access the natural environment. The house overlooks and is easily accessible to Holyrood Park. Guests have also commented about the proximity to Portobello Beach and Edinburgh's beautiful green spaces.

Clause 30(e)

- 1.14 Clause 30(e) states:

Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

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

- 1.15 In regard to Policy 30 e(i), we have explained above and in our earlier statements why there is very strong evidence that there is no harm to local amenity. Equally, we do not consider there to be unacceptable impact on the character of the area. In fact, if the LRB members were to visit Spring Gardens, they would not detect any noticeable difference at all resulting from the part-time letting of this property. Moreover, LRB members will appreciate that to grant this application does not set a precedent for granting further short-term lets in the area because if there were any future applications from neighbouring properties for a change of use, these would have to be considered on their merits, including whether or not additional short-term lets in the locality would have an impact on the character of the area.
- 1.16 As we have indicated in our previous statements, Mr and Mrs Cran are scrupulous in their vetting of guests and their application of house rules to ensure that guests respect their neighbours' amenity.
- 1.17 If the LRB has concerns about the long-term management of the property, and given the fact that the Crans intend to cease the letting of the property in 3 years' time when they retire, it would be quite appropriate for a grant of planning permission to have a condition attached which limited the duration of the permission.
- 1.18 On our viewing of the LRB meeting on 18th January, we noted that the LRB's Planning Adviser was asked why a limit on the duration of the permission was not an option. Respectfully and in fairness, we do not think the answer given provided a good reason why it is not possible in this particular case. We accept that it would not usually be correct to apply a permission duration limitation to a proposal that involved new build because thereafter it may be problematic or unreasonable to require the building to be removed. However, in the case of a change of use such as this, where the planning authority may have concerns about permitting the use in perpetuity, it is quite appropriate to apply such a condition. The applicant is therefore content for the following condition to be attached to the permission:

This planning permission is granted for a temporary period of 3 years.

Reason: To limit the duration of the permission to a reasonable period of time, after which a future application can be considered in respect to the use's impact on the residential amenity of neighbours and any other relevant policies at that time.

- 1.19 Policy 30 e(ii) indicates that short-term lets will not be supported where the loss of residential accommodation is not outweighed by demonstrable local economic benefits. **In this case there is no loss of residential accommodation because it is and will continue to be used as such by the Crans.**

It is therefore not necessary to demonstrate that there will be local economic benefits, although as explained above under Policy 30 b(i), there inevitably will be such benefits.

Conclusion

- 1.20 An independent Scottish Government Reporter, after very thorough consideration, has found that the operation of a short-term let at 18 Spring Gardens has no harmful impact on local residential amenity. In making this finding, he considered the comments of the one objecting resident in the courtyard. Although he reached this conclusion in respect to an Enforcement Appeal, it is equally relevant to the LRB's consideration of compliance with LDP Policy Hou 7 and NPF4 Policy 30 (b)(ii) and clause e(i). The only direct evidence that the LRB has to the contrary is that of the one objecting resident, and that evidence is not corroborated by any other party. Quite the contrary, as the application is supported by the immediate neighbour and other neighbours.
- 1.21 As regards the other provisions of NPF4, we have set out above why the application is supported by all of them. Nevertheless, the applicant is content for a condition that limits the duration of the permission for 3 years.

Graphite Studio Chartered Architects.
FAO: Simon Brims
7/3 East Trinity Road
Edinburgh
EH5 3DZ

Mr Callis
22 Coillesdene Crescent
Edinburgh
EH15 2JH

Decision date: 21 December 2022

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

Replace existing roof to form mansard, form storey-and-a-half extension to rear, build garden studio.

At 22 Coillesdene Crescent Edinburgh EH15 2JH

Application No: 22/05269/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 18 October 2022, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Reason for Refusal:-

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the proposed bungalow roof development would not be compatible with the bungalow property and would have a detrimental impact on the surrounding bungalow neighbourhood character.
2. The proposals are contrary to the non-statutory Guidance for Householders as the proposed bungalow roof development does not respect the original character of the bungalow or its original roof design.

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

Drawings 01 - 05, 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 proposed works to the dwelling are not in accordance with the Development Plan. The works are not compatible with the existing building and would be detrimental to the neighbourhood character. Although the works do not result in an unreasonable loss of neighbouring amenity the proposals do not comply with the non-statutory Guidance For Householders, or the LDP policy Des 12, and the overall objectives of the Development Plan. There are no further material considerations to be considered. Therefore, the proposal is not acceptable.

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 Blair Burnett directly at blair.burnett@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
22 Coillesdene Crescent, Edinburgh, EH15 2JH

Proposal: Replace existing roof to form mansard, form storey-and-a-half extension to rear, build garden studio.

Item – Local Delegated Decision
Application Number – 22/05269/FUL
Ward – B17 - Portobello/Craigmillar

Recommendation

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

Summary

The proposed works to the dwelling are not in accordance with the Development Plan. The works are not compatible with the existing building and would be detrimental to the neighbourhood character. Although the works do not result in an unreasonable loss of neighbouring amenity the proposals do not comply with the non-statutory Guidance For Householders, or the LDP policy Des 12, and the overall objectives of the Development Plan. There are no further material considerations to be considered. Therefore, the proposal is not acceptable.

SECTION A – Application Background

Site Description

The application refers to a single storey bungalow with a low pitch, hipped roof. The property features a single storey, flat roof side garage, and flat roof rear extension. In the rear garden the property features two ancillary buildings.

The established character of this area is defined by the bungalow building type and within this neighbourhood character, there are two defined roof forms for the bungalows these are - hipped, 30 degree pitch angle, measuring 5.6m from ground to ridge; and hipped, (approximately) 35 degree pitch angle, measuring 6m from ground to ridge.

Several properties have been developed with many featuring flat roof side and rear extensions. In terms of roofscape development, several feature dormers, with some altering the roof - however, this is primarily extending the roof to the rear utilising an intersecting hipped roof and maintaining the existing roof pitch.

Beyond this, there are some examples of whole roof alterations to extend the width and roof pitch. On Coillesdene Avenue (approximately 100m from the site boundary) there are three examples of roofscape development which altered the roof pitch. The first for a mansard roof with no online record of development, second in 2004 for a pitch of 45 degrees, and lastly in 2013 for a 42.5 degree pitch. These very limited examples were granted permission in the past and do not comply with current guidelines, therefore, these should not be taken as setting any form of precedent and should not be used as examples to follow as they do not represent the character of the area.

Description Of The Proposal

The application refers to the:

Removal of the existing hipped roof;
Removal of existing chimneys;
Removal of the flat roof side garage;
Removal of the flat roof rear extension;

Replacement of the side and rear extension on a similar footprint;
Replacement of the roof at a 50 degree pitch over the whole new footprint;

Addition of a small glass roof rear extension;
Addition of an ancillary building with flue; and
Addition of hardstanding for ancillary building.

Supporting Information

- Supporting design statement

Permitted Development

The addition of hardstanding for the ancillary building would be permitted development under Class 3C of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended). No assessment of its merits are therefore required as part of this planning application.

Relevant Site History

98/01310/FUL
22 Coillesdene Crescent
Edinburgh
EH15 2JH
House extension
Granted
1 July 1998

Other Relevant Site History

Coillesdene Crescent applications which extend or alter the roof to the rear of the property, but maintain the roof width and hipped roof angle:

94/00642/FUL
24 Coillesdene Crescent Edinburgh EH15 2JH
Alter & extend dwelling house (as amended)
Granted
29 June 1994

98/02114/FUL
32 Coillesdene Crescent Edinburgh EH15 2JJ
Alter & extend dwelling house
Granted
11 November 1998

02/01200/FUL
8 Coillesdene Crescent Edinburgh EH15 2JH
Extend dwelling house
Refused
10 May 2002

02/03757/FUL
8 Coillesdene Crescent Edinburgh EH15 2JH
Alter + Extend dwelling house
Refused
5 February 2003

03/02120/FUL
8 Coillesdene Crescent Edinburgh EH15 2JH
Alter and extend dwelling house
Granted
31 July 2003

04/00061/FUL
41 Coillesdene Crescent Edinburgh EH15 2JL
Extension of a domestic dwelling house (as amended)
Granted
15 March 2004

10/00908/FUL
10 Coillesdene Crescent Edinburgh EH15 2JH
Single storey rear extension with hipped and flat roof
Granted
28 May 2010

18/10058/FUL
11 Coillesdene Crescent Edinburgh EH15 2JH
Ground floor rear extension and rear elevation dormer (as amended).
Granted
22 March 2019

Coillesdene Avenue applications which extend the roof to the rear and side, but maintain the hipped roof angle:

14/00055/FUL

36 Coillesdene Avenue Edinburgh EH15 2JW
Single storey extension to side and rear of property, increase in the height of the roof and formation of dormers to front and rear elevations (as amended).

Granted

7 March 2014

Coillesdene Avenue applications which alter the whole roof and hipped roof angle:

43 Coillesdene Avenue Edinburgh EH15 2JW
Mansard roof, no online record available

04/02671/FUL

34 Coillesdene Avenue Edinburgh EH15 2JW

Alter and extend house

Refused

8 October 2004

04/03968/FUL

34 Coillesdene Avenue Edinburgh EH15 2JW

Alter and extend house

Granted

23 December 2004

12/02659/FUL

46 Coillesdene Avenue Edinburgh EH15 2JR

Extension of bungalow. Conversion of attic.

Refused and Upheld

27 September 2012

13/01204/FUL

46 Coillesdene Avenue Edinburgh EH15 2JR

New hipped roof with dormer and side extension.

Granted

14 June 2013

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 31 October 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 1

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- 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 comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Design policies Des 12.

The non-statutory Householder Guidance is a material consideration that is relevant when considering policy Des 12.

Scale, form, design and neighbourhood character

Within a bungalow area, the form of a hipped roof is an important feature which contributes significantly to the character of a neighbourhood, and this is particularly true when viewing the bungalow from the public streetscape. The Guidance For Householders outlines that any extension to the original bungalow should retain the original character, not imbalance the principle elevation, and respect the hipped roof character of the original dwelling. This non-statutory guidance assists development to comply with the Edinburgh Local Development Plan in which Policy Des 12 requires development to be compatible with the existing building and not have a detrimental impact on the neighbourhood character.

When looking specifically at the proposed roof design, it is proposed to replace the entire bungalow roof with a 50 degree pitch hipped roof over the original and extended footprint. This roof design would incorporate two primary elevation dormers, a rear elevation dormer with Juliet balcony, ten skylights on the roofscape, a solar thermal panel, a rooflight and eleven angled solar panels on the flat roof section.

In principle, the surrounding development has suggested that extending the roof may be acceptable in some circumstances, however, these are primarily extending to the rear and maintaining the existing roof pitch. Under these circumstances, development would respect the character of the bungalow and its hipped roof. However, the proposal

at 22 Coillesdene Crescent would extend the roof to the side and increase the existing roof pitch by 20 degrees which would not be compatible with the established character of development in the area. While limited examples are present, these do not represent the holistic character of the neighbourhood, therefore, the principle of increasing the roof width and pitch would be unacceptable.

Extending the width of the roof over the side extension would imbalance the original appearance of the bungalow property as the side extension would not appear to be subservient to the original dwelling. While the replacement of the side and rear extension structure would be acceptable, the proposed roof design extending over this replacement structure would be unacceptable. This imbalance of the primary elevation would not respect the original character of the bungalow property and in turn would be detrimental to the character of the surrounding bungalow neighbourhood.

The existing hipped roof is a lower pitch at a 30 degree angle. There are two primary roof types in the area - 30 degrees and approximately 35 degrees - these form the part of the defined character of the area as originally intended. Altering the roof by increasing the pitch angle from 30 degrees to 50 degrees would not respect or match the original roof of the bungalow and would not match the established character of the surrounding area. Therefore, this alteration would not be compatible with the existing building and would be detrimental to the surrounding area.

While the proposed roof height would be 6 metres from ground to ridge - similar to higher roof types in the area - the proposal would include several angled solar panels on the flat roof section of the new roof. While these would be a minimal addition to the roof, as these are angled, they would be readily visible to the streetscape and would increase the overall massing of the development to 7 metres.

On the primary elevation two dormers are proposed, due to the increased roof width these would comply with the Guidance For Householders, however, the established character of the area includes a single primary elevation dormer. Therefore, the addition of two dormers would not be compatible with the wider neighbourhood and is only achievable through increasing the roof width which has been assessed above as unacceptable.

Overall, the cumulative impact of the roof alteration changes the style and structure of the roof entirely. These changes alter the interpretation of the bungalow property because the roof is such a key characteristic when defining a bungalow character and appearance. The proposal would be against the Guidance For Householders and would not be compatible with the existing character of the bungalow. Moreover, the changes to the character and appearance of the bungalow would be readily visible from the public streetscape and as a result the proposal would have a detrimental impact on the character of the bungalow neighbourhood.

The creation of a small rear extension is of a suitable scale that it would be compatible with the existing dwelling and the addition of an ancillary building in the rear garden would be a suitable addition given the existing ancillary buildings.

Neighbouring Amenity

With respect to privacy, overshadowing and loss of daylight or sunlight, the proposals have been assessed against requirements set out in the non-statutory 'Guidance for

Householders'. The proposals will not result in any unreasonable loss to neighbouring amenity.

With respect to daylight and sunlight the replacement of the side and rear extension is situated on a similar footprint. Therefore, there would be no new daylight or sunlight impacts as a result of the proposal. Similarly, the new impact from the ancillary building would primarily fall on the neighbouring ancillary building.

With respect to privacy there would be no direct window to window conflicts as a result of the proposal.

With respect to overlooking, the direct outlook from the primary elevation dormers does not introduce any new overlooking concerns. Similarly, the rear dormer with Juliet balcony will directly overlook the applicants own garden.

Conclusion in relation to the Development Plan

The proposals are not compatible with the existing building and would be detrimental to the neighbourhood character. Although the proposals do not result in an unreasonable loss of neighbouring amenity, the proposals do not comply with the non-statutory Guidance For Householders or the LDP policy Des 12 and the overall objectives of the Development Plan.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little 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

One objection received, summarised as:

material considerations

Concern for the raising of the roof - Considered, further details in section a) above.

Concern for the massing impact on the wider area - Considered, further details in section a) above.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposed works to the dwelling are not in accordance with the Development Plan. The works are not compatible with the existing building and would be detrimental to the neighbourhood character. Although the works do not result in an unreasonable loss of neighbouring amenity the proposals do not comply with the non-statutory Guidance For Householders, or the LDP policy Des 12, and the overall objectives of the Development Plan. There are no further material considerations to be considered. Therefore, the proposal is not acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the proposed bungalow roof development would not be compatible with the bungalow property and would have a detrimental impact on the surrounding bungalow neighbourhood character.
2. The proposals are contrary to the non-statutory Guidance for Householders as the proposed bungalow roof development does not respect the original character of the bungalow or its original roof design.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 18 October 2022

Drawing Numbers/Scheme

01 - 05

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Blair Burnett, Assistant Planning Officer
E-mail: blair.burnett@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/05269/FUL

Application Summary

Application Number: 22/05269/FUL

Address: 22 Coillesdene Crescent Edinburgh EH15 2JH

Proposal: Replace existing roof to form mansard, form storey-and-a-half extension to rear, build garden studio.

Case Officer: Householder Team

Customer Details

Name: Org Portobello Amenity Society

Address: 4a Elcho Terrace Edinburgh

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:Portobello Amenity Society objects to this major alteration and raising of the roof to this bungalow which will dominate the pleasing prospect from the street of the row of traditional bungalows. It is difficult to establish what the increased height of the roof will be as there is no dimensioned figure, as far as can be seen, on the drawings. An internal dimension of 2.4m is given however a floor to ceiling height of 2.3m for habitable rooms is acceptable and why the roof has to be raised above the current ridge height is unknown.

The visual mass of the extended roof is out of scale with the surrounding properties and this will be exacerbated by the array of photovoltaic panels, not that the Society objects to solar panels per se. It is considered that this extent of modification to the bungalow as being overdevelopment of the confined site.

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100603694-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Graphite Studio Chartered Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Simon	Building Name:	
Last Name: *	Brims	Building Number:	7
Telephone Number: *	01315528837	Address 1 (Street): *	East Trinity Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH5 3DZ
Email Address: *	mail@graphitestudio.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Matthew"/>	Building Number:	<input type="text" value="22"/>
Last Name: *	<input type="text" value="Callis"/>	Address 1 (Street): *	<input type="text" value="Coillesdene Crescent"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Joppa"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH15 2JH"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="22 COILLEDENE CRESCENT"/>
Address 2:	<input type="text" value="JOPPA"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH15 2JH"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673140"/>	Easting	<input type="text" value="331669"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Replace existing roof to form mansard, form storey-and-a-half extension to rear, build garden studio

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Separate statement submitted with Supporting Documents

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Planning Appeal 19.01.23 (supporting statement) Drawing Nos CLD (PL) 001, 002, 003 & 004 (original Planning application drawings uploaded again to online Portal)

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/05269/FUL

What date was the application submitted to the planning authority? *

18/10/2022

What date was the decision issued by the planning authority? *

21/12/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Simon Brims

Declaration Date: 24/01/2023

**Domestic Roof Replacement
& Rear Extension
22 Coillesdene Crescent
Joppa EH15 2JH**

M Callis & S Champion

Planning Application Ref No 22/05269/FUL

PLANNING APPEAL

**Graphite Studio
Chartered Architects**
7/3 East Trinity Road
Edinburgh EH5 3DZ

Tel 0131 552 8837

First Issue 19.01.23

**22 Coillesdene Crescent
Joppa EH15 2JH**

Planning Application Ref No 22/05269/FUL

The key points being made in support of the proposed design for 22 Coillesdene Crescent are as follows :

- **There is not a single roof type on the estate**

There are many different examples of altered and extended roofs, dormers, mansards etc. in the area

- **The neighbours were very happy with the proposed design**

The clients visited the immediate neighbours at 20 Coillesdene Crescent to show them the design before lodging the Planning application as they will be the most affected by the alterations to the existing property. It is an improvement on the existing situation, which is currently a blank brown dry dashed wall. This wall will be replaced with white render, and the neighbours were satisfied with the improvements

- **There was only one objection to the Planning application**

The objection was from the Portobello Amenity Society. This is a local voluntary organisation and does not represent the views of the immediate neighbours of the proposed development who will be directly affected by it. None of the immediate neighbours raised any objections to the Planning application

- **The area has no Listed buildings and is not a Conservation Area**

It is not on a main arterial route into the city and the proposed alterations have little impact on the surrounding built environment

- **There are many examples throughout Edinburgh where a bungalow roof has been taken off completely and replaced with a mansard**

Graphite Studio Chartered Architects designed a very similar project in Glasgow Road and this was granted Planning Consent without any objections from the Planning Department in 2020

**22 Coillesdene Crescent
Joppa EH15 2JH**

Planning Application Ref No 22/05269/FUL

The new roof which is proposed for 22 Coillesdene Crescent would be only a little higher than the ridge of the original roof of the property, but it would not be nearly as high as the roof of many other properties in the area.

The new roof would have a steeper pitch than the original roof but, again, the pitch would only be a few degrees steeper than other properties nearby.

Walking around the immediate neighbourhood reveals that, while the original ground floor layouts may have been similar when built, there are almost as many roof designs as there are properties.

The Planning officer notes in the Report of Handling that the ridge heights in the area are generally 5.6m for hipped properties with approximately 30 degree roof pitches and generally 6m for hipped properties with approximately 35 degree roof pitches. The proposals for 22 Coillesdene Crescent will create a ridge height of approximately 6035mm measured on the street elevation and approximately 5715mm measured at the rear where the ground level is rising.

So, it is clear that the proposals will be no higher than most properties in the area according to the Planning officer's statement in the Report of Handling. However, we would suggest that the roof pitch for the higher style of properties is more than 35 degrees as can be seen in the photographs attached below. We dispute the Planning officer's statement that 35 degrees is a common roof pitch, and we also suggest that the ridge height of many properties in the area is much more than 6m.

The Planning officer suggests in the Report of Handling that the new mansard roof proposed for 22 Coillesdene Crescent would create a front elevation that is 'unbalanced'. This elevation and roofscape was carefully designed so that the roof is not so large that the building appears 'top heavy', so our aim was to create a balanced elevation. We would suggest this balance has been achieved, and photographs of built examples are enclosed below. We suggest that these properties are in no way 'unbalanced' and it is useful to see built examples of similar designs which have been realised in the past.

The existing property has mineral wool at ground floor ceiling level between the ceiling ties and no other form of roof insulation. The existing flat roofed extension to the rear, due to its age and construction method, will have only very limited insulation which is unlikely to be more than 25 or 50mm thick. All of this existing fabric will be replaced with the new roof which will have at least 200mm of insulation on the coombs and 180mm on the flat roof of the mansard, so the property will be much more energy efficient and make a much greater contribution to reducing carbon emissions. The photovoltaic solar panels on the roof will also make a significant reduction to energy use in the property.

Just a few of the many examples of extended and altered properties in the area are included below. They are all taken from the immediate area around the applicants' property, which includes Coillesdene Crescent, Drive, Avenue, Terrace, Gardens, Milton Road and Woodside Terrace.

25 Coillesdene Crescent



Diagonally opposite the applicant's property, and the roof is significantly higher and larger than what is proposed for 22 Coillesdene Crescent. The photograph above is the view from the garden of the applicants' property.

The roof pitch is much steeper than the existing roof of 22 Coillesdene Crescent, and is close to the pitch that is proposed for the mansard on the Planning application drawings.



The pitched roof slated dormers on the first floor and the pitched roofs over the bay windows on the ground floor increase the size and mass of the building. It is very visible from all sides as it is on a corner plot at the junction of Coillesdene Crescent and Coillesdene Drive.

23 Coillesdene Crescent



This property is in front of the applicants' property and across Coillesdene Drive from 25 Coillesdene Crescent referred to above.

The roof and first floor dormer are much taller and dominant than what is proposed for 22 Coillesdene Crescent. Like 25 Coillesdene Crescent, this property is very visible from all directions as it is on a corner plot.

The alterations proposed for 22 Coillesdene Crescent will have much less impact on the surrounding environment because the applicants' property is in the middle of a straight row of houses rather than being on a highly visible corner plot.

34 Coillesdene Avenue Planning Consent Ref Nos 04/03968/FUL & 17/05726/FUL



This property has a mansard extension to the main roof to the front and also a lower mansard roof over a later projecting extension to the rear. The first floor extends across the garage on one side.

This style of roof rebuild is significant evidence that the area does not have a single roof type or height. There is a wide variety of different roof types which are original, extended and altered in the past as well as recently. There is ample precedent for a variety of roof redesigns in the area which have received Planning Consent.



This property is very similar to what is being proposed for 22 Coillesdene Crescent and the second extension was added to 34 Coillesdene Avenue relatively recently, in 2017.

12 Woodside Terrace Planning Consent Ref No 15/04540/FUL



This property is in Woodside Terrace which is parallel to Coillesdene Crescent and is the second street when heading down the hill towards Joppa Road.

The altered and extended roof is very similar to the design for 22 Coillesdene Crescent when viewed from the street, having a mansard roof, two flat roofed dormers and the first floor extending across the two rooms of the original property and also across an additional bay on the left-hand side in an extension. Planning Consent was granted relatively recently, in January 2016.



The size, scale, massing, proportions and design are all very similar to the proposed alterations to 22 Coillesdene Crescent when viewed from the street. These dormers are higher and larger, so the dormers at 22 Coillesdene Crescent will be more compact and discrete.

12 Woodside Terrace (cont)



On reviewing the Planning drawings online, the property was extended by 4310mm to the rear and 4392mm to the side, and the new mansard roof extended over not only the existing property but also over the rear and side extensions.

This is a much bigger area of mansard roof than is proposed for 22 Coillesdene Crescent, and yet the scheme was granted Planning Consent in 2016.

The design for 22 Coillesdene Crescent has a similar appearance from the street but has a much smaller extension across part of the rear elevation, rather than moving the whole rear wall of the property out into the garden by more than 4.3m.

12 Woodside Terrace is in the middle of a row of properties, so it is a similar site and surroundings to 22 Coillesdene Crescent. Neither of these properties are on corner plots, so neither of them will have as much impact on neighbouring houses and views of the streetscape as some of the examples enclosed.

14 Coillesdene Gardens



This property has a very similar roofscape to what is proposed for 22 Coillesdene Crescent. The roof extends across the two ground floor rooms and entrance hall and over an additional room on the right-hand side, which is what is proposed for 22 Coillesdene Crescent.



The roof on this property is somewhat simple and unrelieved. The compact dormers which are proposed for 22 Coillesdene Crescent will add some visual interest on the streetscape.

223 Milton Road, Planning Consent Ref No 19/02715/FUL



The property has a high roof and very dominant dormer to the front. It is significantly higher than what is proposed for 22 Coillesdene Crescent and the roof pitch is similar.

The property was extended again with a further Planning Consent being granted recently, in July 2019, so there is a pattern of incremental development in the area. The fact that a roof was altered in the past has not meant there has been resistance from the Planning Department to further changes and development.

46 Coillesdene Avenue, Planning Consent Ref No 13/01204/FUL



The property has a roof which has been increased in height. It is much higher than what is proposed for 22 Coillesdene Crescent. The property is much more visible than 22 Coillesdene Crescent as it is on an open corner plot. The property has a somewhat 'unbalanced' appearance although it was granted Planning Consent.

9 Milton Drive



12 Coillesdene Drive



16 & 18 Coillesdene Drive



There are a large number of properties in the area which already have roofs which are much higher than what is proposed for 22 Coillesdene Crescent. They also have roof pitches which are much steeper than the existing roof at 22 Coillesdene Crescent. A small selection of these properties are enclosed above. 16 and 18 Coillesdene Drive are very close to 22 Coillesdene Crescent.

61 Glasgow Road Planning Consent Ref No 20/01916/FUL, Granted 25.06.20



Graphite Studio Chartered Architects were designers of this scheme which is almost identical to what is proposed for 22 Coillesdene Crescent and was granted Planning Consent in 2020 without any objections from the Planning Department. It is currently being constructed.

There are many examples of bungalows in Edinburgh that have been transformed - with this style of mansard roof design. There does not appear to be a clear reason why a mansard roof is acceptable in Glasgow Road but is controversial in Coillesdene Crescent. It could be argued that Glasgow Road should have more Planning protection as it is the main arterial route into the city from Glasgow and the airport, whereas Coillesdene Crescent is in a private 'back street' and not even on Joppa Road which, like Glasgow Road, is a main route into the city.

Graphite Studio
Chartered Architects
7/3 East Trinity Road
Edinburgh EH5 3DZ
0131 552 8837 / 07761 756 483
www.graphitestudio.co.uk
mail@graphitestudio.co.uk

Notes

- All dimensions to be verified on site.
Contractor not to deviate from the approved drawing without prior approval of the architect.
- OS Site Plan (Scale 1 : 1250) :



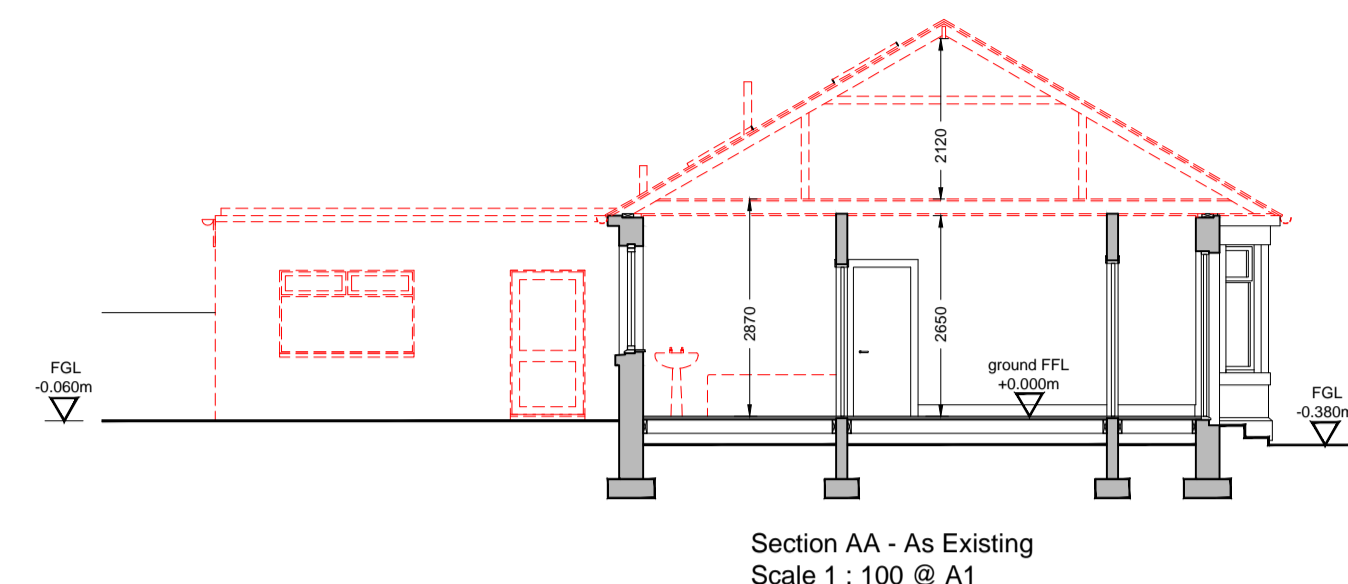
- Outline Material Schedule :

Extension & New Roof

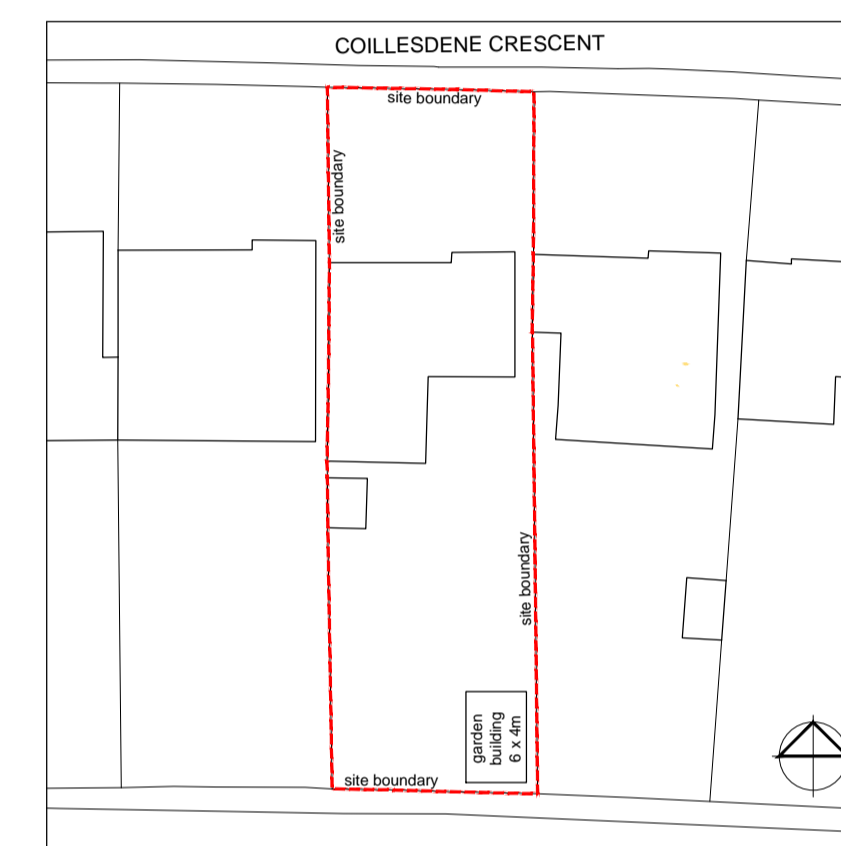
External walls : Smooth proprietary render, colour white, with sand cement base course, buff natural sandstone random rubble feature panels as indicated on elevations
 Doors & windows : Timber-framed, double glazed, colour RAL 7015 Slate Grey
 Pitched roof : Natural slate
 Flat roof : Single ply membrane layed to falls
 Flat rooflight : Proprietary flush rooflight by Glazing Vision or equal and approved
 Dormers : Single ply membrane layed to falls with zinc hafts with standing seams
 Rooflights : Proprietary rooflights by Velux or equal and approved
 Rainwater goods : Cast iron to match extg, colour grey

Garden Studio

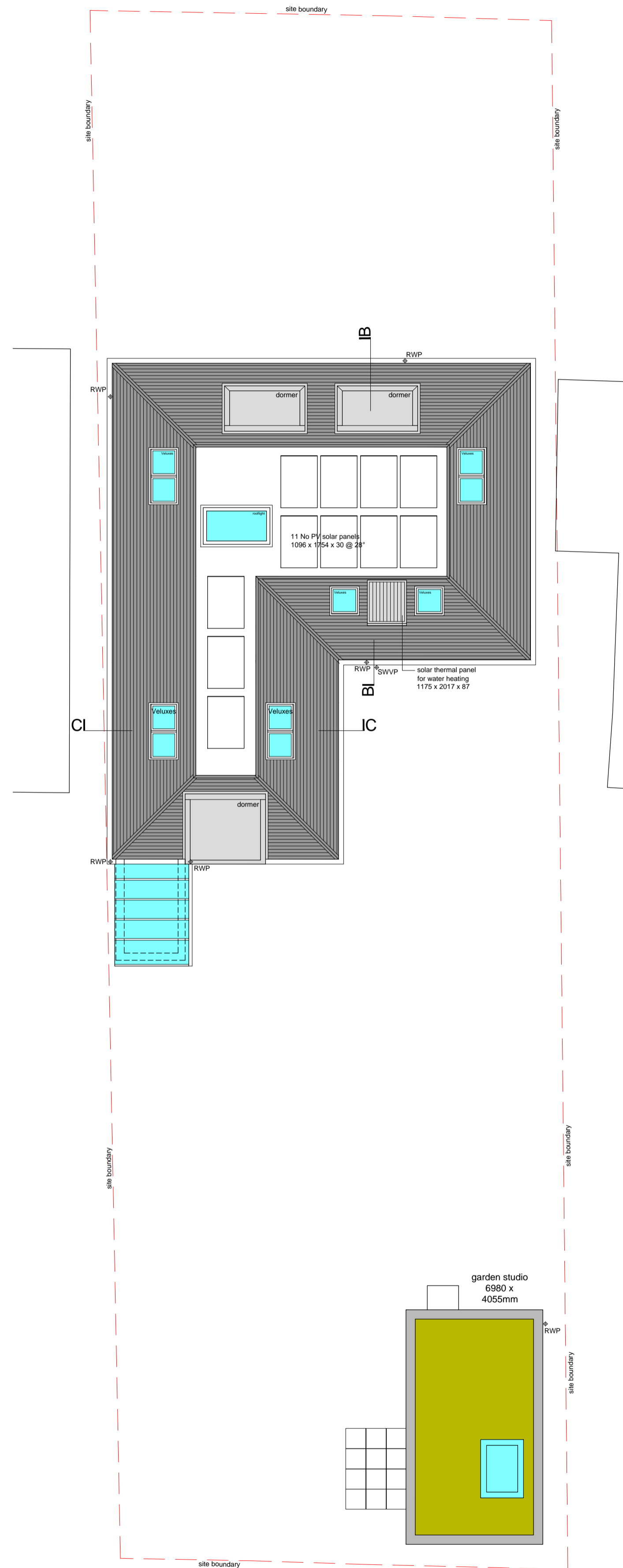
External walls : Untreated timber cladding, slate from extg roof reused for wall cladding to recess at entrance door
 Doors & windows : Timber-framed, double glazed, colour RAL 7015 Slate Grey
 Flat roof : Sedum roof concealed behind parapet
 Flat rooflight : Proprietary flush rooflight by Glazing Vision or equal and approved
 Rainwater goods : Cast iron to match extg, colour grey



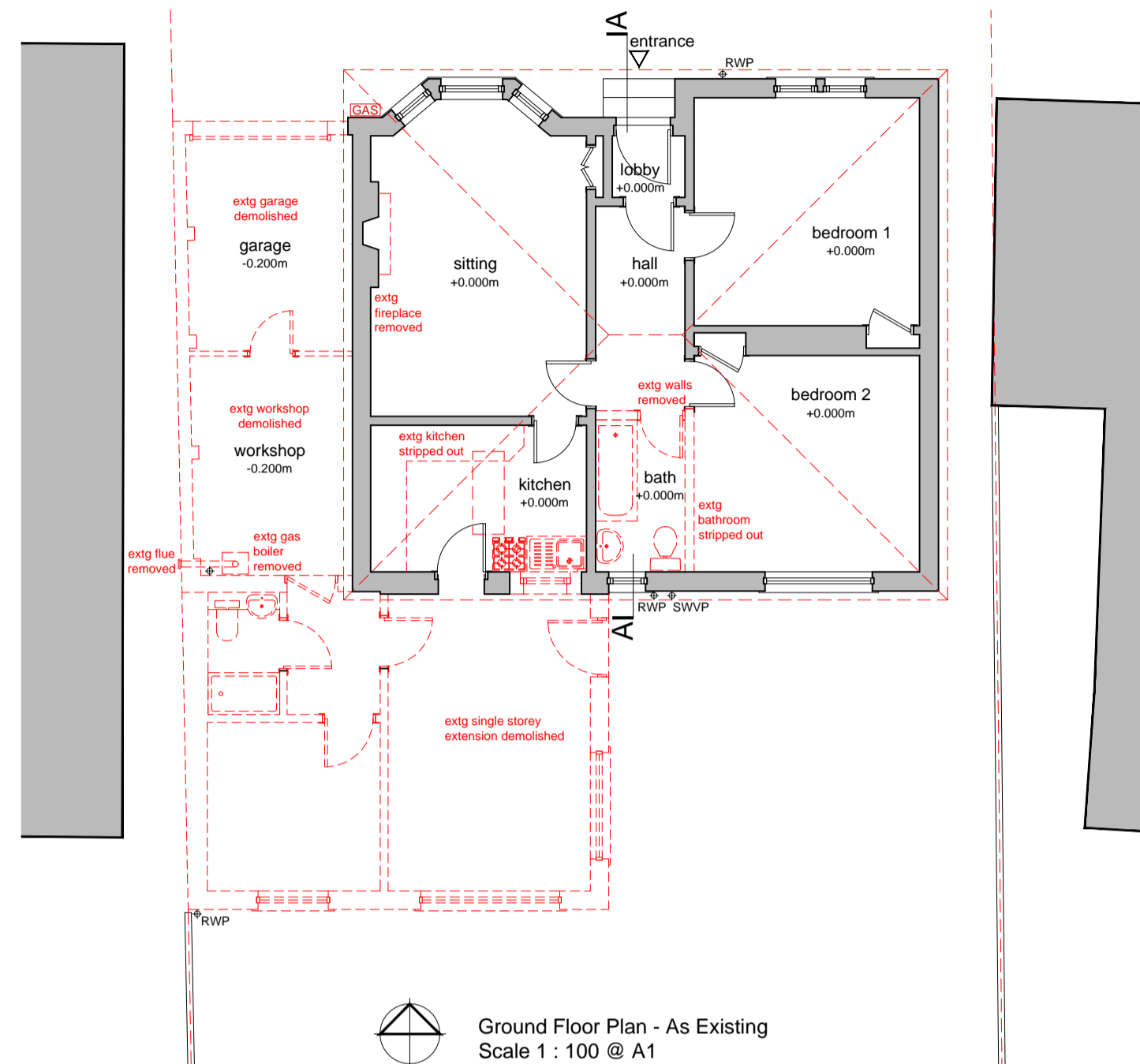
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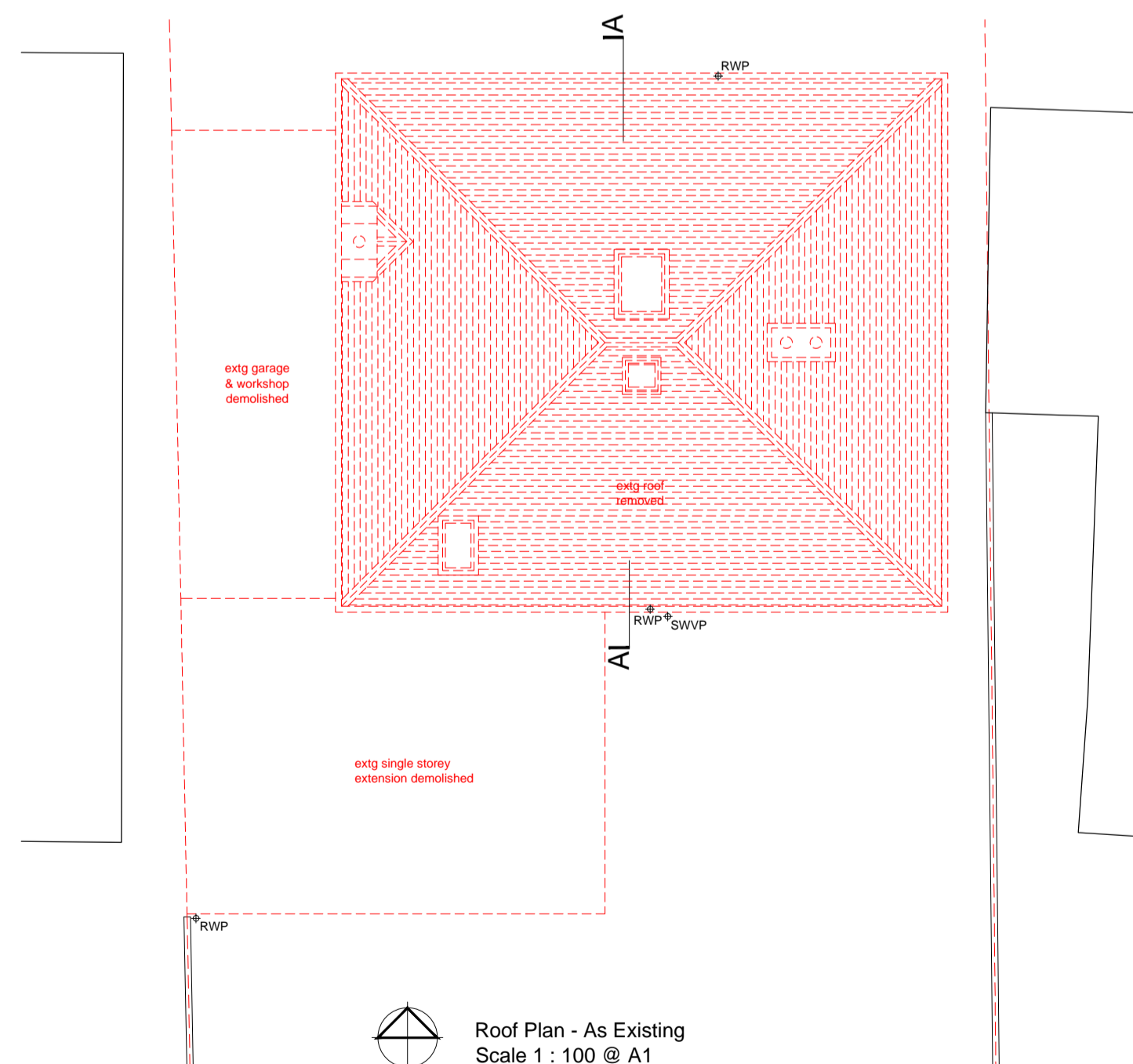
Site Plan
Scale 1 : 500 @ A1



Roof Plan - As Proposed
Scale 1 : 100 @ A1



Ground Floor Plan - As Existing
Scale 1 : 100 @ A1



Roof Plan - As Existing
Scale 1 : 100 @ A1

PLANNING

REVISIONS:

CLD (PL) 001

CLIENT:
M CALLIS & S CHAMPION

JOB TITLE:
DOMESTIC ROOF REPLACEMENT,
REAR EXTENSION & STUDIO
22 COLLESDENE CRESCENT
EDINBURGH

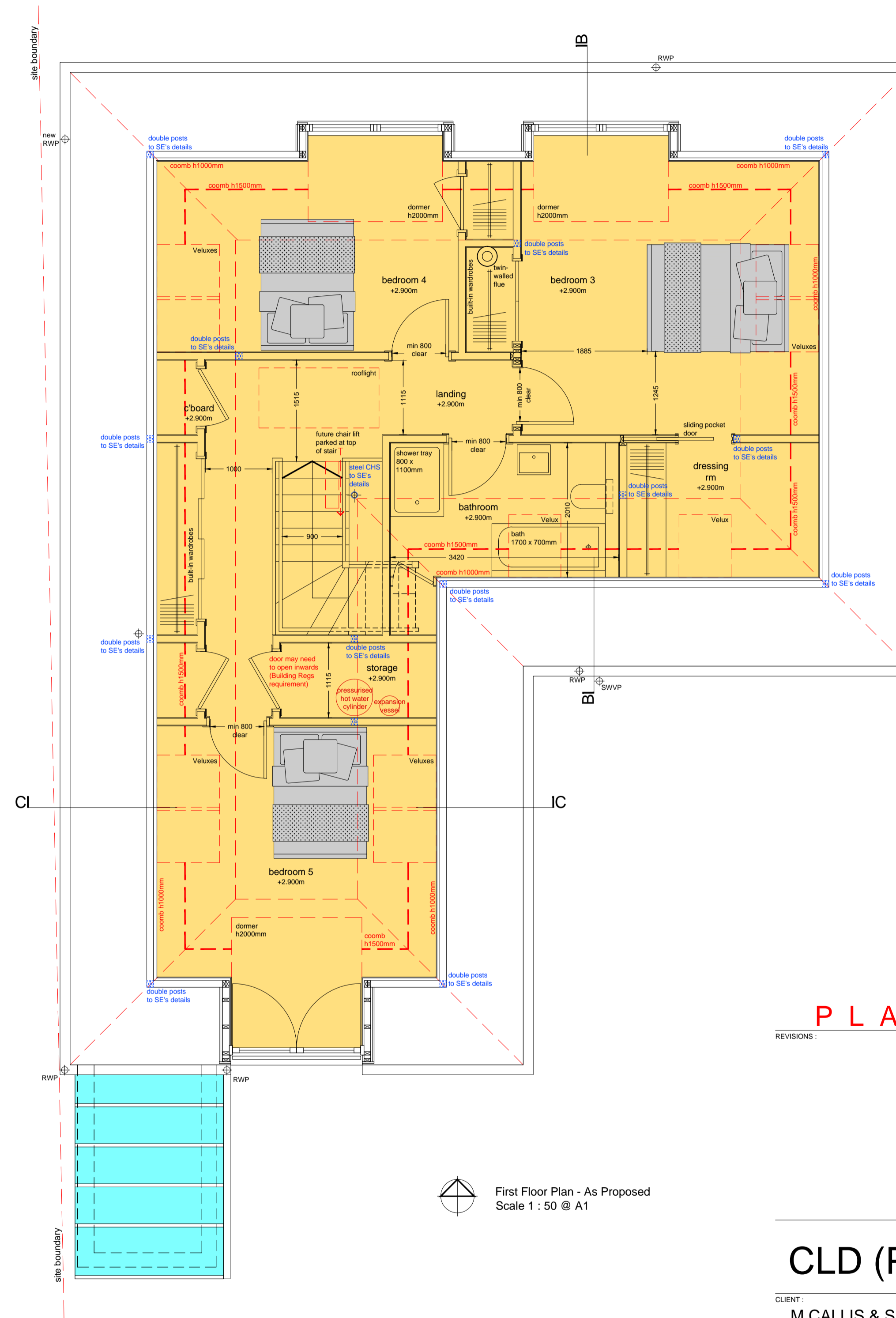
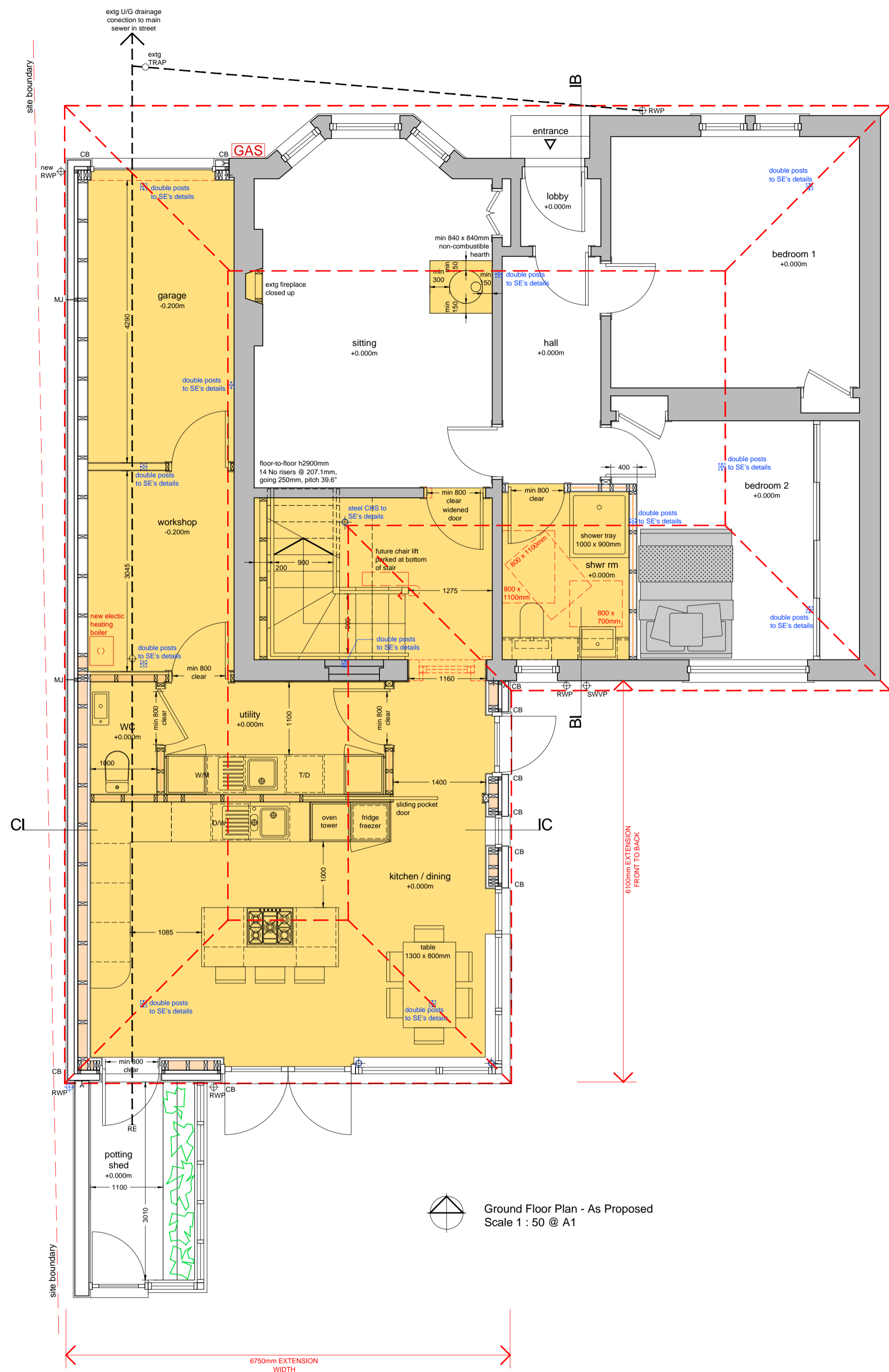
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 DRAWN BY: SB DATE: 28.09.22
 CHECKED: DATE:

DRAWING TITLE:
SITE, FLOOR & ROOF PLANS
SECTION AA
AS EXISTING / AS PROPOSED

graphite studio
 73 East Trinity Road
 Edinburgh EH5 3DZ
 Tel 0131 552 8837
 Mobile 0776 1756483
 mail@graphitestudio.co.uk
 www.graphitestudio.co.uk

Notes

1. All dimensions to be verified on site.
Contractor not to deviate from the approved drawing without prior approval of the architect.
2. All general notes as per Drg No CLD (PL) 001.



PLANNING

REVISIONS:

CLD (PL) 002

CLIENT:
M CALLIS & S CHAMPION

JOB TITLE:
DOMESTIC ROOF REPLACEMENT,
REAR EXTENSION & STUDIO
22 COILLEDENE CRESCENT
EDINBURGH

SCALE: 1 : 50 @ A1
DRAWN BY: SB DATE: 28.09.22
CHECKED: DATE:

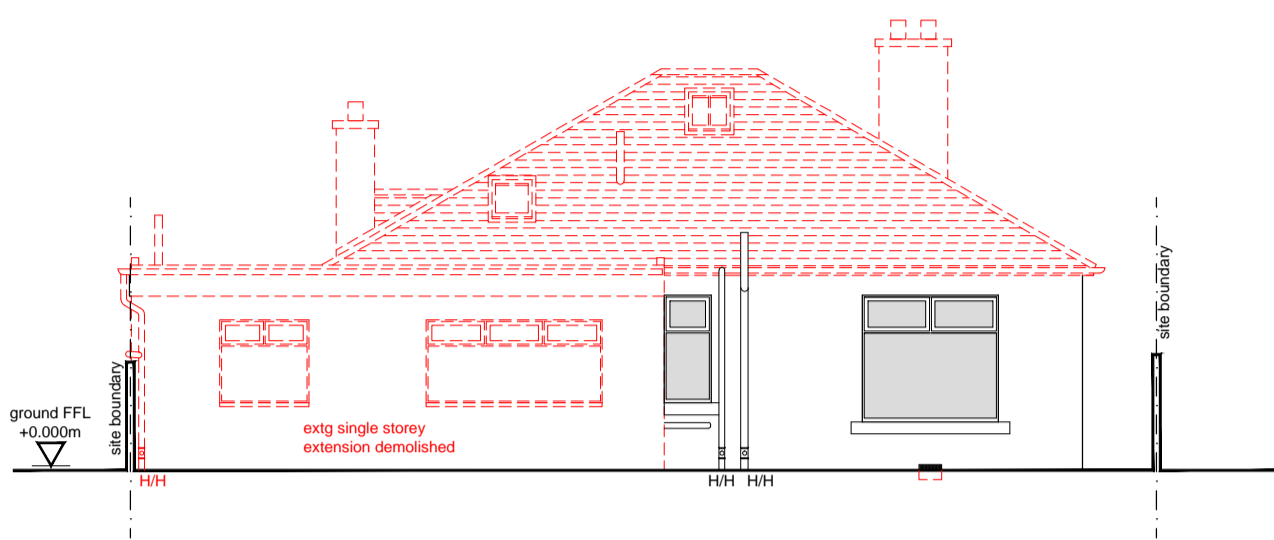
DRAWING TITLE:
FLOOR PLANS
AS PROPOSED

graphite
studio

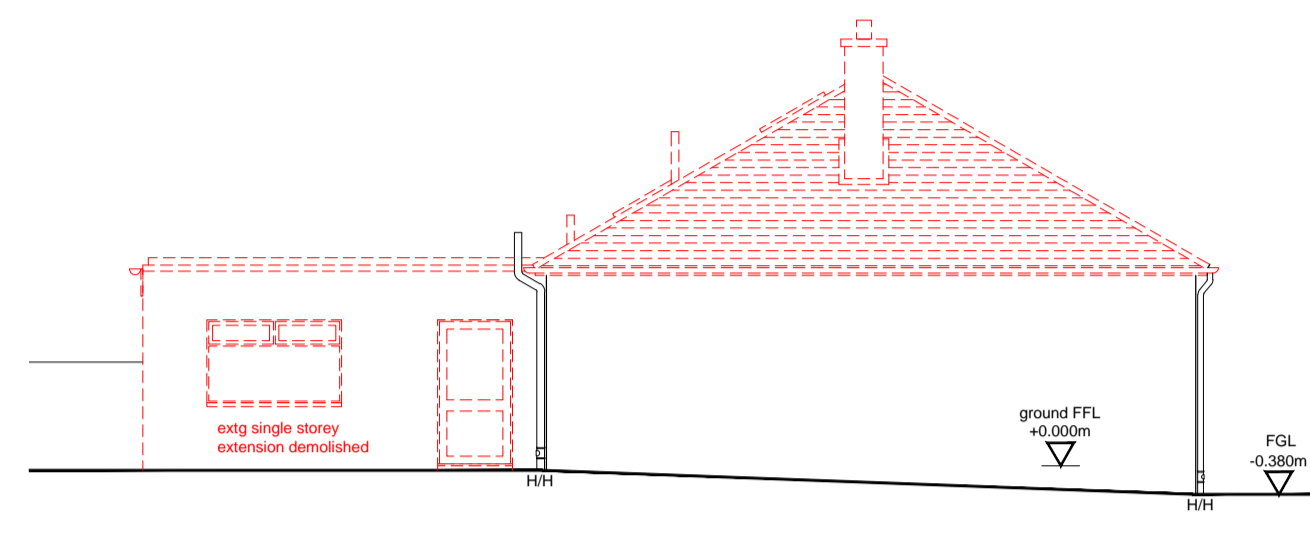
73 East Trinity Road
Edinburgh EH5 3DZ
Tel 0131 552 8837
Mobile 0776 1756483
mail@graphitestudio.co.uk
www.graphitestudio.co.uk

Notes

1. All dimensions to be verified on site.
Contractor not to deviate from the approved drawing without prior approval of the architect.
2. All general notes as per Drg No CLD (PL) 001.



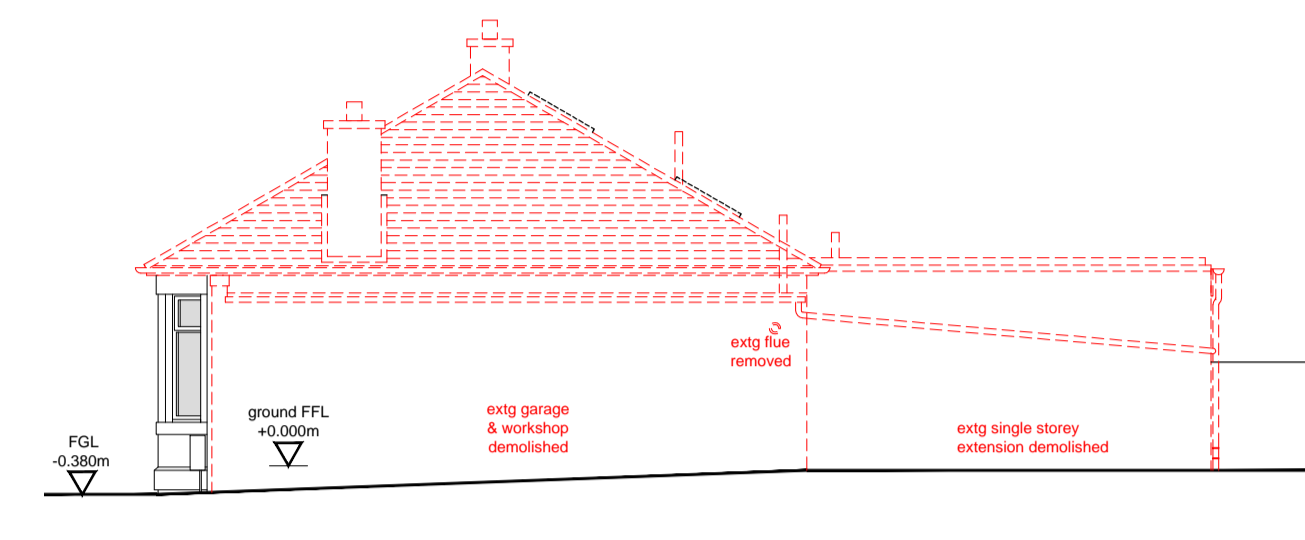
South Elevation - As Existing
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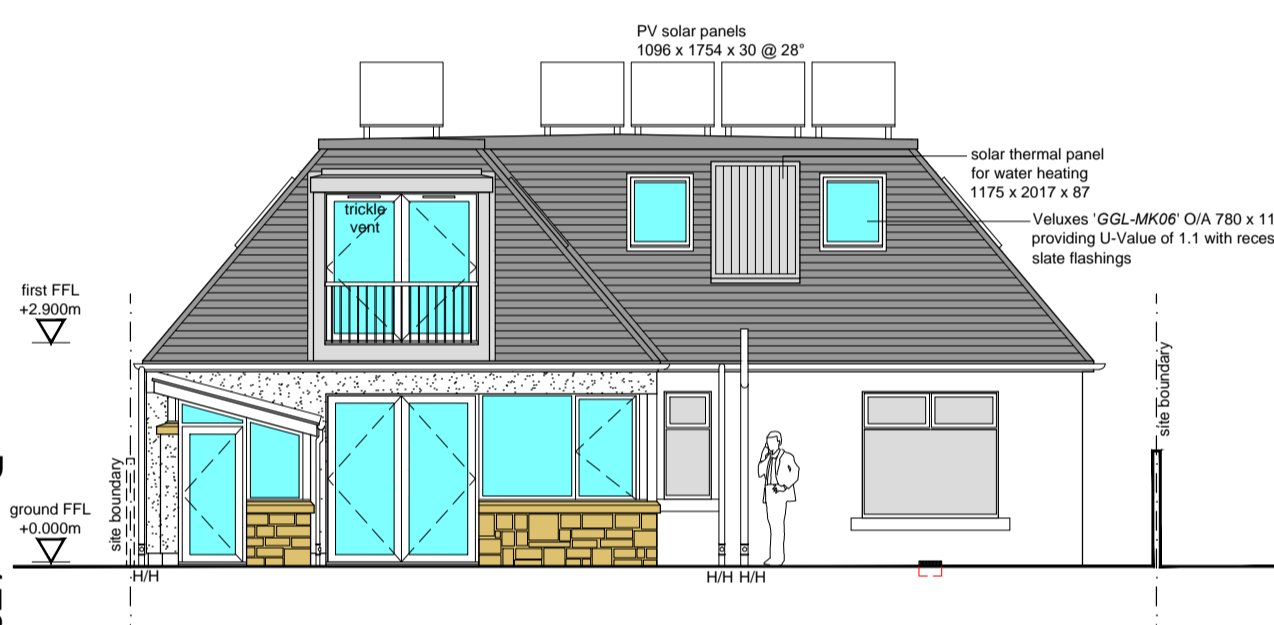
East Elevation - As Existing
Scale 1 : 100 @ A1



North Elevation - As Existing
Scale 1 : 100 @ A1



West Elevation - As Existing
Scale 1 : 100 @ A1



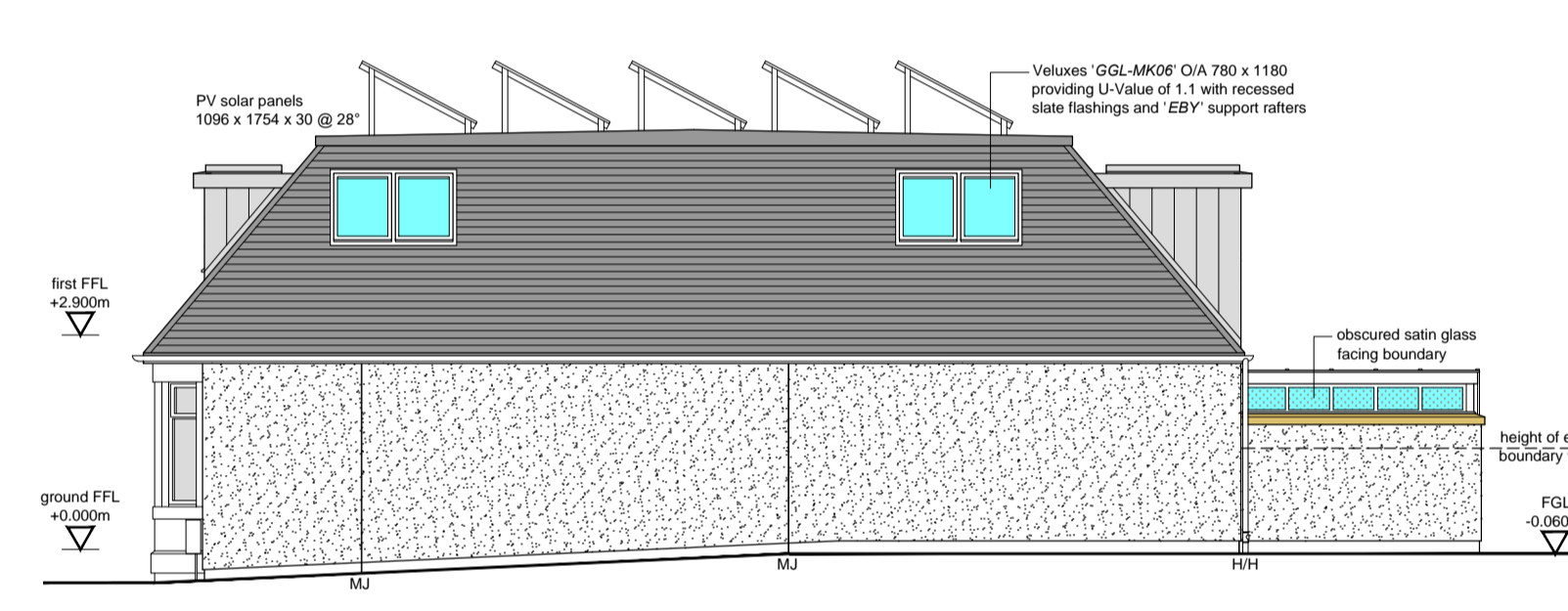
South Elevation - As Proposed
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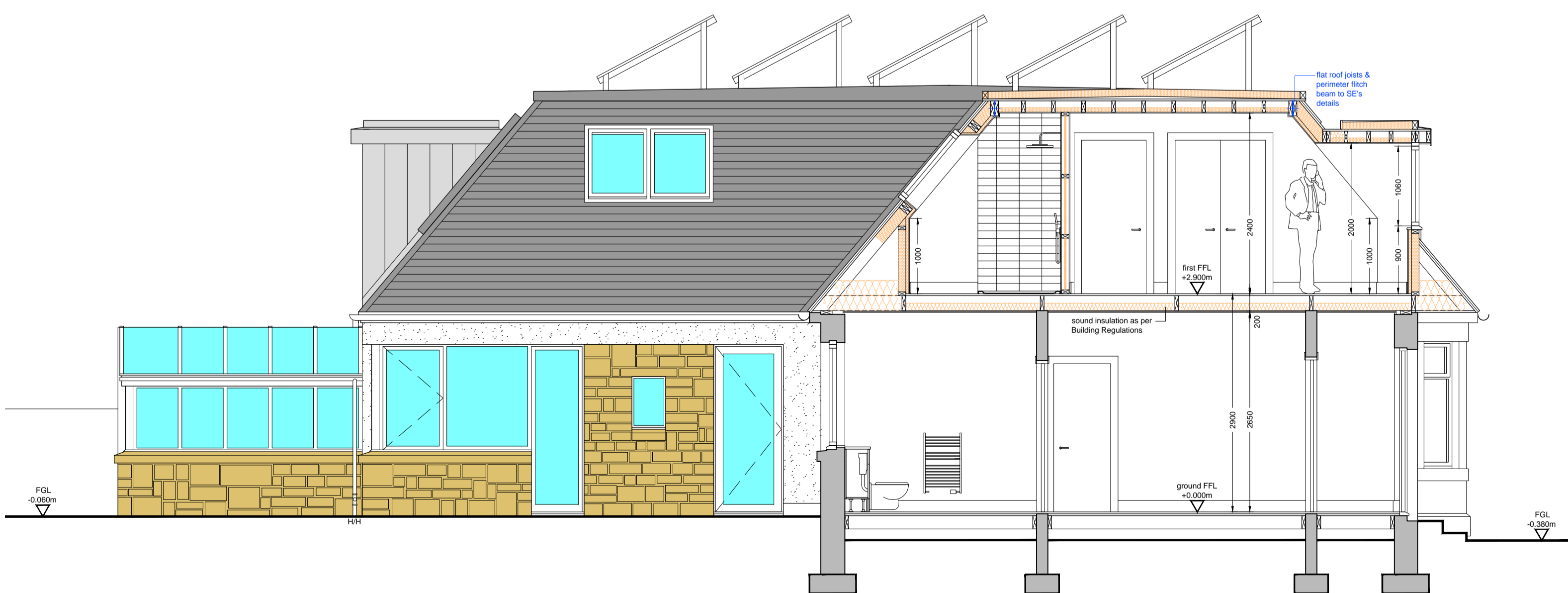
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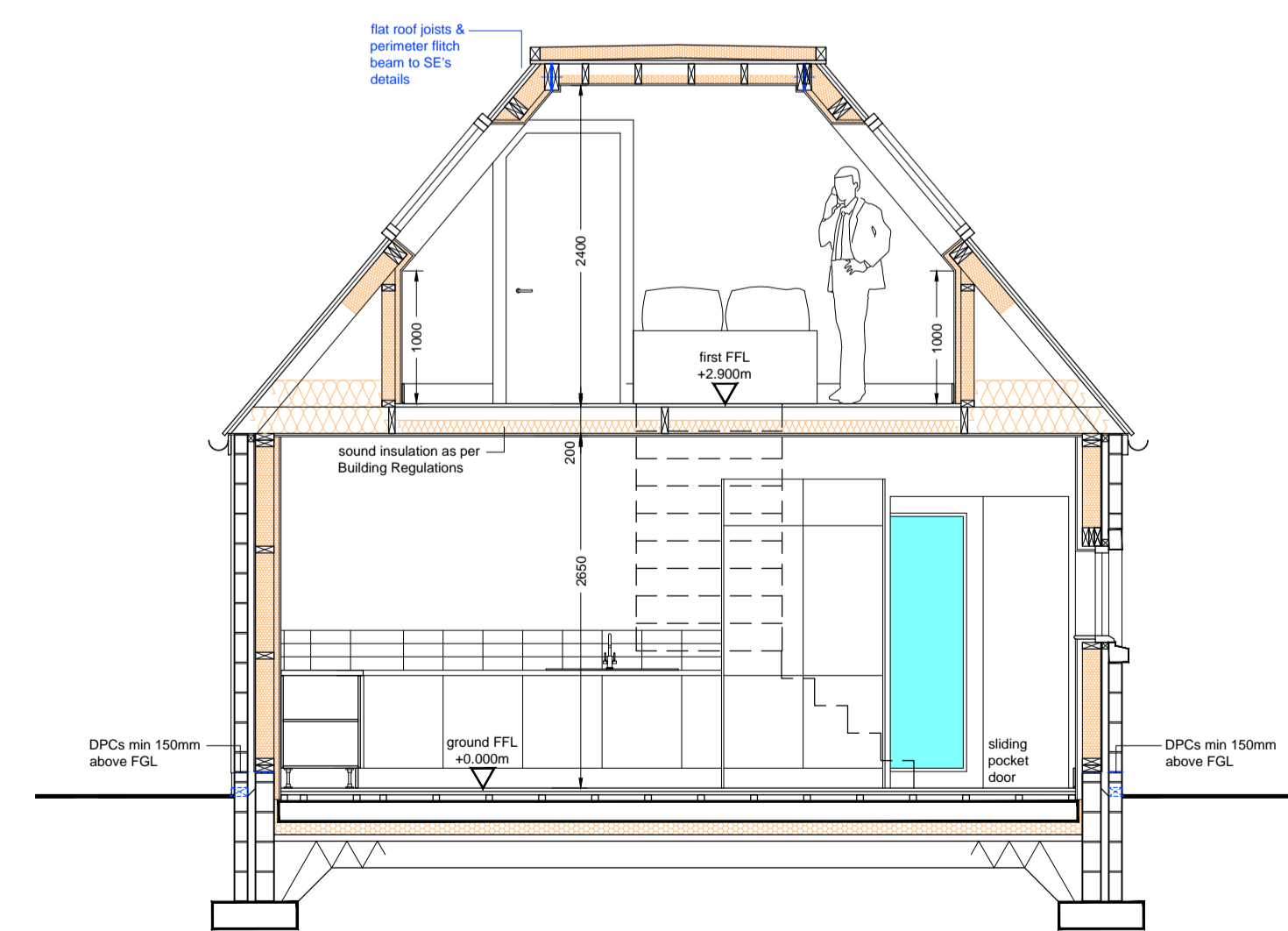
North Elevation - As Proposed
Scale 1 : 100 @ A1



West Elevation - As Proposed
Scale 1 : 100 @ A1



Section BB - As Proposed
Scale 1 : 50 @ A1



Section CC - As Proposed
Scale 1 : 50 @ A1

REVISIONS:

CLD (PL) 003

CLIENT:
M CALLIS & S CHAMPION

JOB TITLE:
DOMESTIC ROOF REPLACEMENT,
REAR EXTENSION & STUDIO
22 COILLEDENE CRESCENT
EDINBURGH

SCALE: 1 : 100 / 1 : 50 @ A1

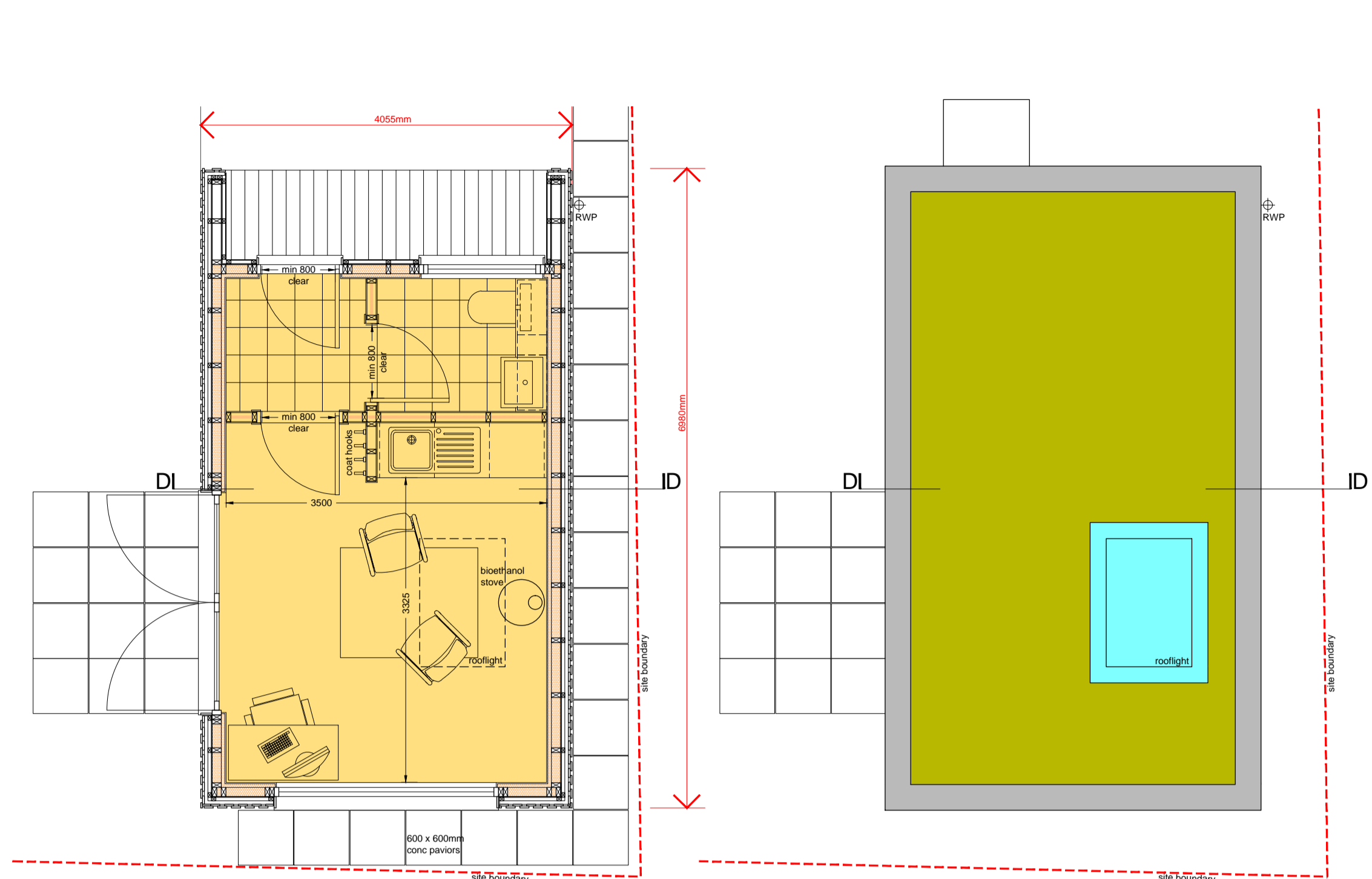
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CHECKED: DATE:

DRAWING TITLE:
ELEVATIONS & SECTIONS
AS EXISTING / AS PROPOSED

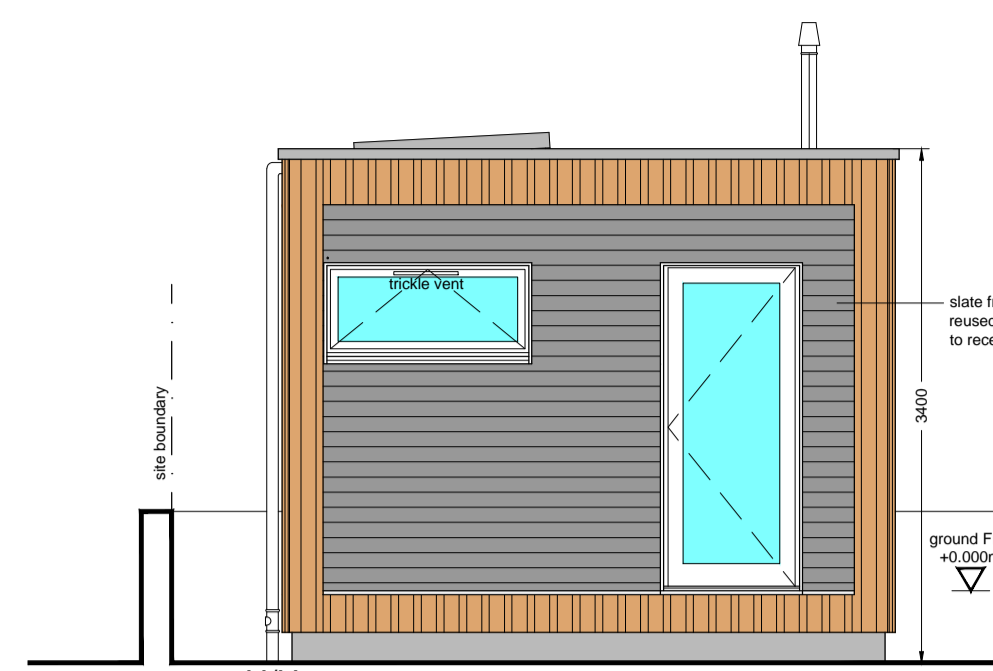
Notes

- All dimensions to be verified on site.
Contractor not to deviate from the approved drawing without prior approval of the architect.
- All general notes as per Drg No CLD (PL) 001.

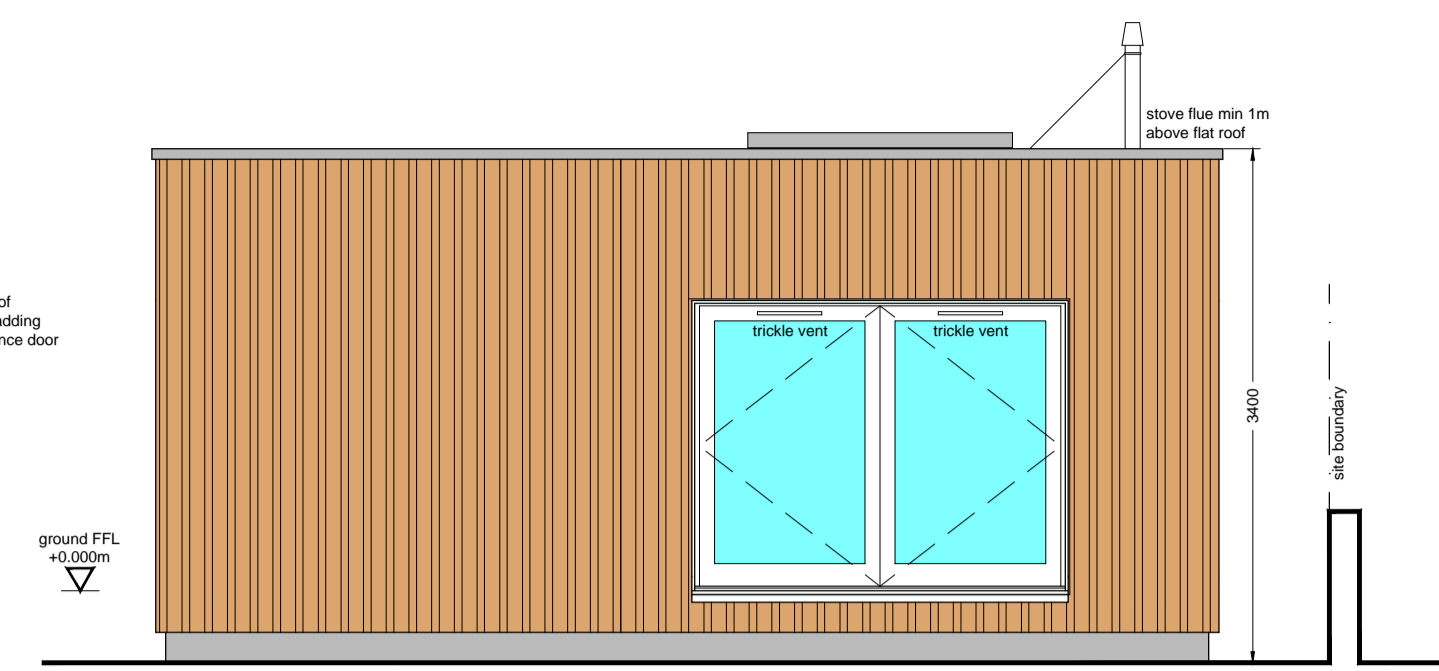


Ground Floor Plan - As Proposed
Scale 1 : 50 @ A1

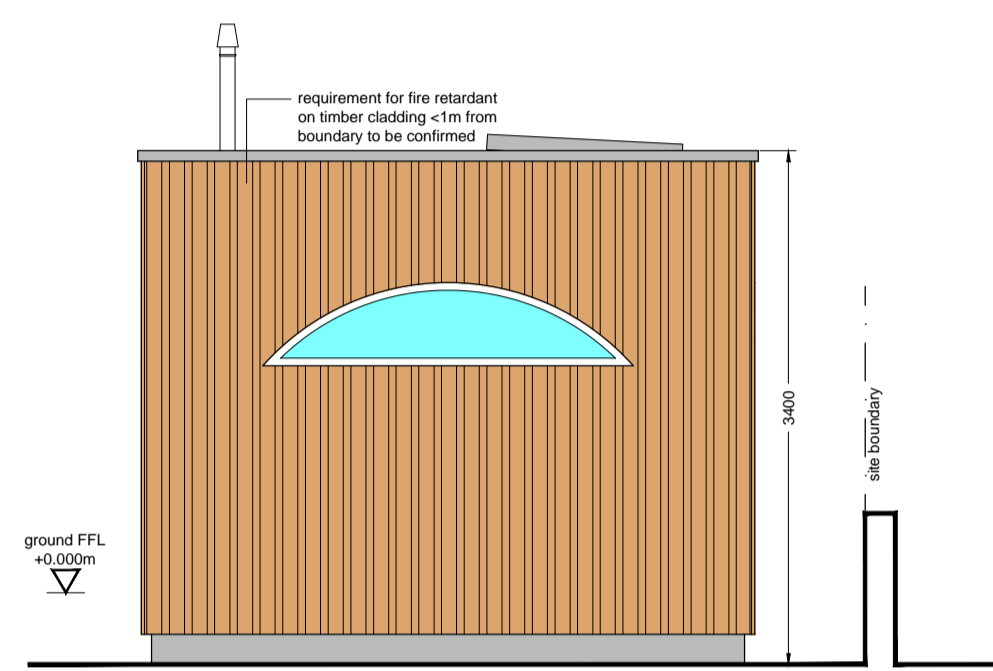
Roof Floor Plan - As Proposed
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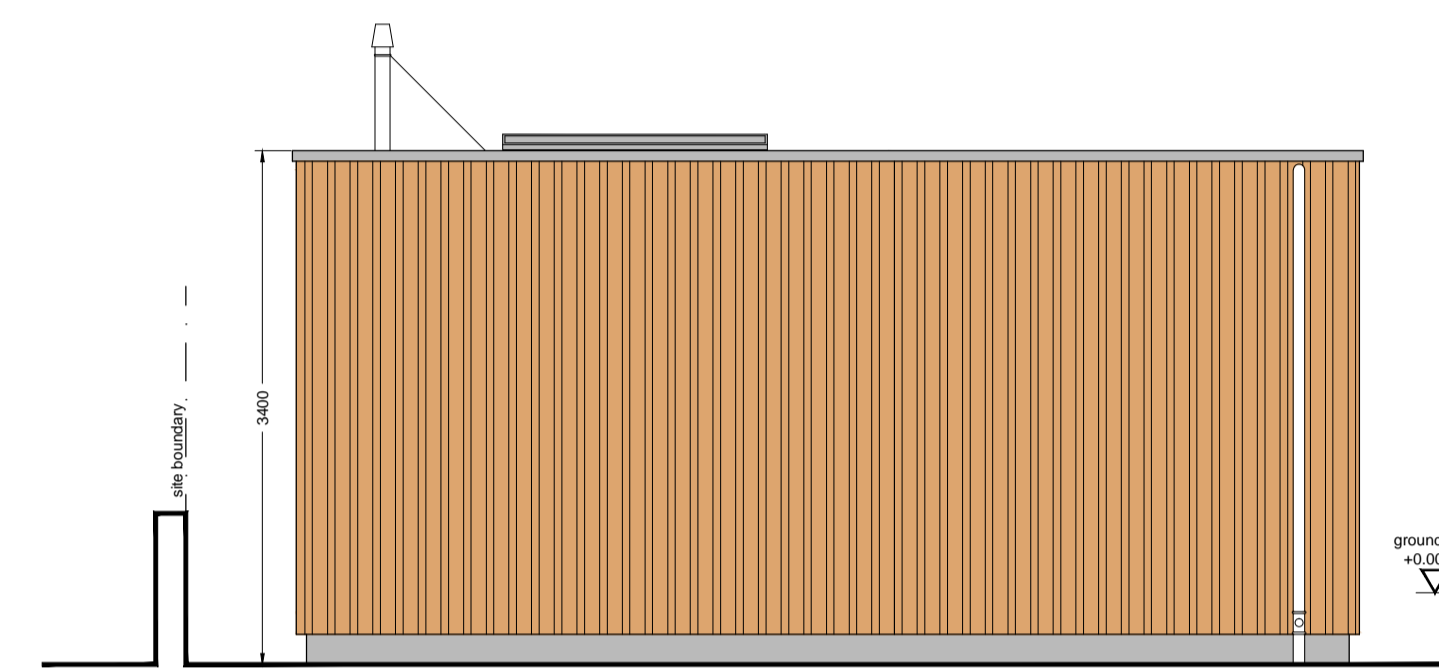
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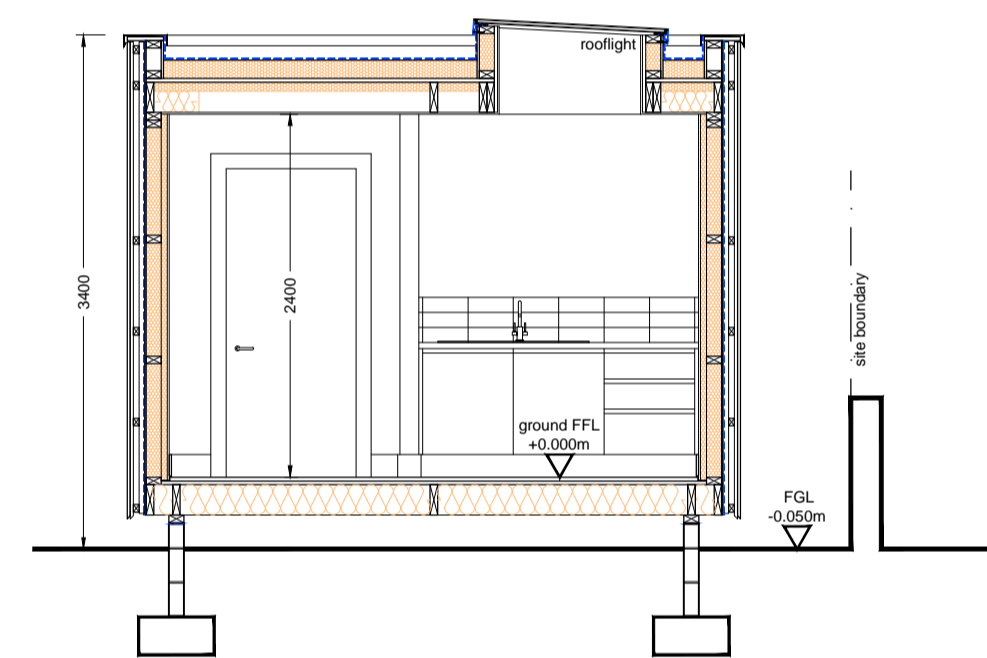
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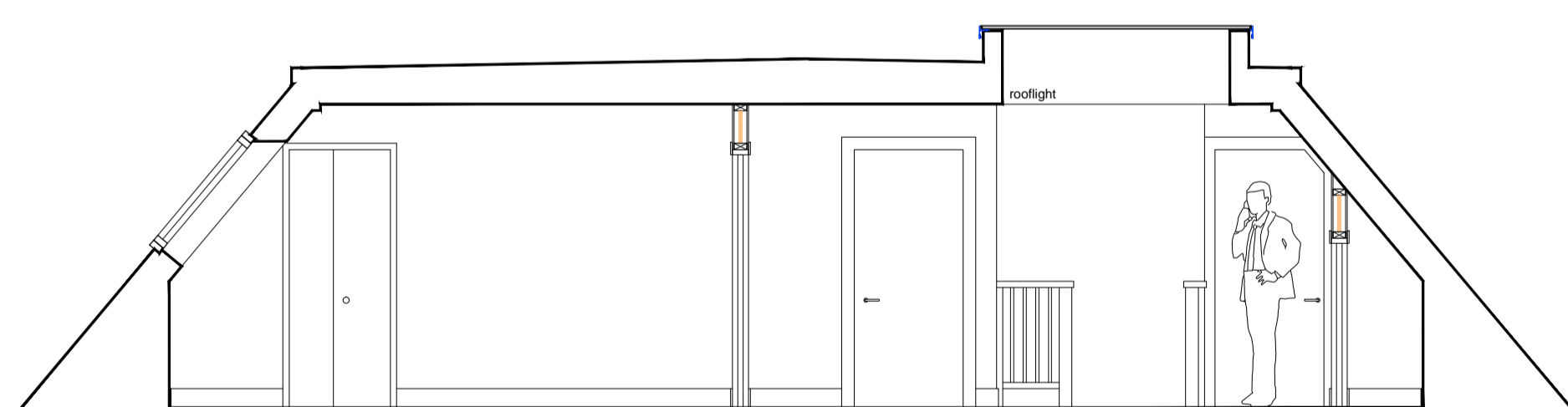
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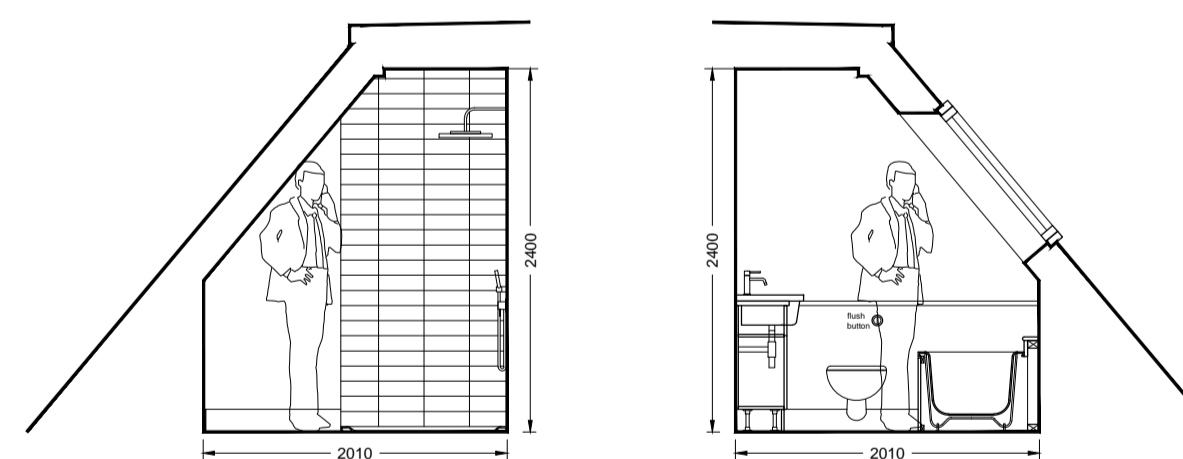
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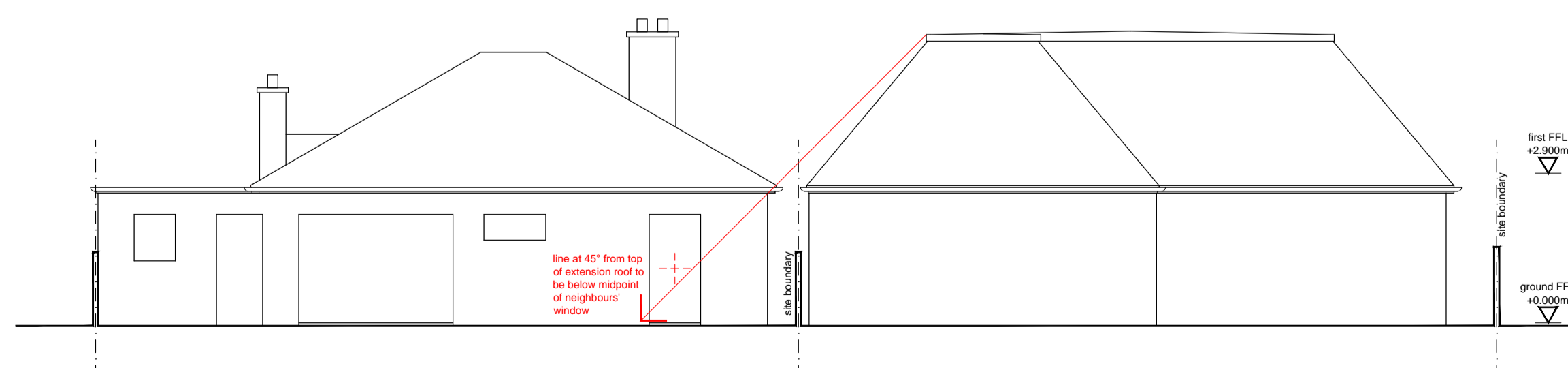
Section DD - As Proposed
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Bedroom 3 & Landing Section - As Proposed
Scale 1 : 50 @ A1



Bathroom Sections - As Proposed
Scale 1 : 50 @ A1



South Elevation - As Proposed
Scale 1 : 100 @ A1

REVISIONS:

CLD (PL) 004

CLIENT:
M CALLIS & S CHAMPION

JOB TITLE:
DOMESTIC ROOF REPLACEMENT,
REAR EXTENSION & STUDIO
22 COILLEDENE CRESCENT
EDINBURGH

SCALE: 1 : 50 / 1 : 100 @ A1
DRAWN BY: SB DATE: 28.09.22

CHECKED: DATE:
DRAWING TITLE:
ELEVATION & SECTIONS
GARDEN STUDIO
AS PROPOSED

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Stefano Smith Planning.
FAO: Stefano Smith
58 Dean Path
Dean Village
Edinburgh
EH4 3AU

Craigiebrook Ltd C/o FKMCV.
FKMCV
Tinwald Downs Road
Dumfries
DG1 3SJ

Decision date: 25 October 2022

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

Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).
At 1A Cambridge Street Edinburgh EH1 2DY

Application No: 22/01652/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;

Conditions:-

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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:

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
1A Cambridge Street, Edinburgh, EH1 2DY**

Proposal: Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).

**Item – Local Delegated Decision
Application Number – 22/01652/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 regards 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.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a self-contained, basement flat at the corner of Cambridge Street and Castle Terrace. The property extends over a single floor and has an entrance hall, master bedroom, a living/dining room, kitchen, shower room and study. The property has its own main door which is accessed via a set of steps from Castle Terrace. There is a gate at the top of the steps. The property has its own private courtyard/basement area to the front.

Cambridge Street is a mix of residential and offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of

the street. The application property is in the basement of a four storey Victorian terrace. The four floors above are in residential use. The property is in the city centre, is a two-minute walk from Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport.

The application site is a B listed building (ref: LB 28484: date of listing 1.1.2003).

The application site is in the World Heritage Site and the West End Conservation Area.

Description Of The Proposal

The application seeks permission to change the residential use to a short term let apartment.

No internal or external physical changes are proposed.

The applicant has advised that the property has been used as a short term let since September 2021. The application is therefore retrospective.

Supporting Information

Planning Statement.

Relevant Site History

14/05110/FUL

1A Cambridge Street

Edinburgh

EH1 2DY

Change of use from class 4 offices to residential (flatted) and associated minor alterations.

Granted

18 February 2015

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 11 April 2022

Date of Advertisement: 29 April 2022

Date of Site Notice: 29 April 2022

Number of Contributors: 0

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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- 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 and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent.
- 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 harms neither the listed building or its setting. It is therefore acceptable with regard to Sections 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 West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

There are no external alterations proposed and the development preserves both the character and appearance of the conservation area. The change of use from a one-bedroom domestic flat to a short-term holiday let (STL) 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 proposal does not harm the conservation area. Therefore, it is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 1, Env 3 and Env 6.
- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.
- LDP Delivering the Strategy policy Del 2.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory Guidance for Businesses is relevant when considering policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with LDP policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP policy Env 1.

Proposed Use

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The use of this property as a short term let would have the potential to introduce an increased frequency of movement to the flat, and to the courtyard in front of the flat, at unsociable hours. Although it is within the city centre, the street is not an overly busy thoroughfare and ambient noise levels are relatively low, particularly in the evening. Moreover, the property is in close proximity to residential flats. The proposed one bedroom short stay use would enable two or more 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 also 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. The site lies within the City Centre and policy Del 2 reflects SPP by stating it supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

Parking Standards

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

Parking is on-street within a parking controlled area. This is acceptable and there is no requirement for cycle parking for short term lets.

The proposal complies with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that would justify approval.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little 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

No representations have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regards 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.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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, 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.

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100612272-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Stefano Smith Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stefano	Building Name:	
Last Name: *	Smith	Building Number:	58
Telephone Number: *	07464 744337	Address 1 (Street): *	Dean Path
Extension Number:		Address 2:	Dean Village
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH4 3AU
Email Address: *	stefano@stefanosmithplanning.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="FKMCV"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Dumfries Enterprise Park"/>
Company/Organisation	<input type="text" value="Craigiebrook Ltd c/o FKMCV"/>	Address 2:	<input type="text" value="Tinwald Downs Road"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Dumfries"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DG1 3SJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="stefano@stefanosmithplanning.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="1A CAMBRIDGE STREET"/>
Address 2:	<input type="text" value="OLD TOWN"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH1 2DY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673442"/>	Easting	<input type="text" value="324844"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Appeal against the City of Edinburgh Council's refusal of retrospective planning application for change of use from flat (sui generis) to short term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY.

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Statement of Appeal (including Appendices and Site Location/Floor Plan).

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Site Location and Floor Plan (included in Appeal Statement - Figures 4 & 6 respectively). Appeal Statement & Appendices: Appendix 1 (Photo-study of Site & Surroundings); Appendix 2 (Documents submitted with Application 22/01652/FUL); Appendix 3 (Report of Handling); Appendix 4 (Decision Notice); Appendix 5 (STL Applications Granted by CEC 2021 to 2022); and Appendix 6 (STL Appeals Allowed by DPEA 2020 to 2022).

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/01652/FUL

What date was the application submitted to the planning authority? *

31/03/2022

What date was the decision issued by the planning authority? *

25/10/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Stefano Smith

Declaration Date: 23/01/2023



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Planning Statement in Support of Notice of Review

**Retrospective planning application for change of use from
flat (sui generis) to short-term let (sui generis)**

at

1A Cambridge Street Edinburgh EH1 2DY

On behalf of

Craigiebrook Ltd c/o FKMCV

Application No.22/01652/FUL

January 2023



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: C/5550/1 | Rev: AA | Date: January 2023

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Document Control Sheet

Project Name: 1A Cambridge Street Edinburgh EH1 2DY

Project Ref: C/5550/1

Report Title: Planning Statement in Support of Notice of Review

Doc Ref: C/5550/1

Date: January 2023

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		30/12/2022
Reviewed by:	Stefano Smith	Director		02/01/2023
Approved by:	Stefano Smith	Director		06/01/2023
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved
A	23/01/2023	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

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Appendices

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/01652/FUL
- Appendix 3** Report of Handling
- Appendix 4** Decision Notice
- Appendix 5** STL Applications Granted by CEC 2021 to 2022
- Appendix 6** STL Appeals Allowed by DPEA 2020 to 2022

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Executive Summary

This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on 24th January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').

We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal, and analysis of development plan policy, non-statutory Guidance for Businesses and other material considerations.

It demonstrates that the proposal by Craigiebrook Ltd c/o FKMCV ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016). It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:

- The character of the new use and the wider area;
- The size of the property;
- The pattern of activity associated with the use, including:
 - The number of occupants
 - The period of use
 - Issues of noise and disturbance
 - Parking demand
- The nature and character of any services provided.

There are also no **material considerations** that are considered to outweigh the justification for approval, namely:

- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
- Scottish Planning Policy (SPP);
- Revised Draft NPF4;
- Proposed City Plan 2030;
- West End Conservation Area Appraisal;
- Public representations; and
- Any other identified material considerations (e.g. economic benefit, applications and appeals).

The application was Refused for the following single reason:

'1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'

We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.

In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.

The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to

the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.

This self-contained, one-bedroom main door access basement flat on Cambridge Street lies centrally within the city centre of Edinburgh, in a globally unique urban quarter that has long been home to a wide mix of uses.

The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated. Such regulation is supported by the applicants who want the City's hospitality offer to be attractive and well-regulated. Accordingly, they seek a determination of this planning application as a prelude to applying for a licence once the procedure for doing so has been confirmed.

The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence. The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. This is especially the case given the discernible trend recognised by industry insiders for tourists to seek out more authentic travel experiences that can allow them to 'live like locals'. In the circumstances, the type of accommodation offered here is hugely popular among visitors; meaning that the wholesale loss of this type of accommodation from Scotland's capital city would be an unfortunate outcome.

Properties like historic 1A Cambridge Street, appropriately located in a central and well-connected area and managed to the most exacting standards, can play an important future role by continuing to offer some diversity to the City's visitor accommodation offer. Properties like this can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is simply not appropriate.

In the Scottish context, Edinburgh occupies a unique position in terms of its attraction to ever-growing numbers of tourists. Evidence from the last decade suggests that additional supply of tourist accommodation across the city is quickly taken up by increased demand, meaning that healthy occupancy rates can be maintained by a wide range of different visitor accommodation providers. This small property on Cambridge Street has been exceptionally well-managed over the last few years, as evidenced by a faultless record of customer satisfaction throughout the period. What it offers by way of visitor accommodation in an historic but authentic domestic format, appeals to a growing number of travellers and serves as an asset to the city's tourism landscape by providing choice into the overall mix.

Taking all of the foregoing into account, it is hoped that the Local Review Body will be able to support this appeal, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. Should this appeal be allowed, it is considered that there will be no adverse impact on either the amenity of neighbouring residential properties, or the overall ambience of a historic area where a blend of different uses can be absorbed. There are not considered to be any policy matters that would warrant refusal of this appeal, and accordingly it is respectfully requested that this appeal be allowed.

We therefore respectfully request that the Local Review Body do not uphold the decision by the Chief Planning Officer and grant planning permission for the change of use from flatted accommodation (*sui generis*) to short-term let accommodation (*sui generis*) (retrospective) at 1A Cambridge Street, Edinburgh.

1 Introduction

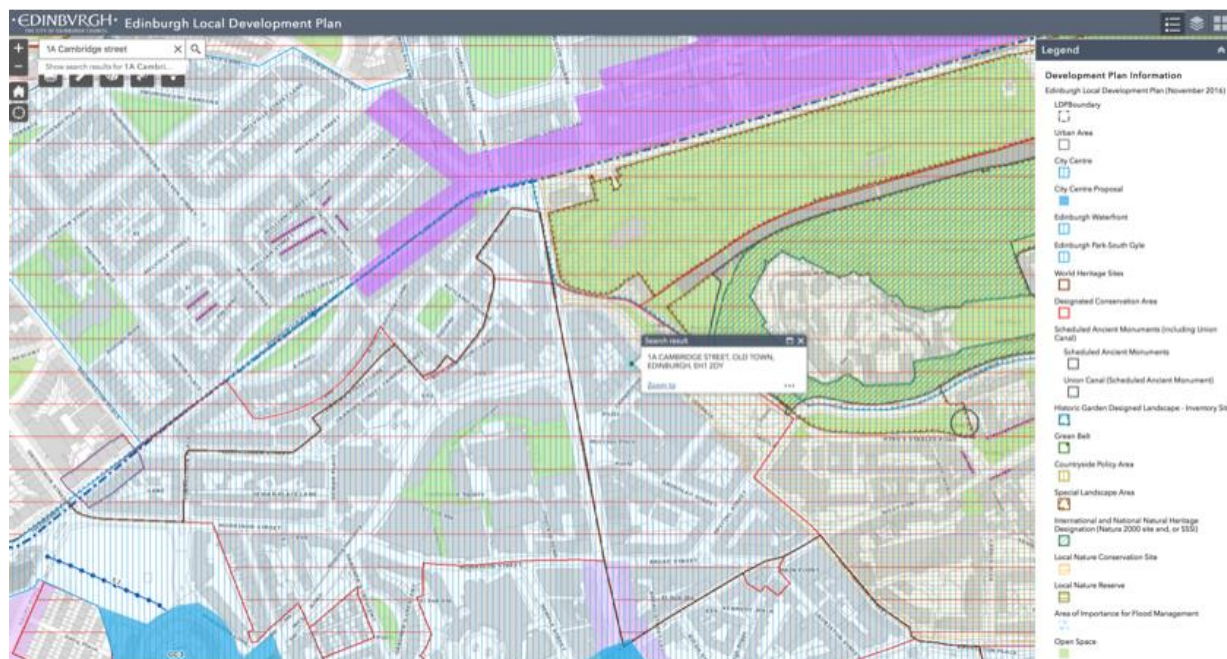
1.1 Background

- 1.1.1 This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on the 24th January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').
- 1.1.2 It demonstrates that the proposal by Craigiebrook Ltd c/o FKMCV ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016).
- 1.1.3 It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:
- The character of the new use and the wider area;
 - The size of the property;
 - The pattern of activity associated with the use, including:
 - The number of occupants
 - The period of use
 - Issues of noise and disturbance
 - Parking demand
 - The nature and character of any services provided.
- 1.1.4 There are also no **material considerations** that are considered to outweigh the justification for approval, namely:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
 - Scottish Planning Policy (SPP);
 - Revised Draft NPF4;
 - Proposed City Plan 2030;
 - West End Conservation Area Appraisal;
 - Public representations; and
 - Any other identified material considerations (e.g. economic benefit, applications and appeals).

Site Description

- 1.1.5 The property is situated in the City Centre Council Ward within the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016. Cambridge Street/Castle Terrace is a mix of residential, commercial and offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of the street. The property in the city centre, is a two- minute walk from the bustling, active streets of Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport. The application site is in the World Heritage Site and the West End Conservation Area. See Figures 1 to 3.

Figure 1 Edinburgh Local Development Plan 2016 Proposals Map (extract)



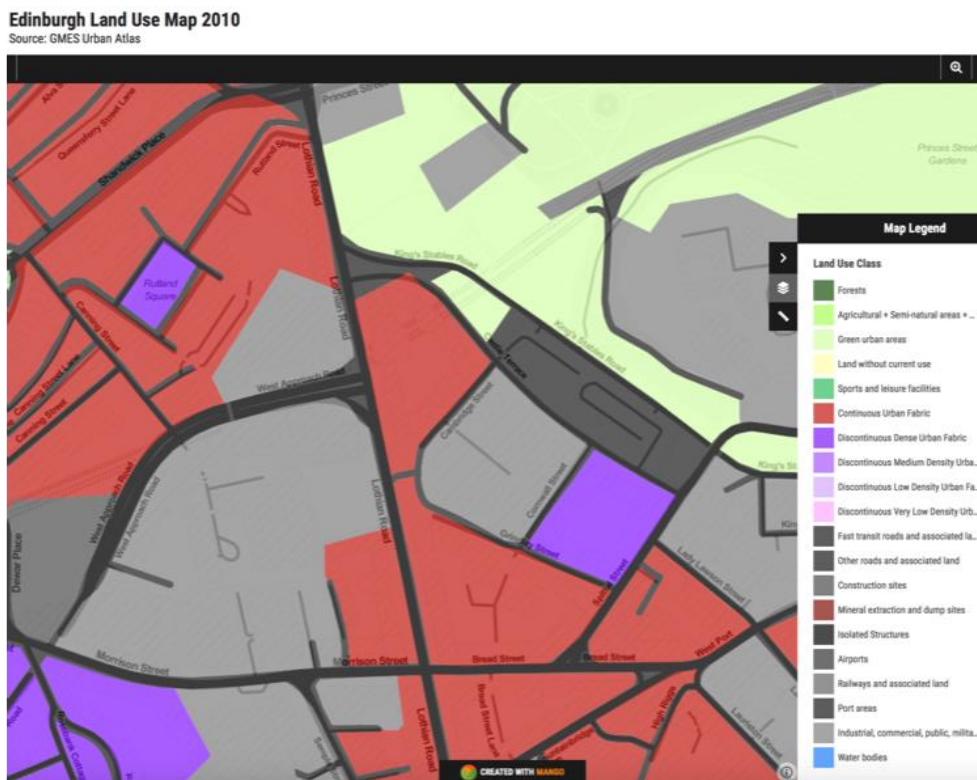
- 1.1.6 The property which is the subject of this appeal is an entirely one-bedroom self-contained, basement flat at the corner of Cambridge Street and Castle Terrace. The property extends over a single floor and has an entrance hall, master bedroom, a living/dining room, kitchen, shower room and study. The property has its own main door which is accessed via a set of steps from Castle Terrace. There is an entry-controlled gate at the top of the steps. The property has its own private courtyard/basement area to the front.
- 1.1.7 The application property is in the basement of a four-storey category-B listed Victorian terrace (ref: LB 28484: date of listing 1.1.2003). The four floors above are in residential use. Prior to the use of the property as a flat it was used as an office (Class 4) pre-February 2015. The majority of the properties within the block to the east along Castle Terrace are mixed use with office/commercial uses in the basement/ground floor and residential above. See Appendix 1.

Planning Statement in Support of Notice of Review – 1A Cambridge Street Edinburgh EH1 2DY

Figure 2 Aerial View of Property (extract from Google Maps)



Figure 3 Edinburgh Land Use Map 2010



Description of the Proposal

- 1.1.8 The application seeks permission to change the residential use to a short term let apartment (retrospective). No internal or external physical changes are proposed.
- 1.1.9 It has successfully operated as a short-term let (STL) property for visitor accommodation since September 2021 without any complaints from neighbours.

Relevant Site History

- 1.1.10 Prior to use as a flat (sui generis) the property was an office (Class 4). The change of use from class 4 office to residential (flatted) and associated minor alterations was granted on the 18th February 2015 (Ref.No.14/05110/FUL).

1.2 Purpose

Planning Application Process

- 1.2.1 The planning application for retrospective planning permission for change of use from flat (sui generis) to short term let (sui generis) at 1A Cambridge Street, Edinburgh was validated by the Council on the 31st March 2022 (App.No.22/01652/FUL). The documents submitted with the application in support of the proposal comprised the following:

- Completed application form
- Drawings
 - Location Plan
 - Floor Plan
- Planning Statement
- Photo-study

See Appendix 2.

- 1.2.2 The application was publicised by the Council on the 11th April 2022. The neighbour consultation period ended on the 20th May 2022. The application received no representations of objection from neighbours, or any representations from consultees.
- 1.2.3 The Council's Decision Notice was decided by Local Delegated Decision and issued on the 25th October 2022. See Appendix 3. The application was Refused for the following single reason (Appendix 4):

'1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'

Key Assessment Issues

- 1.2.4 Having regard to the provisions of the development plan and other material considerations where appropriate, the determining issues in this Local Review are considered to be:
- Do the proposals comply with the **development plan**, including relevant policies of the Edinburgh Local Development Plan – particularly Edinburgh Local Development Plan **Policy Hou 7 in respect of Inappropriate Uses in Residential Areas** which was specifically referred to in the single reason for refusal; and
 - Are there any **other material considerations**/compelling reasons that weigh in favour of the proposals, such as SPP, Revised Draft NPF4, Proposed City Plan 2030 and

relevant Non-Statutory Guidelines (particularly the non-statutory Guidance for Businesses, although the Guidance is not specifically referred to in the single reason for refusal), economic benefits and recent City of Edinburgh Short-Term Let (STL) planning applications granted permission and appeal decisions.

- 1.2.5 To address these determining issues, the following criteria needs to be carefully considered in terms of an assessment of the materiality of a change of use of dwellings to an STL:
- 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 and disturbance;
 - parking demand; and
 - The nature and character of any services provided.
- 1.2.6 We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.
- 1.2.7 In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.
- 1.2.8 The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.
- 1.2.9 Regulations under the Planning Act give allowance to seek a review of the decision within three months, that is, by the 24th January 2023, and the Notice of Review has been duly submitted within that period, that is, on the 24th January 2023.

1.3 Structure

- 1.3.1 This Planning Statement in support of the Notice of Review is structured as follows:

Section 1 – Introduction

Section 2 – Context of Proposal

Section 3 – Development Plan and Material Considerations

Section 4 – Determining Issues and Assessment

Section 5 – Summary and Conclusion

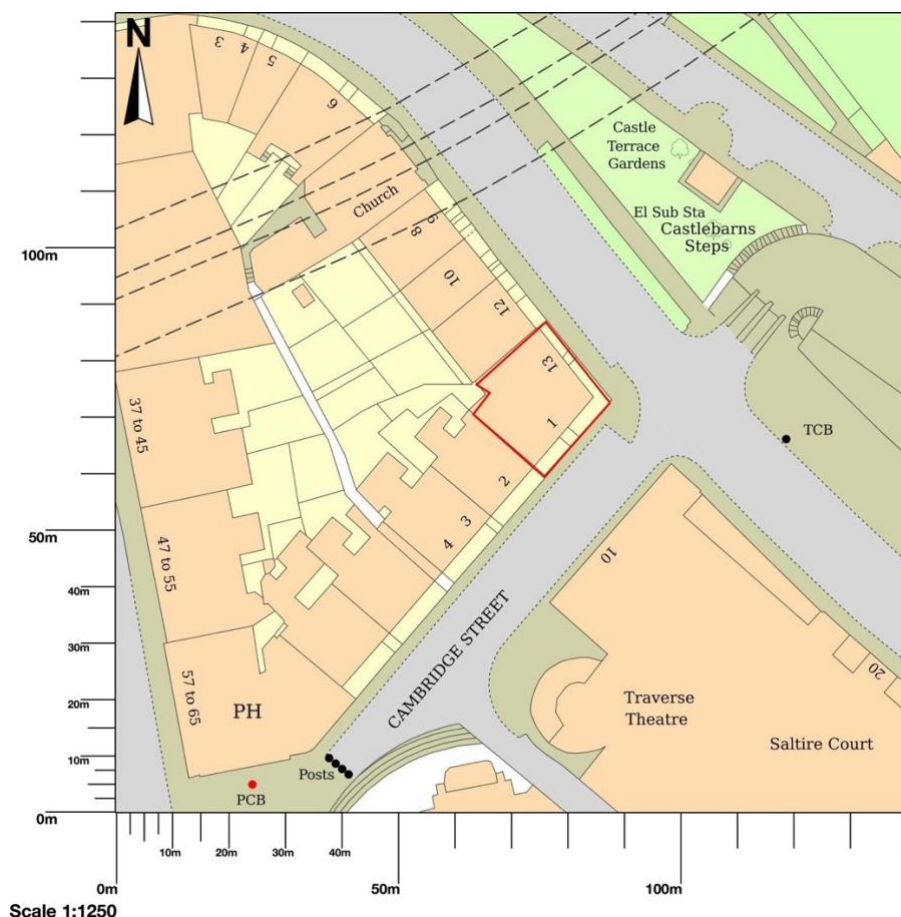
2 Context of Proposal

2.1 Property Description and Surroundings

Site Surroundings & Context

- 2.1.1 The application site is located in one of the most desirable areas of Edinburgh in a beautifully well maintained 1850's building. The property is situated in the theatre area, just a 3-minute walk to Princes Street, and many major tourist attractions. The application site is located within the **City Centre** and is in a **mixed-use area**. It is the vibrant hub of the city region and an important tourist destination.
- 2.1.2 The application site lies in the centre of Edinburgh at the corner of Cambridge Street and Castle Terrace, with Lothian Road (A700) to the west and Princes Street and Princes Street Gardens to the north. It is in the immediate vicinity of a number of bus stops and a tram stop serving several routes both within and out of the city. The site is within walking distance of both Waverley and Haymarket train stations. See Figure 4.

Figure 4 Site Location

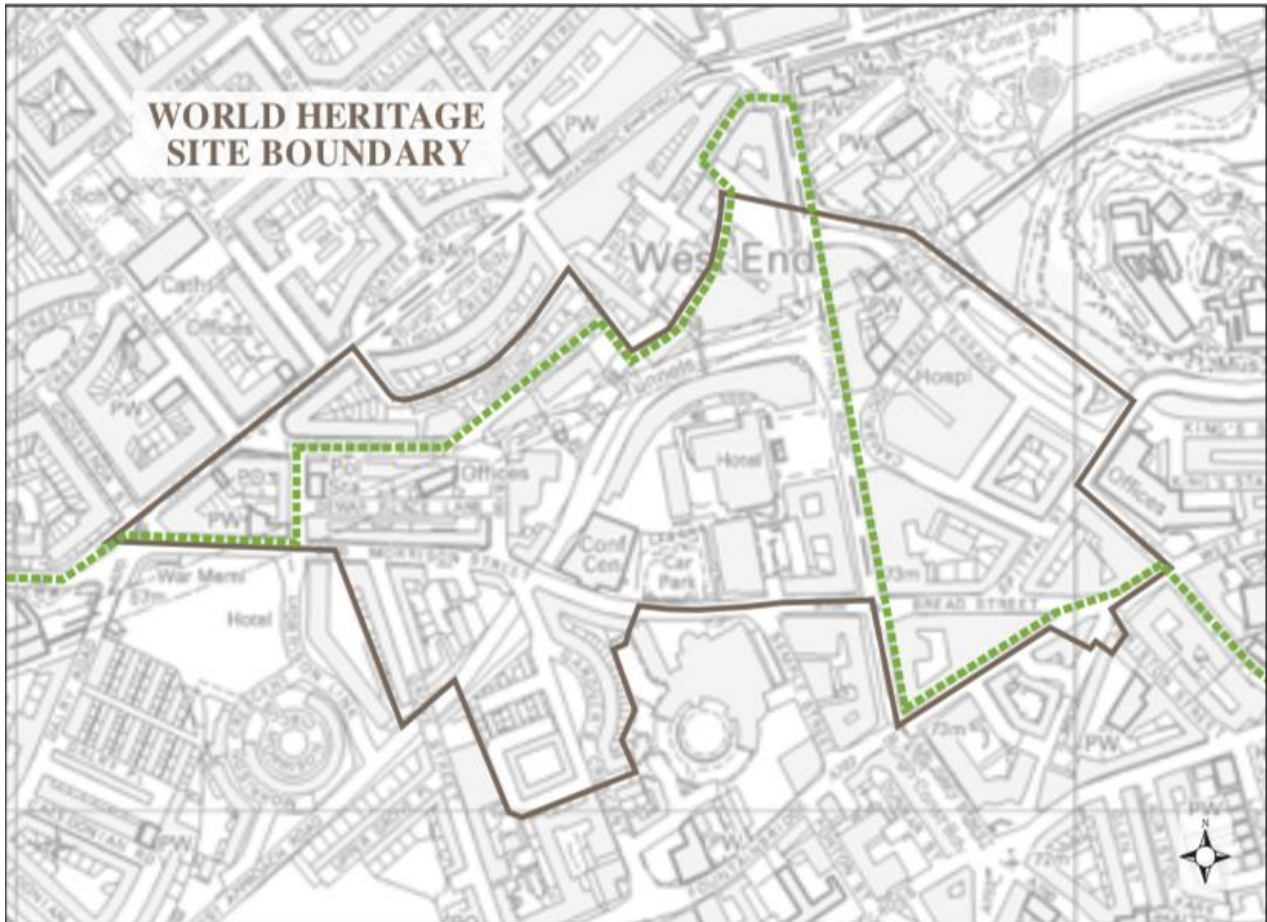


- 2.1.3 Cambridge Street is a mix of residential and commercial/offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of the street. The application property is in the basement of a four storey Victorian terrace. The four floors above are in residential use. The property is in the city centre, is a two- minute walk

from Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport.

- 2.1.4 Cambridge Street is in the City Centre district of Edinburgh, a few yards walk from Lothian Road. The property is situated in the City Centre Council Ward.
- 2.1.5 While the majority of buildings in the immediate block are residential, many of the ground floor/basement premises are office/commercial. The application property was an office before change of use to flatted accommodation. Further, there are no residential neighbours directly across the road, with the south side of Castle Terrace dominated by an NCP car park.
- 2.1.6 Commercial development in the form of custom-built office buildings comprise the dominant use on Castle Terrace, with the NCP car park on Castle Terrace being the venue for the weekly farmers' market. Across Lothian Road from the junction with Grindlay Street is Festival Square, a public space currently used to host touring events (e.g. Van Gogh experience) and providing setting to the Sheraton Hotel and bars and restaurants on the north side of the square. It is understood that there are several other properties operated as short-term let visitor accommodation elsewhere on Grindlay Street.
- 2.1.7 The wider area surrounding the property has a distinctive character that has largely been informed by the presence of Lothian Road, one of the key arterial routes leading south from the city centre, and by the redevelopment of the former Caledonian Railway goods yard that has allowed much of the space to the west of Lothian Road to provide important commercial office space for the city today. It is considered that these influences have been important in establishing the area immediately around the property as a key entertainment district for the city with numerous theatres, exhibition spaces, cinemas, restaurants, cafes, bars and saunas in evidence.
- 2.1.8 The property does not have its own car-parking space although secure public parking is available nearby on Castle Terrace, Grindlay Street Court and Semple Street. Most guests arrive on public transport with Waverley and Haymarket Stations, as well as Edinburgh's bus station all less than 1 mile from the property. The nearest tram stop to the property is less than half a mile away, offering simple, direct access to Edinburgh airport, and in due course to Leith. In addition, Lothian Road is one of the key bus routes in the city offering bus-stops for local, regional and national services only yards from the front door of the property.
- 2.1.9 The immediate district around the property was developed in the later 19th Century, today its character is as a dynamic, mixed-use area, recognised in the adopted Local Development Plan 2016 as forming part of the capital's city centre. A short distance to the north, the junction of Lothian Road and Bread Street marks the beginning of the Tollcross area recognised as a 'Town Centre' in the adopted Local Development Plan, characterised by *"traditional shop units under tenements located on main roads with good bus services"*. The property is a short distance from the start of this area where further shops and services can be found. Accordingly, this property can perhaps best be considered as being sited within the city centre on the edge of an area with a defined city centre function.
- 2.1.10 The West End Conservation Area lies immediately adjacent to the New Town on its south west boundary and the Old Town on its western boundary. The Conservation Area was originally designated in 1980 and amended in 1995. The area lying to the east of Lothian Road within the West End Conservation Area, which includes the application site, is included in The World Heritage Site (WHS) and is dominated on its eastern edge by the presence of the Castle. See Figure 5.

Figure 5 West End Conservation Area Boundary and World Heritage Site Boundary



2.1.11 The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively, which is a stone's throw from the application site. The top deck of the multi storey car park on Castle Terrace forms a ten-metre wide pavement to Castle Terrace opposite the application site and facing Saltire Court. A footway maintenance and planting scheme for this space has greatly improved this space encouraging footfall activity adjacent to the reasonably trafficked Castle Terrace with vehicles travelling east/west and north/south across the city.

2.1.12 1A Cambridge Street, Edinburgh ('application site') is a Category B listed building (part of 1 Cambridge Street) (Designation Ref. LB28484: date of listing 1.1.2003).

Property Description

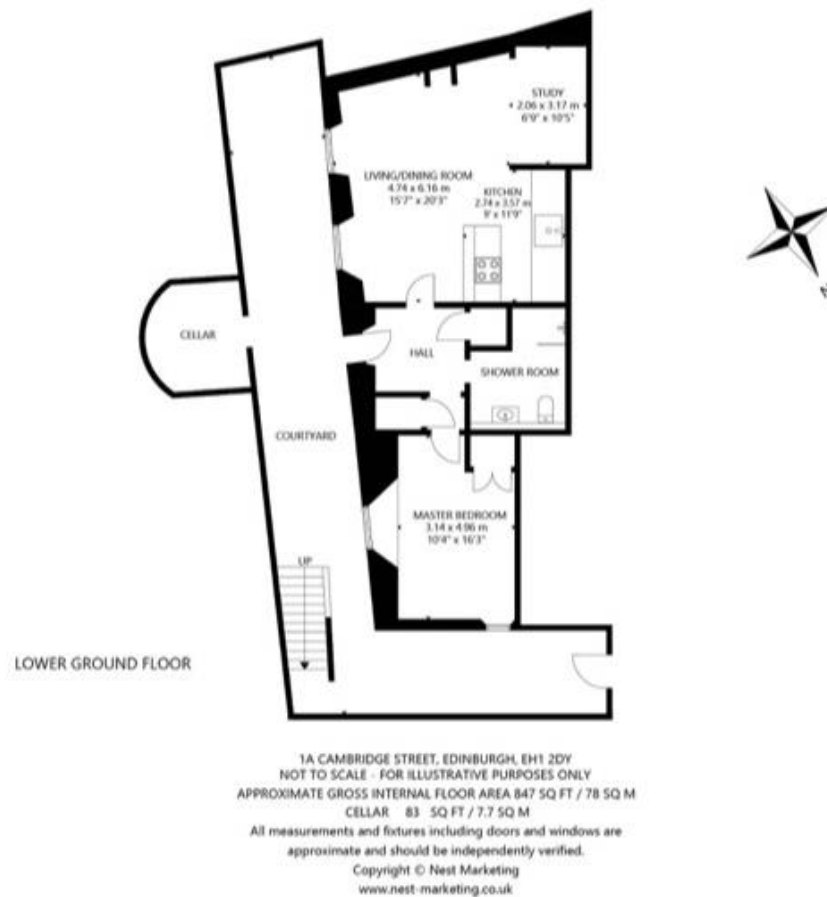
2.1.13 The four-storey tenement at 1 Cambridge Street accommodates four flats including the application site. Three flats are accessed via a main door and common stair from 1 Cambridge Street – 1F1, 2F1 and 3F1. The application site at 1A Cambridge Street, a self-contained, one-bedroom basement flat at the corner of Cambridge Street and Castle Terrace with its own main door access, accessed at street level from Castle Terrace via its own dedicated gate and steps descending to basement level. Access via the gate is for the sole use of the application

site. The gate is locked and accessed by a keypad. The property has its own private courtyard/basement area to the front.

2.1.14 The direct access to the application site from the street means that there would not be direct interaction between the short-term occupants and those longer-term residents in the flats in the main tenement accessed from a common main door at 1 Cambridge Street.

2.1.15 The application site is a self-contained, one-bedroom basement flat comprising an entrance hall leading to a living/dining room, kitchen, master bedroom, shower room and study. There is also the outside basement area/courtyard providing access to cellars owned by the applicant. The approximate gross internal floor area of the basement flat is 78 sqm. The gross internal floor area of a cellar is approximately 7.7 sqm. See Figure 6.

Figure 6 Floorplan of application site



2.1.16 Parking is on-street within a parking-controlled area. There is a multi-storey NCP car park opposite the application site on Castle Terrace.

2.1.17 A photo-study has been undertaken of the application site and the local area. See Appendix 1. The key issues to note from the photo-study are:

- The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential,

office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.

- The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
- New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
- The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse (currently vacant) reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
- The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten-metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.
- The public realm in the immediate are of the application site is of the highest quality in terms of the materials used.
- In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

2.1.18 Understanding the unique city centre location visually opposite Edinburgh Castle and at the heart of the city's theatre-land, mixed use (residential, office and commercial uses) 'beating heart' of the city, the applicants, who have always sought to 'live like locals' in their own travels, were keen to offer a means by which visitors could experience the elegant and uniquely distinctive urban character of Cambridge Street/Castle Terrace and the city centre New Town. After finding the property for sale and undertaking sympathetic upgrades, the applicants have been successfully offering this type of accommodation here since 2021.

2.1.19 In the above context, it is considered that the one-bedroom property on the corner of Cambridge Street and Castle Terrace needs to be understood as a compact property in a unique and well-connected neighbourhood in the city centre. The presence of the property functioning in this way for several years has had no impact whatsoever on neighbouring residential amenity or on the character of the wider area. By offering accommodation of this sort in this environment, it is considered that the property in fact acts as an important asset to the city, as it allows visitors the chance to experience what life is actually like staying in such a unique urban quarter.

2.2 Management of the Property

Ongoing Management Measures

2.2.1 Under current proposals a separate licence application covering specific management measures looks likely to be required to be made in order to operate the property as visitor accommodation. Nevertheless, it seems appropriate in this statement to explain a little of the background to the applicants themselves and detail the arrangements they already have in place to ensure safe and responsible hosting.

- 2.2.2 The focus of the owners of the property at 1A Cambridge Street (the applicants) since their purchase of the property in September 2020 (followed by 11-month refurbishment and redecoration) has been on providing an exceptional level of Scottish hospitality of the kind that they would enjoy, in a unique and historic property.
- 2.2.3 When travelling themselves, the applicants have always sought to ‘live like locals,’ finding this to be the most rewarding way to immerse themselves in a new destination, and preferable to the slightly more abstracted experience of hotel-living. In this regard Visit Scotland’s recent paper ‘Localism and Authentic Experiences’ (May 2021) (part of its Innovation Insight series, a series which looks at ‘trends developing in tourism today from consumer demands and business innovations around the world’) shows that this aspiration aligns with a noted global change in tourist aspiration. The paper notes that visitors are increasingly demanding an experience that reflects the “unique identity of a destination”, noting specifically that “visitors will crave living like a local and creating memories discovering their own authentic Scotland”.
- 2.2.4 Running the property at 1A Cambridge Street as they have done for several years has allowed the applicants to respond to this type of demand, offering an exceptional level of hospitality in a unique setting. By providing guests with a glimpse into what life is really like living in one of the world’s greatest exemplars of large-scale domestic urban design, they have helped ensure that for their dozens of guests, a stay in Edinburgh provides a lifetime of positive memories.
- 2.2.5 The applicants’ focus on providing such exceptional visitor accommodation is reflected in the detailed management arrangements and conditions of use that they have established for the property. Craigiebrook Ltd has invested more than £450,000 in appointing “The Matisse Suite” as an STL at 1A Cambridge Street. It is absolutely NOT in their interest to have either high levels of occupancy or allowing anyone to stay without substantial controls in place. Their model is competitively priced, very high quality, low occupancy. This differs from low cost/high occupancy strategies seen in many other STL’s.
- 2.2.6 Policy of the STL at 1A Cambridge Street, Edinburgh:
- In practice, as guests are essentially obliged to get in touch with the applicant, they spend some time qualifying who they are and if they can, to outline the reason for their stay at the STL;
 - This is in the guise of proactive high level customer service where they also offer recommendations for local restaurants, attractions and give travel and parking guidance. The parking guidance is always firstly not to bring a car at all, as Edinburgh is so walkable, and secondly, if they do have a car they are directed to the NCP car park directly opposite the property;
 - The dialogue the applicant enters into with their guests allows them to help them, but also to gauge how they can offer them the best experience while guiding them to adhere to the House rules (see below);
 - Inside the property the applicant has disconnected the “Sonos” speaker system which they bought with the flat. They felt this would be too loud for their neighbours. They replaced this with a small Bluetooth portable speaker which is far quieter than the ‘Sonos’ system;
 - The applicant is also able to monitor internal noise in the apartment remotely via the “Minut” noise monitor which can detect decibel levels in the property. This can send the applicant alerts and they can then call upon their property manager to intervene, or they can call the guests themselves. They have never had to do this;
 - All their neighbours above the basement flat have their telephone numbers and the number of their property manager, and all these neighbours are aware of their STL

and several have been inside their flat to show them the decor and what they offer to their guests. They have had no complaints whatsoever from their neighbours.

2.2.7 To date, the management arrangements that are already in place have resulted in there being no complaints of any description from neighbours, no complaints of any description to the City of Edinburgh Council and no call-outs from Police Scotland since it has been in the possession of the applicants.

2.2.8 Notwithstanding the central location of the property, the applicants want to encourage longer-term holiday lets both at a practical level to minimise the number of turnovers at the property, and by extension to minimise the potential for any impact on neighbouring properties. As a result, the default minimum booking period for the property is 3 nights, with 4 nights as a minimum during peak periods, and 5 nights for bookings made more than 6 months in advance.

2.2.9 The intimate domestic nature of the property means that it isn't suitable for any events or large groups, but for the avoidance of doubt, the property is also not available as accommodation for the likes of stag and hen parties. The focus has always been on providing outstanding accommodation for couples and single people – with many making repeat (and in some cases multiple repeat) visits to the apartment. The following property rules which are set out clearly on the relevant booking websites have been devised to prevent any adverse impact to neighbouring properties, and are conditions of reservation:

2.2.10 The House Rules are:

- Check in is 4pm until 10pm
- Check out is by 11am
- The profile owner must be amongst the guests. They don't allow people to book on behalf of others
- They have a minimum age limit of 30 years old to book the property
- They do not accept children under the age of 16
- Potential guests receive an email asking them to confirm their age range and to specifically acknowledge that they are not set up for children
- They do not host stag/hen or any type of parties whatsoever
- They do not allow 'Experiences' which is a category on Airbnb <https://www.airbnb.com/s/experiences>
- They do not allow smoking on the property
- They do not allow pets on the property
- They specifically ask guests to respect their neighbours by keeping noise to a minimum inside and outside the property (in the private courtyard) after 10pm
- Guests on Airbnb may only "instant book" if they have high review ratings given by previous hosts. They must still answer the email about ages and children.

Future Management Arrangements

2.2.11 As noted in the sections above, the Scottish Government is proposing to bring in a licensing scheme for short-term let visitor accommodation properties, with applications for these expected as being required by existing operators by no later than 1st October 2023. The future licensing regulations are designed to ensure that local Authorities have greater control over properties let out as visitor accommodation. Until that time however, there are currently safeguards already in place and those which could readily be put in place, to ensure that the property owners' conditions of use set out above will be adhered to. These will then mitigate against any potential for adverse impacts on neighbouring residential properties.

2.2.12 At the most basic level, the online booking systems routinely used to arrange and confirm short-term lets, allows both hosts and guests to screen each other through the inbuilt review system. The review system is mutually beneficial as it provides reassurance to each party;

both that properties will be clean and well managed, and that guests will be well-behaved and respectful of the property. Under the review mechanism, at the end of every short-term letting, both parties are empowered to assess and review each other for the quality of the property and the behaviour of the guests respectively. Whereas in this case, the host has clearly set out rental conditions such as for example banning pets from the property, any breach of such conditions will result in a poor review which in turn will impact on the guests' ability to make further rentals in the future.

2.2.13 While not a matter that could be controlled through a planning condition, the applicant would be happy to volunteer entering into a **good neighbour agreement** with the Council covering important matters that could impact on the character of the area which could help to formalise the management procedures already set out above. The final detail of such an agreement would need to be negotiated with the Planning Authority, however it could include the following:

- Firstly, a commitment that a review will be posted for each guest staying in the property after their visit has ended, acknowledging where they had adhered to the individual 'house rules', and also recognising where this had not taken place; to ensure that this would be noted in their booking history going forward;
- Secondly, the applicants could commit to take no bookings automatically. Instead, all potential guests would be subject to a review of their booking history to ensure that there are no 'red flags' raised in terms of their potential behaviour. Logs or screenshots of these checks could be retained for future scrutiny; and
- Finally, the terms of the formal good neighbour agreement could appear on the property listing, so all potential guests were aware of their requirements as guests to meet the good behaviour standards set out by the applicants and expected by the Council.

Headlines of guest feedback and occupancy profile to date

2.2.14 In the 2021/2022 period the "Matisse Suite" at 1A Cambridge Street hosted 50 stays over 178 nights comprising of 43 Airbnb stays, 6 VRBO stays and 1 direct (repeat) stay.

2.2.15 Prices paid by customers ranged between £200 and £650 Per Night. Matisse Suite does not seek to compete with other STL's based on price. They seek to showcase Edinburgh, particularly to foreign visitors, who wish to experience the city, and want a luxury suite type experience, but with full kitchen facilities in a central location within walking distance to everywhere.

2.2.16 The 50 stays saw three repeat guests already return during the 21/22 period.

2.2.17 Of the 50 different groups the breakdown of nationalities was as follows:

- 22 from USA (including 1 return stay)
- 23 from the UK (including 2 return stays)
- 1 from Canada
- 1 from Sweden
- 1 from Spain
- 1 from Iceland
- 1 from Australia

2.2.18 The fact that more overseas visitors stayed than British visitors is on account of the fact that the Matisse Suite is heavily marketed in North America as the owners have a strong desire to support the city's reputation as a first-class destination for international vacations.

2.2.19 Of the 50 stays Matisse Suite still has at the time of writing 4 stays are yet to be completed. Of the 46 completed stays 38 have left 5-star (often long and effusive) reviews. Of the 8 "No reviews" one was a repeat guest who stayed direct and had previously left a 5-star review. Examples of the 5-star reviews include the following:

- *'One of the best apartments I have ever stayed in - beautifully kept and homely atmosphere! Nothing was too much for James and he was always contactable for any questions I had. The location of the apartment was perfect - central and walkable to all key attractions. I would definitely recommend & will be staying again! (27th November 2022, City Break)*
- *'A magnificent flat located in a fantastic location, right at the base of Edinburgh Castle. The flat had everything you could ask for and was extremely well set-up. Wish we could have stayed longer, and really look forward to returning! Could not recommend more highly!' (18th November 2022, City Break)*
- *'The Matisse Suite was such a fantastic place to stay and so central for seeing Edinburgh! We absolutely LOVED the vibe of the apartment and it had all the essentials we could need. The host provided great communication, instructions for check in and tips on things to see and do in the city - all really appreciated! Thoroughly recommend!' (20th October 2022, City Break)*
- *'I can honestly say this was the best apartment I have ever stayed in. Perfectly located, just minutes from Princes St, Royal Mile and Grassmarket, with amazing views of the castle at your doorstep. We loved walking out every morning and taking photographs of the view. James was excellent at communicating, answering every question and he honestly went over and beyond. The attention to detail in this property is outstanding - it makes your stay feel luxurious and honestly I didn't want to leave the apartment. Thank you for everything!' (28th August 2022, City Break)*
- *'Absolutely stunning apartment with everything you could need when staying away from home. The apartment is a stone's throw from the centre of Edinburgh so we never once needed a taxi. Everything in the apartment was spotless, the decor is so beautiful and it's just the most perfect place for a romantic getaway. James and Lee-Ann were absolutely amazing hosts and we can't wait to stay again.'* (7th July 2022, City Break)
- *'It's our second time staying in this gorgeous apartment. The location is fantastic - just minutes from the Castle, the Grassmarket and Princes Street. And the flat is just a few minutes walk from the tram stop to get to the airport. The apartment has everything you need and is beautifully decorated. We love staying here.'* (25th March 2022, City Break)

2.2.20 Unsurprisingly based on the offering and its marketing, nearly all UK based guests stayed at the Matisse Suite did so for a City Break. The great majority of overseas guests came for the purposes of an international vacation. However, notably, the two longest (amongst the best yielding stays) were for the purposes of an American mature student who came to study and has already committed to return and prepaid for next year's stays. The longest stay was for a famous American comedian and performer who stayed for two weeks for work during the Festival.

2.2.21 "Matisse Suite" welcomed its first guest on September 4, 2021. By January 1, 2023, the applicants will have hosted 50 stays. 17 of the 50 stays (in 2021/2022) stayed for a period of 2 days, and this was predominantly at weekends. The next most common period of stay was 10 incidences of 3-day stays. Again, these were mostly long weekends. This has important resonance with the appeal we will cite, and an oft mentioned concern of the granting of COU and license applications- the noise made by guests entering and leaving with luggage.

2.2.22 The claim of the planning department is that the operation of an STL is likely to have more activity than a continuously occupied 1 bedroom flat.

- The property has been occupied by STL guests for 178 out of a possible 484 days (September 4, 2021 - January 1, 2023)
- 2-day stays totalling 34 days
3-day stays totalling 30 days
64 days in total

2.2.23 These stays were in the majority at the weekends and it can be assumed that in the case of the British visitors who accounted for 21 of the 27 2-day and 3-day stays, that they were travelling light, as they were there for the purpose of a city break (20) and 1 visit for work.

2.2.24 Surely 178 from 484 days cannot suffer from more activity than if the flat were occupied on a full-time basis for the whole 484 days. Of those 484 possible days of availability, there were **306 days when the flat was unoccupied.**

2.3 Economic benefit

2.3.1 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a ***material planning consideration***.

Refurbishment economic benefits

2.3.2 1A Cambridge was purchased in September 2020, and the 11 months was spent redecorating the interior of the property.

2.3.3 This was an entirely Scottish based team and the total renovation costs were circa £35,000.

2.3.4 This saw the employment over several months for:

1 x 2-person joiner team

1 x 3-person interior design and fit-out team

1 x 3-person painter & decorator

1 x 2-person cleaning team

2.3.5 This resulted in the very high standard of interior decoration that can be seen on the Airbnb ad and other channels.

Tourist economic benefits

2.3.6 As the Matisse Suite is marketed heavily in North America, the applicant considers that they have been instrumental in attracting high net worth quality guests from (particularly) the East and West coasts of the USA. Whilst it can be argued that these people would have come to Edinburgh, we have already had commitment and prepayment of monies already from previous guests including:

- A mature student from California who stayed for 11 days last year and will stay again in May 2023;

- A business owner from Nevada who stayed last May and chose to come back again in April to see more of Scotland, using the Matisse Suite as a base;
- An Icelandic customer who stayed last year who is a keen marathon runner who has with her friend entered the Edinburgh Marathon and booked and prepaid the flat; and
- A pre-paid let in February for the son of a New York based corporate accountant who stayed last year.

Local employment benefits

- 2.3.7 As the owners live prohibitively far from the rental unit, all the property management, maintenance and cleaning are outsourced to a local Edinburgh based cleaning company. This company cleans and sets up the flat prior to guests arriving and often meets and greets guests as they arrive.
- 2.3.8 The applicant has spent more than £5500 on the “turnover” cleans for each guest, providing more than 130 person hours over 50 instances. This does not include deep cleans or property management which are easily another £2500 of local Edinburgh Labour.
- 2.3.9 It’s important to keep in mind that amongst their regular cleaning team, they have working mums who find that cleaning STL’s such as at the application site offers vital, flexible and convenient employment which fits around their lifestyle and family requirements.
- 2.3.10 The applicant has also spent more than £8500 with the same company on maintenance and repairs to the property. This sees their property manager subcontract with other Edinburgh based workers including:
- Plumber and Gas Engineer
 - Drain specialist
 - Electrician
 - Power washing
 - Carpet Cleaning
 - Window cleaning
 - Stone Mason
 - Burglar alarm engineer
 - Security gate engineer
 - Planning Consultant
 - Surveyor

3 Development Plan and Material Considerations

3.1 Introduction

3.1.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) directs that planning applications should be determined *'in accordance with the Development Plan unless material considerations indicate otherwise'*.

3.1.2 The **development plan** comprises the adopted Edinburgh Local Development Plan 2016.

3.1.3 In the assessment of **material consideration** we consider the following:

- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
- Scottish Planning Policy (SPP);
- Revised Draft NPF4;
- Proposed City Plan 2030;
- West End Conservation Area Appraisal;
- Public representations; and
- Any other identified material considerations (e.g. economic benefit, applications and appeals).

3.1.4 Due to the proposals also relating to a listed building(s) and being within a conservation area, this report also considers the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act").

3.2 Development Plan

3.2.1 The relevant development plan is the adopted Edinburgh Local Development Plan (November 2016) (ELDP). The relevant policies of the ELDP are:

- LDP Policy Env 1 World Heritage Sites;
- LDP Policy Env 3 Listed Buildings - Setting;
- LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area;
- LDP Policy Hou 7 Inappropriate Uses in Residential Areas establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.
- LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking; and
- LDP Policy Del 2 City Centre sets criteria for assessing development in the city centre.

3.2.2 The single reason for refusal refers only to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas:

‘1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.’

3.2.3 The supporting text to ELDP Policy Hou 7 at para 234 states that:

‘The intention of the policy is firstly, to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed-use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation (i.e. for five or more people). Further advice is set out in Council Guidance.’

3.2.4 The further advice referred to in Policy Hou 7 is the Council’s non-statutory Guidance for Businesses (November 2021).

3.2.5 On the basis that the reason for refusal only identifies that the proposal is contrary to ELDP Policy Hou 7, by inference the proposed development complies with all other relevant development plan policies within the ELDP. The Council’s Report of Handling confirms this (Appendix 4):

- The proposal is acceptable with regards 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 proposal complies with the following LDP policies:
 - LDP Policy Env 1 World Heritage Sites;
 - LDP Policy Env 3 Listed Buildings - Setting;
 - LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area;
 - LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking; and
 - LDP Policy Del 2 City Centre sets criteria for assessing development in the city centre.

3.3 Material Considerations

Non-statutory Guidance for Businesses (November 2021)

3.3.1 This guidance is intended to assist businesses in preparing applications to change the use of a property or carry out alterations to a business premises, such as changing a residential property to a commercial use (e.g. short term commercial visitor accommodation):

‘The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had 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.'*

Scottish Planning Policy (SPP)

- 3.3.2 Scottish Planning Policy (SPP) (2014) is a statement of Scottish Government policy on land use planning. Where relevant to the current proposals, SPP recognises tourism as one of the “key sectors for Scotland with particular opportunities for growth”.
- 3.3.3 SPP presumption in favour of sustainable development is currently a significant material consideration due to the development plan being over 5 years old. Following the adoption of NPF4 due on the 13th February 2023 SPP will become redundant and superceded.
- 3.3.4 Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.
- 3.3.5 The proposal is considered to comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would protect the amenity of existing development. The proposal will therefore contribute to sustainable development.

Revised Draft NPF4

- 3.3.6 On the 11th January 2023 the Scottish Parliament voted to approve National Planning Framework 4 (NPF4). The intention is that Scottish Ministers will adopt and publish NPF4 on 13 February 2023 at 9am, meaning that it is in force and National Planning Framework 3 and Scottish Planning Policy are superceded from that date and time. Publication of NPF4 on 13 February will also have the effect that all strategic development plans and any supplementary guidance issued in connection with them cease to have effect on that date. Until 13 February, NPF4 is not part of the development plan and the weight given to it in decision making is a matter for the decision maker.
- 3.3.7 Given NPF4 has now been approved by the Scottish Parliament, and its adoption and publication (in its approved form) is the only outstanding action, it is considered as a significant material consideration during this period in the determination of this application.

Proposed City Plan 2030

- 3.3.8 The Proposed City Plan 2030 sets out the strategy for development, proposals and policies to shape development and inform planning decisions in the city over the next 10 years and beyond. Following approval at Planning Committee on Wednesday 30 November, the Proposed City Plan 2030 was submitted for examination on Friday 9 December 2022.
- 3.3.9 As such, appropriate weight can be attached to it as a material consideration in the determination of this application.

West End Conservation Area Character Appraisal

- 3.3.10 The West End Conservation Area Character Appraisal (9th March 2006) emphasises that the area is characterised by mixed, residential and commercial buildings.
- 3.3.11 The 1980s and 90s saw considerable development occurring in the conservation area. New development from the late 1980s onward has been of some quality, including Saltire Court and

the Traverse Theatre on Castle Terrace and **Cambridge Street** respectively. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building with the Traverse Theatre relocated on **Cambridge Street** behind the Usher Hall, a stone's throw from the appeal site. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall.

- 3.3.12 The early 80s also saw development of the former railway site with the construction of the Sheraton Hotel, Festival Square and an office block adjacent to the Filmhouse. To prevent piecemeal development, the Council produced a development strategy for the area west of Lothian Road, lying between the Caledonian Hotel and including former railway ground and the area formerly occupied by the Co-op bakery and milk depot.
- 3.3.13 The thrust of the strategy was to relieve the demand for office accommodation in the City Centre by the provision of a new international financial office complex and an international conference centre. A Masterplan produced by Sir Terry Farrell was accepted in 1989 and on this basis development took place through the 90s.
- 3.3.14 ***The external ambient noise in such a mixed-use city centre location will mitigate any potential impact on residential amenity of short-term letting.***

Public representations

- 3.3.15 The application received no statutory representations (by inference no objections) nor public objections.

Economic Benefit

- 3.3.16 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

Applications and Appeals

- 3.3.17 The Council has referenced application and appeal decisions as material considerations in their assessments.

3.4 Summary

- 3.4.1 Overall, the proposed development must demonstrate that it is consistent with the development plan, and that there are no material considerations that indicate it should nonetheless be refused. By achieving this, the proposed development should be granted permission.
- 3.4.2 The next section assesses the proposed development in terms of the key determining issues.

4 Determining Issues and Assessment

4.1 Introduction

- 4.1.1 We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal and analysis of development plan policy, non-statutory Guidance for Business and other relevant material considerations.
- 4.1.2 We do not consider that the planning officials gave adequate regard to the merits of the proposed development in deciding to refuse planning permission. We now request that the Local Review Board consider the following matters in overturning this decision and granting planning permission.

4.2 Determining Issues

- 4.2.1 We initially consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) with a particular focus on the single 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 the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'

- 4.2.2 The determining issues in this appeal are:

- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, the determination should be to grant planning permission unless material considerations indicate otherwise?
- If the proposals do not comply with the development plan, the determination should be to refuse planning permission unless material considerations indicate otherwise?

- 4.2.3 In the assessment of material considerations we consider the following:

- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
- Scottish Planning Policy (SPP);
- Revised Draft NPF4;
- Proposed City Plan 2030;
- West End Conservation Area Appraisal;
- Public representations; and
- Any other identified material considerations (e.g. economic benefit, applications and appeals).

- 4.2.4 The Council officer's in their Report of Handling concluded that, *'...the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents [i.e. LDP policy Hou 7 (Inappropriate Uses in Residential Areas)]. It does not comply with the objectives of SPP, as*

it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.' (see Appendix 3).

4.2.5 Due to the proposals also relating to a listed building(s) and being within a conservation area, this report also considers 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:
- harming the listed building or its setting? or
 - 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?

4.2.6 The Council officer's in their Report of Handling concluded that, '*The proposal is acceptable [our underlining] with regards 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.*' (see Appendix 3).

4.3 Assessment

Policy Hou 7 Inappropriate Uses in Residential Areas

4.3.1 To firstly address the determining issues in relation to the single reason for refusal, that is, the principle proposed use, we assess the main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA), that is, Policy Hou 7 Inappropriate Uses in Residential Areas which states that developments, including change of uses which would have a materially detrimental impact on living conditions of nearby residents, will not be permitted.

4.3.2 The non-statutory Guidance for Businesses (November 2021) sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- a. The character of the new use and of the wider area;
- b. The size of the property;
- c. The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
- d. The nature and character of any services provided.

4.3.3 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

4.3.4 The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

4.3.5 As detailed in Section 2 of this Statement, the area immediately surrounding the property at 1A Cambridge Street is considered as performing a mixed-use function, and many businesses

evident in the local neighbourhood encourage relatively high-footfall uses such as Class 1 retail, Class 3 food and drink, Class 4 Business, Class 7 Hotels and Hostels, Class 10 Non-residential Institutions, Class 11 Assembly and Leisure, and sui generis uses such as public houses and hot food takeaways. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless retains residential functions.

4.3.6 In recent planning decisions, City of Edinburgh Council has demonstrated that perhaps the key amenity test such change of use applications must be assessed against is whether they would have an *'unreasonable impact on residential amenity'* (application reference 21/06792/FUL). While every application is considered on its own merits and on a case-by-case basis, when considering whether the ongoing use at 1A Cambridge Street is likely to result in a *'further deterioration of living conditions'* or an *'unreasonable impact on residential amenity'*, it is perhaps instructive to compare the current proposals with the application approved at **46 Patriothall (21/06792/FUL)**, **48 Howe Street (21/01591/FUL)** and **BF18 Torphichen Street (20/03051/FUL)**. See Appendix 5. These applications all relate to small format properties in similar mixed-use areas with residential functions, close to busy, footfall generating commercial uses.

4.3.7 When these applications were assessed against policy HOU7 and in particular when both the size constraints of the properties and the character of the properties' environs were assessed, the Planning Officer's Report of Handling noted the following:

"The size of the unit is relatively small containing two bedrooms and has its own private access. Its location near to Hamilton Place minimises the level of interaction with other residential properties...In light of the above, whilst a level of noise is likely from guests arriving and leaving the property it is not anticipated that this gives rise to a significant disturbance to residents... Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity". (Patriothall)

"The use is relatively small scale and the flat is located on a busy road in a prominent location. It has its own private access... The surrounding uses are a mixture of business, residential and commercial. The proposed introduction of this use would not detract from the aforementioned characteristics, in this instance". (Howe Street)

"The use is relatively small scale and the flat is located on a busy road in a city centre location. It has its own private access. The surrounding uses are a mixture of business, residential and commercial". (Torphichen Street).

4.3.8 In summary, it is considered that no *'materially detrimental effect'* or *"unreasonable impact"* is being imposed upon the living conditions of nearby residents as a result of the ongoing operation of this property for short-term let visitor accommodation. In this contest, it is challenging to see how the change of use sought at the application site could be considered contrary to policy HOU7.

4.3.9 The non-statutory Guidance for Businesses (November 2021) also examines amenity in greater detail than policy HOU7 as an issue that will need to be considered for such applications. It states:

"proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents...In the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

4.3.10 A further statement specifically on flatted properties is made on page 7 of the Guidance where it notes:

“Change of use in flatted properties will generally only be acceptable where there is a private access from the street”.

- 4.3.11 With regard the property at 1A Cambridge Street which enjoys its own private street access in an area where some ambient noise and activity can be expected, it is considered that the change of use proposed here is in accordance with the non-statutory Guidance. For the reasons already rehearsed in relation to policy HOU7, it is not considered that there are any potential adverse impacts on residential amenity that would warrant an overall assessment that such a use was unacceptable.
- 4.3.12 The application property offers a very distinctive form of city centre living interspersed with professional practices and commercial offices and surrounded by a mix of other uses including theatres, leisure and retail. The property is within the City Centre, as well as being in very close proximity (less than 400 metres) from the City Centre Retail core (Policy Ret 2).
- 4.3.13 Given the mixed-use context of the area and the small-scale of the property, it is difficult to see how this exceptionally well-managed apartment could be considered to either introduce or intensify any incompatible uses to this area or result in any material deterioration in living conditions. By contrast, given there is understood to be only a tiny number of short-term holiday lets in the immediate locality, and if as seems likely, many of short-term lets in the city will cease to function over the coming years, this property if approved for the current use, will offer a quite unique opportunity for visitors that want to ‘live like a local’ while experiencing for themselves domestic life in one of *“the most important and best-preserved examples of urban planning in Britain”*.

4.4 Application & Appeal Decisions

- 4.4.1 In terms of Policy HOU7 Residential Amenity there are several recent and relevant applications and appeals that have been granted/allowed the change of use from flat (sui generis) to self-catering accommodation (sui generis) (retrospective). See Appendices 5 and 6.

Applications

- 4.4.2 While every application is considered on its own merits and on a case-by-case basis, it is considered instructive to compare these proposals with the application approved at **41 Barony Street (21/02615/FUL)** for the change of use of a residential property to a short-term let. See Appendix 5. There are considered to be a number of important similarities between the two properties including: the retrospective nature of the applications; their diminutive size; and the nearby elements of mixed uses. When the proposals under application (21/02615/FUL) were assessed against policy HOU7, the Planning Officer’s Report of Handling noted that:

“Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity”.

- 4.4.3 It is considered that when assessed against the tests in policy HOU7, the property at 1A Cambridge Street is also likely to have a similarly negligible impact on the lives and living conditions of nearby residential properties, as the scale of the property combined with the exemplary management procedures in place allows it to continue to function in almost every regard like a residential property. Given that the property is specifically marketed and managed in order to allow guest to ‘live like a local’, it is not considered that the change of use sought here is contrary to policy HOU7.
- 4.4.4 The City of Edinburgh Council have granted several retrospective change of use applications from flat (sui generis) to short-term let (sui generis) during 2021/2022 where when tested against Policy Hou 7 the proposals were considered not to significantly impact on residential amenity, and therefore be in compliance with the policy. See Appendix 5. The following

applications which are particularly similar to the property at 1A Cambridge Street, Edinburgh and are in compliance with Policy Hou 7 include the following:

18 Grindlay Street (City Centre) (Ref.No.22/03025/FUL) (24 November 2022) -

17 Ashley Terrace (Fountainbridge/Craiglockhart) (Ref.No.22/00803/FUL) (15 June 2022)

- this is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.

78 Spring Gardens (Craighentenny/Duddingston) (Ref.No.22/00884/FUL) (15 June 2022) -

in this case the property has its own front entrance access and no direct access to garden/communal ground. Although the property is in a predominantly residential area, it is approximately 300 metres from a main thoroughfare and an area of mixed uses including commercial and retail uses. Consequently, there is already a degree of activity nearby. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity. This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.

41 Cumberland Street (City Centre) (Ref.No.21/06621/FUL) (23 February 2022) -

Cumberland Street is primarily residential in character however other commercial uses are evident. The property has its own private access and the applicant has confirmed there is no garden ground to the front or rear. In terms of internal noise, the size of the unit is small, containing only one bedroom and potential impact is unlikely to be materially different from a residential use. Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity. The proposal complies with policy Hou 7.

41 Barony Street (City Centre) (Ref.No.21/02615/FUL) (11 August 2021) -

the small size of the flat (two- bedroom) and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity. Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts. Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal. Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.

Appeals

4.4.5 The Council has referenced recent appeal decisions as material considerations in their assessments. The following paragraphs consider firstly the key determining matters that have been identified by the Council from recent appeal decisions by the DPEA and then assesses the current proposals against these issues. The main determining issues in these cases relate to the following:

- *The location of the property and whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;*

- *The **frequency of movement** and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;*
- *The **impact on the character of the neighbourhood**. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;*
- *The **nature of the locality** and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance;*
- *These appeals have also found that short stay visitor accommodation units can be **acceptable in predominately residential areas**.*

Location of property

- 4.4.6 In terms of the issue of a private access, this property does not share a common stair and has its own front door with direct access to the street.

Frequency of movement

- 4.4.7 This is a small property which is in the heart of an area within the city where there are plenty of amenities and a city itself which has lots of visitor attractions. It seems reasonable to therefore assume that guests will want to explore both local amenities and the wider city during their visit. As a result, they may in fact be out of the property for much of the time during their rental. Overall, however there is nothing to suggest that the likely frequency of the movement of one or two guests in the course of such exploration is likely to cause any disturbance to neighbours, given the property and its neighbours share no common internal spaces.

Impact on the character of the neighbourhood

- 4.4.8 As noted above, this is a small property, centrally located in Scotland's capital city. It seems reasonable to speculate that guests staying here may wish to take advantage of its location and the relative abundance of amenities nearby to go out for meals and drinks, but to otherwise shop in a reasonably conventional fashion. The property is not considered large enough to warrant large orders for delivered food or groceries. If guests do wish to use the amply provisioned kitchen facilities it seems more reasonable to expect that they might use the amenities of nearby Lothian Road/Princes Street. In this regard their shopping behaviour is likely to be very similar to that of neighbouring properties, hence aligning with the overall ethos that guests 'live like locals'. In summary, it seems reasonable to expect that guests' dining behaviour may occasion them to leave the property more than an owner or tenant, hence removing them from the property for long spells, while their shopping behaviour is likely to be much the same as that of an owner or tenant.

Nature of locality & acceptability in predominantly residential areas

- 4.4.9 In terms of the last two criteria, these are perhaps best considered together on a street such as Cambridge Street/Castle Terrace. Firstly, it is important to recognise that noise and disturbance from this property are likely to be minimal owing to a combination of the absence of any residential property below, strict conditions of rental rigorously policed by the applicants, and the physical configuration and orientation of the property minimising conflict with noise sensitive spaces in neighbouring properties. While the area is largely residential, it does occupy an enviable location in very close proximity to a number of relatively high footfall areas both by day and night. Accordingly, activity and movement in the general area are not

uncommon here and therefore no unusual activity would be introduced or particularly intensified by way of this proposal.

- 4.4.10 Also considered specifically relevant to this application are the recent appeal decisions at **7A and 7B Jamaica Street Lane (references PPA-230-2358 and PPA-230-2359)** where the DPEA Reporter offered commentary on a number of matters that would also seem material to the determination of this application at 1A Cambridge Street. See Appendix 6. Of particular relevance the Reporter noted the following:

“the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal”.

“I accept that the pattern of use of a commercial short-term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. I note the objection from the flat above the appeal property, but overall there does not appear to have been a history of numerous complaints over the years this use has been operating. For these reasons I conclude that the proposal would be unlikely to give rise to any significant disturbance to local residents”.

- 4.4.11 The recent appeal decision under reference PPA-230-2367 overturned the refusal of planning application 21/04512/FUL at **1B Fingal Place, Sciennes**. See Appendix 6. Describing the general ambience of the Meadows area, the Reporter noted the following:

“I consider that the normal background noise would be midway between what one would experience in an inner-city environment and a suburban environment. I would not characterise the area as a quiet residential area as the council has done in the report of handling”.

- 4.4.12 Further, in the successful appeal decision for **4/4A Dewar Place Lane** (reference PPA-230-2328), the DPEA Reporter noted the following comments which are considered to be entirely comparable to the situation at 1A Cambridge Street:

“In this case I would observe that any resident of Dewar Place Lane already lives in an area subject to a considerable degree of transient activity associated with the comings and goings of visitors to the city, and other activity”.

- 4.4.13 It is significant that in the Committee Report to the successful planning application at **13 Dewar Place Lane (21/03890/FUL)**, it was noted that these observations from the DPEA Reporter to the appeal at 4/4A Dewar Place Lane were ‘*material to the determination of the current application*’. It is considered that they should also apply to this application, given the subject property is located just off Lothian Road.

- 4.4.14 In summary, when assessing appeals for Change of Use applications such as this, the DPEA has identified a number of key tests and considerations that should be material to the determination process. These have also been recognised by City of Edinburgh Council Planning Officers. Importantly, when assessed against these tests and considerations, it is contended that the continued use of this property for short-term letting should be considered as being acceptable.

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4.4.15 Overall, when considered against the determining matters that have been articulated in recent appeal decisions, the proposals at 1A Cambridge Street are considered to measure up favourably.

5 Summary and Conclusion

5.1 Summary

- 5.1.1 This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on 24th January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').
- 5.1.2 We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal, and analysis of development plan policy, non-statutory Guidance for Businesses and other material considerations.
- 5.1.3 It demonstrates that the proposal by Craigiebrook Ltd c/o FKMCV ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016). It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:
- The character of the new use and the wider area;
 - The size of the property;
 - The pattern of activity associated with the use, including:
 - The number of occupants
 - The period of use
 - Issues of noise and disturbance
 - Parking demand
 - The nature and character of any services provided.
- 5.1.4 There are also no material considerations that are considered to outweigh the justification for approval, namely:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
 - Scottish Planning Policy (SPP);
 - Revised Draft NPF4;
 - Proposed City Plan 2030;
 - West End Conservation Area Appraisal;
 - Public representations; and
 - Any other identified material considerations (e.g. economic benefit, applications and appeals).
- 5.1.5 The application was Refused for the following single reason:
- '1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'***
- 5.1.6 We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.
- 5.1.7 In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.

5.1.8 The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.

5.2 Conclusion

5.2.1 This self-contained, one-bedroom main door access basement flat on Cambridge Street lies centrally within the city centre of Edinburgh, in a globally unique urban quarter that has long been home to a wide mix of uses.

5.2.2 The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated. Such regulation is supported by the applicants who want the City's hospitality offer to be attractive and well-regulated. Accordingly, they seek a determination of this planning application as a prelude to applying for a licence once the procedure for doing so has been confirmed.

5.2.3 The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence. The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. This is especially the case given the discernible trend recognised by industry insiders for tourists to seek out more authentic travel experiences that can allow them to 'live like locals'. In the circumstances, the type of accommodation offered here is hugely popular among visitors; meaning that the wholesale loss of this type of accommodation from Scotland's capital city would be an unfortunate outcome.

5.2.4 Properties like historic 1A Cambridge Street, appropriately located in a central and well-connected area and managed to the most exacting standards, can play an important future role by continuing to offer some diversity to the City's visitor accommodation offer. Properties like this can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is simply not appropriate.

5.2.5 In the Scottish context, Edinburgh occupies a unique position in terms of its attraction to ever-growing numbers of tourists. Evidence from the last decade suggests that additional supply of tourist accommodation across the city is quickly taken up by increased demand, meaning that healthy occupancy rates can be maintained by a wide range of different visitor accommodation providers. This small property on Cambridge Street has been exceptionally well-managed over the last few years, as evidenced by a faultless record of customer satisfaction throughout the period. What it offers by way of visitor accommodation in an historic but authentic domestic format, appeals to a growing number of travellers and serves as an asset to the city's tourism landscape by providing choice into the overall mix.

5.2.6 Taking all of the foregoing into account, it is hoped that the Local Review Body will be able to support this appeal, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. Should this appeal be allowed, it is considered that there will be no adverse impact on either the amenity of neighbouring residential properties, or the overall ambience of a historic area where a blend of different uses can be absorbed. There are not considered to be any policy matters that would warrant refusal of this appeal, and accordingly it is respectfully requested that this appeal be allowed.

5.2.7 We therefore respectfully request that the Local Review Body do not uphold the decision by the Chief Planning Officer and grant planning permission for the change of use from flatted

Planning Statement in Support of Notice of Review – 1A Cambridge Street Edinburgh EH1 2DY

accommodation (sui generis) to short-term let accommodation (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh.

Appendices

See City of Edinburgh Council's Planning Portal:

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/applicationDetails.do?keyVal=R9LMNNEWGOD00&activeTab=summary>

Separately attached:

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/01652/FUL
- Appendix 3** Report of Handling
- Appendix 4** Decision Notice
- Appendix 5** STL Applications Granted by CEC 2021 to 2022
- Appendix 6** STL Appeals Allowed by DPEA 2020 to 2022



STEFANO SMITH PLANNING

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Appendix 1 – Photo-study

**Change of Use from a Flat (sui generis) to Short-term
Let (sui generis) (retrospective)**

at

1A Cambridge Street, Edinburgh EH1 2DY

on behalf of

Craigiebrook Ltd c/o FKMCV

March 2022



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: C/5550 | Rev: AA | Date: March 2022

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Document Control Sheet

Project Name: COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

Project Ref: C/5550

Report Title: Appendix 1 Photo-study

Doc Ref: C/5550

Date: 28th March 2022

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		28 th March 2022
Reviewed by:	Stefano Smith	Director		28 th March 2022
Approved by:	Stefano Smith	Director		28 th March 2022
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved
1	30 th March 2022	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

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1.3	Key Findings	1
2	Photo-study.....	1

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1 Introduction

1.1 Background

- 1.1.1 This Photo-study has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of the flat (sui generis) to short-term let (sui generis) ('proposed development') at 1A Cambridge Street, Edinburgh EH1 2DY ('application site') on behalf of Craigiebrook Ltd c/o FKMCV (the applicant').

1.2 Structure

- 1.2.1 This Photo-study provides the visual context of the proposed development in the established mixed-use area of this part of the West End Conservation Area. It also identifies examples of change of use to short-term lets within the immediate area and adjacent conservation area – New Town Conservation Area.

1.3 Key Findings

- 1.3.1 The following key findings should be noted from the photo-study:
1. The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential, office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.
 2. The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
 3. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
 4. The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
 5. The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten-metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.

6. The public realm in the immediate are of the application site is of the highest quality in terms of the materials used.
7. In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

2 Photo-study

Photo 1 – Established mixed-use area of the West End Conservation Area: Castle Terrace & Lothian Road



Photo 2 – Established mixed-use area of the West End Conservation Area: Castle Terrace



**Photo 3 – Established mixed-use area of the West End Conservation
Area: Castle Terrace & Cambridge Street**



Photo 4 – View of application site: corner of Cambridge Street & Castle Terrace

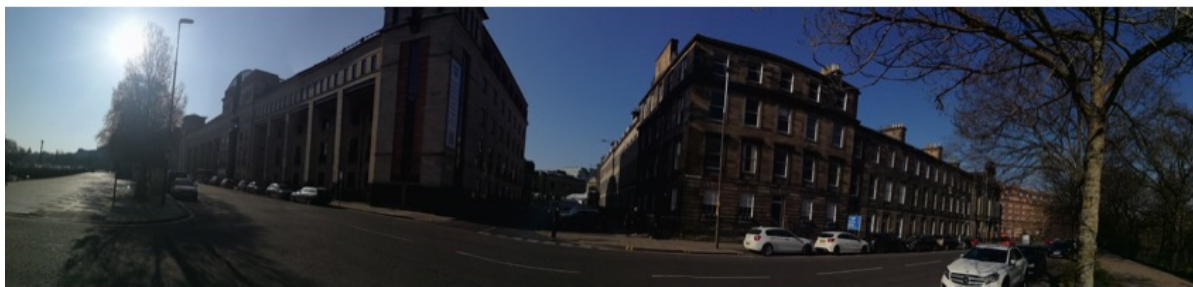


Photo 5 – View of application site: corner of Cambridge Street & Castle Terrace



Photo 6 – View opposite the application site towards Edinburgh Castle



Photo 7 – View of the 4-storey tenement at 1 Cambridge Street in which the application site is located at basement level



**Photo 8 – Dedicated controlled gate access to the application basement flat
with main door access**



Photo 9 – View of the application site from basement level

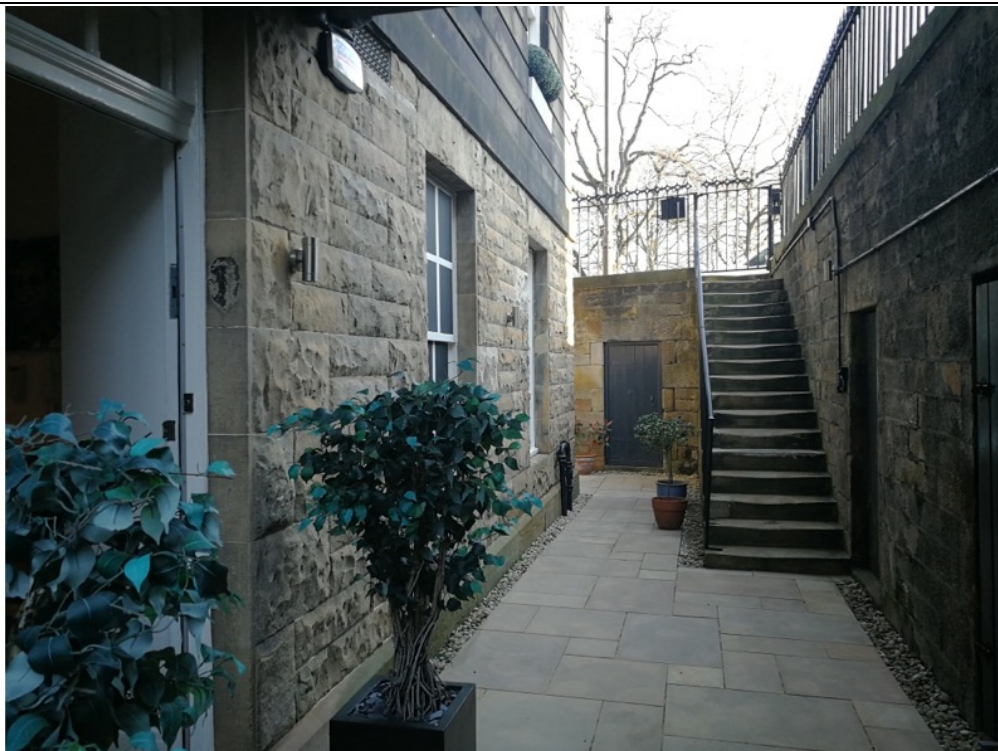


Photo 10 – View of the application site from basement level



Photo 11 – Existing short-term lets in the local area: Castle Street



Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100547970-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Description of Proposal

Please describe accurately the work proposed: * (Max 500 characters)

Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis)

Has the work already been started and/ or completed? *

No Yes - Started Yes – Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

04/01/2021

Please explain why work has taken place in advance of making this application: *
(Max 500 characters)

Craigiebrook Ltd c/o FKMCV wishes to regularise the situation through the submission of this retrospective planning application for change of use.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Stefano Smith Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stefano	Building Name:	
Last Name: *	Smith	Building Number:	58
Telephone Number: *	07464 744337	Address 1 (Street): *	Dean Path
Extension Number:		Address 2:	Dean Village
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH4 3AU
Email Address: *	stefano@stefanosmithplanning.com		
Is the applicant an individual or an organisation/corporate entity? *			
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Organisation/Corporate entity			

Applicant Details

Please enter Applicant details

Title:		You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	FKMVC
First Name: *		Building Number:	
Last Name: *		Address 1 (Street): *	Tinwald Downs Road
Company/Organisation	Craigiebrook Ltd c/o FKMCV	Address 2:	
Telephone Number: *		Town/City: *	Dumfries
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	DG1 3SJ
Fax Number:			
Email Address: *	info@craigiebrook.com		

Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

1A CAMBRIDGE STREET

Address 2:

OLD TOWN

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH1 2DY

Please identify/describe the location of the site or sites

Northing

673442

Easting

324844

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? *

Yes No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Stefano Smith

On behalf of: Craigiebrook Ltd c/o FKMCV

Date: 30/03/2022

Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? * Yes No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * Yes No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? * Yes No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. Yes No
- e) Have you provided a certificate of ownership? * Yes No
- f) Have you provided the fee payable under the Fees Regulations? * Yes No
- g) Have you provided any other plans as necessary? * Yes No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). *

You can attach these electronic documents later in the process.

- Existing and Proposed elevations.
- Existing and proposed floor plans.
- Cross sections.
- Site layout plan/Block plans (including access).
- Roof plan.
- Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. Yes No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. * Yes No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Stefano Smith

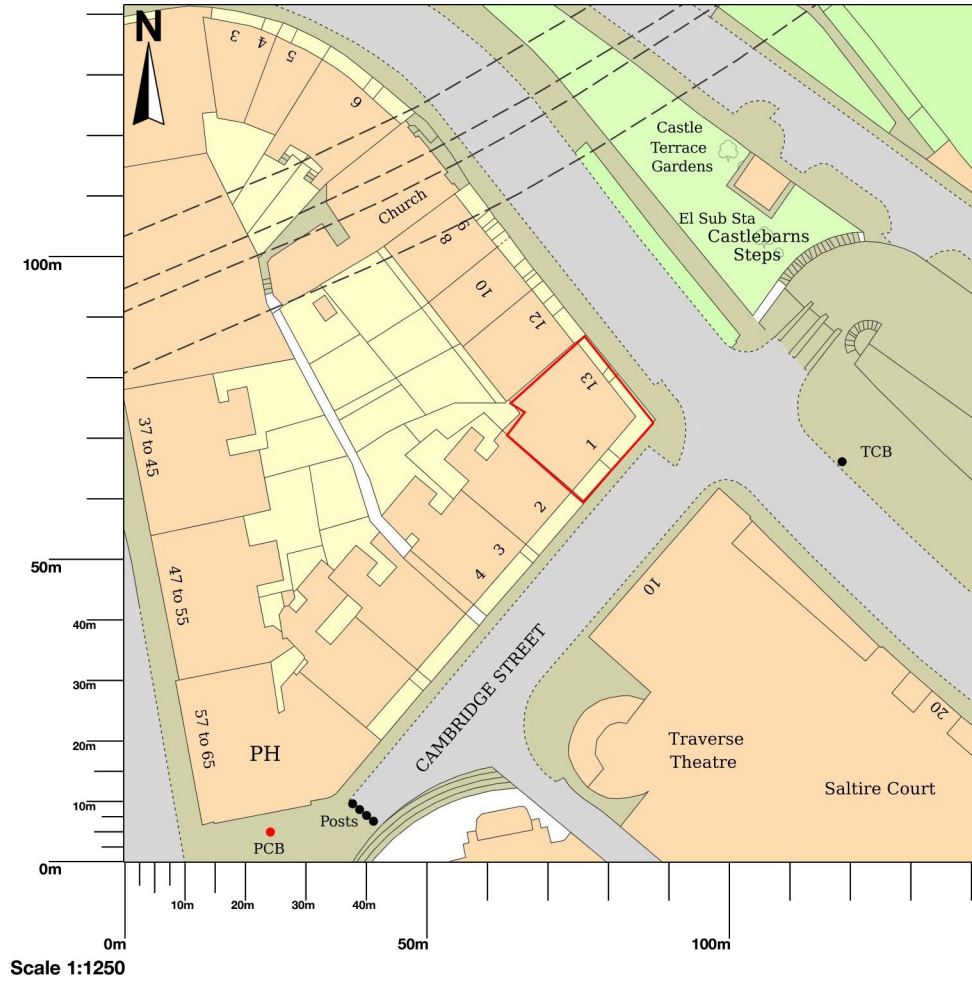
Declaration Date: 30/03/2022

Payment Details

Online payment: [REDACTED]
Payment date: [REDACTED]

Created: [REDACTED]

1a, Cambridge Street, Edinburgh, EH1 2DY



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STEFANO SMITH PLANNING

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Planning Statement

**Change of Use from a Flat (sui generis) to Short-term
Let (sui generis) (retrospective)**

at

1A Cambridge Street, Edinburgh EH1 2DY

on behalf of

Craigiebrook Ltd c/o FKMCV

March 2022



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: C/5550 | Rev: AA | Date: March 2022

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Document Control Sheet

Project Name: COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

Project Ref: C/5550

Report Title: Planning Statement

Doc Ref: C/5550

Date: 29th March 2022

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		25 th March 2022
Reviewed by:	Stefano Smith	Director		28 th March 2022
Approved by:	Stefano Smith	Director		29 th March 2022
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved
1	30 th March 2022	Final	SS	SS	SS

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Figure 1 Location Plan

Figure 2 West End Conservation Area Boundary and World Heritage Site Boundary

Figure 3 Floorplan of application site

Appendices (separately attached)

Appendix 1 Photo-study

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1 Introduction

1.1 Background

- 1.1.1 This Planning Statement ('Statement') has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of a flat (sui generis) to short-term let (sui generis) ('proposed development') at 1A Cambridge Street, Edinburgh EH1 2DY ('application site') on behalf of Craigiebrook Ltd c/o FKMCV (the applicant').
- 1.1.2 The one bedroom flat at 1A Cambridge Street, Edinburgh 2DY ('application site') was acquired by Craigiebrook Ltd c/o FKMCV in 2020. It was subsequently let as a short-term rental property in September 2021 providing visitor accommodation – 'secondary letting' where the host is letting premises which are not their own home. The proposed visitor accommodation (short-term let) is a 'sui generis' use, as is the residential use of the flat. A planning application for the change of use from a flat to a short-term let is therefore required, as the activity constitutes a material change of use of the property.
- 1.1.3 The recent Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 confirms that in short term let control areas [Edinburgh is now incorporated within such an area (subject to Ministerial approval)], planning permission will be required for the change of use from flat to short-term let. Craigiebrook Ltd c/o FKMCV therefore wishes to regularise the situation through the submission of this retrospective planning application for change of use.
- 1.1.4 The change of use proposed will not result in any physical changes to the interior or exterior of the building, which if so, may necessitate other planning permissions/consents in their own right.
- 1.1.5 The Scottish Government has also introduced a licensing regime for short-term lets in Scotland. Planning permission for the short-term let will be required in order to obtain a Licence. Licence applications are to be made to the Local Authority (LA) in the area where the property is located. One licence will be needed for each property and the licence holder will be the only person who can deal with the day to day running of the property. Licences are expected to last around three years, but LAs will be able to renew a licence for a longer period after the initial grant. Each LA has the ability to set their own fees for licensing applications.
- 1.1.6 The City of Edinburgh Planning Committee meeting on 23 February 2022, which approved the extent of Edinburgh's short term let control area, also considered a Committee Report and accompanying Statement of Reasons background report on short term lets. Both the reports clearly state that the formalisation of the short term let control area does not amount to a 'blanket ban' on short term lets and that each application for change of use will be dealt with on its own merits.

- 1.1.7 The reports are clear that the key assessment criteria are whether such proposals would have a *'materially detrimental effect on the living conditions of nearby residents'*, and also noted that such changes would only generally be acceptable where properties enjoyed a private access from the street. The subject property at 1A Cambridge Street is considered to meet these assessment tests.
- 1.1.8 In addition, we consider that the proposed change of use of this property will positively contribute to Edinburgh's important tourist economy and reputation as a business destination. Such a change of use is considered to be appropriate both to the character of the building, as well as the character of the local area.

Economic Benefits of Short-term Lets/Self-catering Accommodation

- 1.1.9 As stated in the Consultation Draft National Planning Framework 4 (NPF4) tourism can *"bring a wealth of economic, social and cultural benefits to our communities, cities and regions, supporting resilience and stimulating job creation"*, but believes the sector needs to be supported for its recovery from the impact of Covid-19, and that an appropriate balance in the regulatory framework is required. We also endorse the First Minister's comment in Scotland's Outlook 2030 that *"an innovative, resilient and welcoming [tourism] industry is vital, not only for Scotland's future prosperity, but for Scotland's place in the world"*.
- 1.1.10 Tourism is a mainstay of the Scottish economy; and short-term lets/self-catering is hugely important to Scottish tourism in terms of jobs, revenue, and world-class experiences offered to guests. To be such an essential part of Scotland's tourism mix is even more remarkable for the sector when most short-term lets/self-caterers operate small or micro businesses.
- 1.1.11 For Scotland to remain competitive as a leading tourism destination, it needs to be responsive and adaptive to consumer trends, both in respect of the range of accommodation available, as well as for more environmentally conscious options. As the Scottish Tourism Alliance told the Scottish Government in September 2021, when articulating concerns from the tourist industry about short-term let licensing: *"In these Covid times there has over these past months been a sizeable upturn in demand for self-catering accommodation and insights would suggest that this trend is unlikely to change in the years ahead...In 2021 we have seen a significant increase in domestic tourism since re-opening in the summer. Many guests have chosen to travel domestically for the first time and self-catering has been the accommodation of choice. While international travel is likely to recover strongly in 2022, I am confident that we will continue to see strong demand for Scottish self-catering."*
- 1.1.12 Short-term lets/self-catering provides a £867m per annum boost to the Scottish economy, benefiting local communities the length and breadth of Scotland, supporting 23,979 FTE jobs. Given the importance of this sector to the Scottish tourism industry, which has experienced such a challenging time due to the impact of Covid-19, a supportive environment to help businesses recover and

flourish should be encouraged. The recovery of Scottish tourism will benefit small businesses, while responsible and sustainable tourism can help communities to recover too.

1.2 Supporting Material

1.2.1 The planning application package comprises:

- Completed application form (including landownership certificate)
- Plans
 - Location Plan
- Photo-study
- Planning Statement

1.3 Structure

1.3.1 This Statement initially outlines the proposed development in terms of the site and surroundings and a description of the proposed development. The policy context in terms of the development plan and guidance is subsequently considered in terms of how this may impact upon the proposal. The determining issues and assessment process of the material planning issues in the consideration of the planning application is also considered.

1.3.2 This Statement is structured as follows:

Section 1	Introduction
Section 2	Site and Surroundings
Section 3	Proposed Development
Section 4	Policy Context
Section 5	Determining Issues and Material Considerations
Section 6	Summary and Conclusion

2 Site and Surroundings

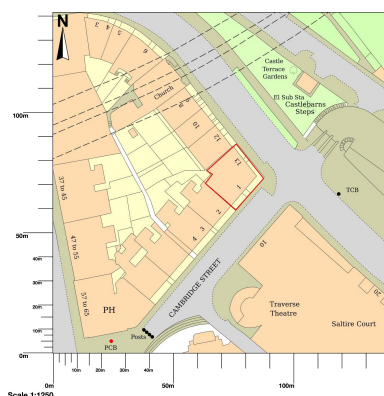
2.1 Site Context

- 2.1.1 The application site is located in one of the most desirable areas of Edinburgh in a beautifully well maintained 1850’s building. The property is situated in the theatre area, just a 3-minute walk to Princes Street, and many major tourist attractions. The application site is located within the City Centre and is in a mixed use area. It is the vibrant hub of the city region and an important tourist destination.
- 2.1.2 The application site lies in the centre of Edinburgh at the corner of Cambridge Street and Castle Terrace, with Lothian Road (A700) to the west and Princes Street and Princes Street Gardens to the north. It is in the immediate vicinity of a number of bus stops and a tram stop serving several routes both within and out of the city. The site is within walking distance of both Waverley and Haymarket train stations.
- 2.1.3 1A Cambridge Street, Edinburgh (‘application site’) is located within the West End Conservation Area and is a Category B listed building (part of 1 Cambridge Street) (Designation Ref. LB28484). See Figure 1.

Figure 1 Location Plan



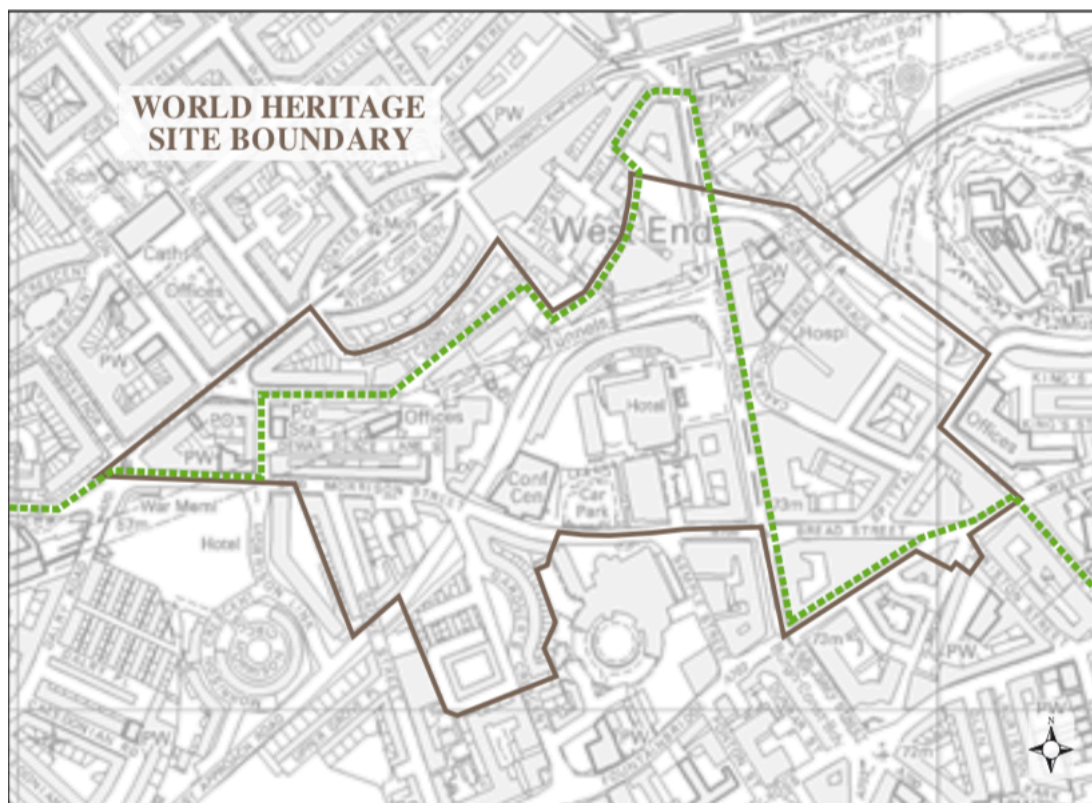
1a, Cambridge Street, Edinburgh, EH1 2DY



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2.1.4 The West End Conservation Area lies immediately adjacent to the New Town on its south west boundary and the Old Town on its western boundary. The Conservation Area was originally designated in 1980 and amended in 1995. The area lying to the east of Lothian Road within the West End Conservation Area, which includes the application site, is included in The World Heritage Site (WHS), and is dominated on its eastern edge by the presence of the Castle. See Figure 2.

Figure 2 West End Conservation Area Boundary and World Heritage Site Boundary



2.1.5 Inscription as a World Heritage Site brings no additional statutory powers. However, it does commit all those involved with the development and management of the Site to ensure measures are taken to protect and enhance the area for future generations. In furthering these aims the Council produced a World Heritage Site Manifesto, which is a material consideration in assessing planning applications.

2.1.6 The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.

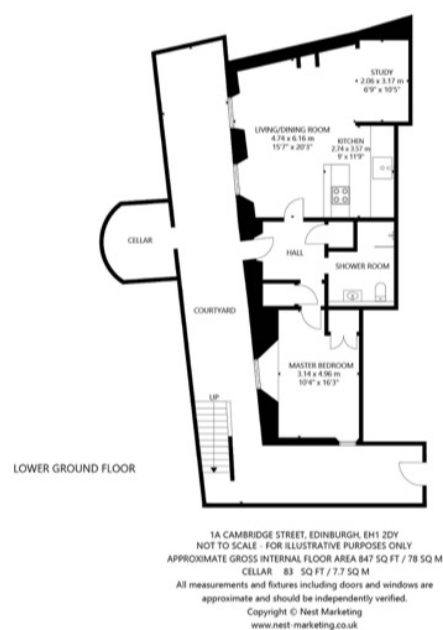
- 2.1.7 The top deck of the multi storey car park on Castle Terrace forms a ten metre wide pavement to Castle Terrace opposite the application site and facing Saltire Court. A footway maintenance and planting scheme for this space has greatly improved this space.
- 2.1.8 Building lines vary within the area. Along Lothian Road, shop fronts generally project beyond the building line to the heel of the pavement. On the Victorian streets, the tenements come down on the heel of the pavement, but Castle Terrace, Cambridge Street and Cornwall all have their buildings set back, with either small front gardens or basement areas. The application site on the corner of Cambridge Street and Castle Terrace is accessed via a private locked gate and steps descending into its own private basement area/courtyard.
- 2.1.9 A photo-study has been undertaken of the application site and the local area. See Appendix 1. The key issues to note from the photo-study are:
1. The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential, office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.
 2. The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
 3. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
 4. The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
 5. The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.
 6. The public realm in the immediate are of the application site is of the highest quality in terms of the materials used.
 7. In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application

site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

2.2 Site Description

- 2.2.1 The application site is a basement flat within a four storey tenement situated on the corner of Cambridge Street and Castle Terrace. It is set back from the road with a basement area/courtyard.
- 2.2.2 The four storey tenement at 1 Cambridge Street accommodates four flats including the application site. Three flats are accessed via a main door and common stair from 1 Cambridge Street – 1F1, 2F1 and 3F1. The application site is accessed at street level from Castle Terrace via its own dedicated gate and steps descending to basement level. Access via the gate is for the sole use of the application site. The gate is locked and accessed by a keypad. The basement area/courtyard is for the exclusive use of the application site.
- 2.2.3 The direct access to the application site from the street means that there would not be direct interaction between the short-term occupants and those longer-term residents in the flats in the main tenement accessed from a common main door at 1 Cambridge Street.
- 2.2.4 The application site comprises an entrance hall leading to a living/dining room, kitchen, master bedroom, shower room and study/bed. There is also the outside basement area/courtyard providing access to a cellar. The approximate gross internal floor area of the basement flat is 78 sqm. The gross internal floor area of the cellar is approximately 7.7 sqm. See Figure 3.

Figure 3 Floorplan of application site



2.2.5 Parking is on-street within a parking controlled area. There is a multi-storey NCP car park opposite the application site on Castle Terrace.

2.3 Site History

2.3.1 The application site has no relevant planning application history.

3 Proposed Development

3.1 Introduction

3.1.1 This section outlines the ‘retrospective’ proposed development in terms of the change of use of the flat (sui generis) to a short-term let (sui generis) at the application site.

3.2 Background

3.2.1 The application site was acquired by Craigiebrook Ltd c/o FKMCV in 2020. Following substantial internal redecoration it was subsequently let as a short-term rental property in September 2021 providing visitor accommodation – ‘secondary letting’ where the host is letting premises which are not their own home.

3.3 Short-term Let

3.3.1 The application site has been let on a short-term commercial basis for approximately seven months and is advertised on its own exclusive website – The Matisse Suite www.edinburghluxuryapartment.com It has been inspected and selected by Alastair Sawday’s travel publishing.

3.3.2 The terms upon which the application site is let on a short-term commercial basis is detailed on the website. The key points to note include the following:

- The apartment is designed as a 1-bedroom plus study/bed 2/3 guest accommodation;
- Check-in at 4pm and check-out at 11am;
- The minimum age of the lead guest is over 30 years old;
- Stag/hen or stage events are not accepted;
- The property is not set up to accommodate children of any age; and
- Smoking is not allowed within the apartment.

3.3.3 The limited number of occupants and the strict parameters for occupation ensures that large parties and anti-social occupants are excluded. Cleaning and servicing of the apartment is undertaken by a private independent cleaning business arranged by the owner on the change of occupancy.

3.3.4 The pattern of activity in this particular property, with its own private access and basement area/courtyard, letting periods and limiting letting to 2/3 persons at any one time (the majority of guests are couples), as well as the other aforementioned parameters for occupation, results in no greater impact on the

residential character of the tenement and mixed use amenity of the area than the original use as a flat.

4 Policy Context

4.1 Development Plan

4.1.1 The relevant statutory development plan for the application site is the Edinburgh Local Development Plan 2016 adopted in November 2016. The application site is identified as being within the urban area and the West End Conservation Area in the adopted plan.

Relevant policies of the Local Development Plan

4.1.2 The relevant development plan is the adopted Edinburgh Local Development Plan (November 2016) (ELDP). The relevant policies of the ELDP are:

- LDP Policy Env 1 World Heritage Sites;
- LDP Policy Env 4 Listed Buildings - Alterations and Extensions;
- LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area;
- LDP Policy Del 2 City Centre sets criteria for assessing development in the city centre;
- LDP Policy Hou 7 Inappropriate Uses in Residential Areas establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Relevant Non-Statutory Guidelines

Non-statutory guidelines

4.1.3 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements. Of relevance to this application, this non-statutory guidance states that the Council will not normally grant planning permission in respect of flatted properties where the potential impact on residential amenity is greatest where there is a communal entrance lobby. This is often taken to relate to the impact arising from the intense use of communal entrance halls or from noise generated on upper floors, neither of which circumstance applies to this case.

4.1.4 The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential and commercial buildings. The external ambient noise in such a mixed use city centre location will mitigate any potential impact on residential amenity of short-term letting.

4.1 Material Considerations

- 4.1.1 Within a conservation area the requirements of Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 apply, namely that there is a statutory duty to give special attention to the preservation and enhancement of the character or appearance of the conservation area.

Relevant Non-Statutory Guidelines

- 4.1.2 Non-statutory guidelines ‘Listed Buildings and Conservation Areas’ provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.
- 4.1.3 Non-statutory guidelines ‘Guidance for Householders’ (April 2017) provides guidance for proposals to alter or extend houses or flats.
- 4.1.4 No physical external or internal works are proposed to the application site as part of this application for the change of use of the flat (sui generis) to short-term let (sui generis).

4.2 Summary

- 4.2.1 Overall, the proposed development must demonstrate that it is consistent with the development plan, and that there are no material considerations that indicate it should nonetheless be refused. By achieving this, the proposed development should be granted permission.
- 4.2.2 The next section assesses the proposed development in terms of the key determining issues and material considerations.

5 Determining Issues and Material Considerations

5.1 Determining Issues

5.1.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

5.1.2 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, are there any compelling reasons for not approving them?
- If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

5.2 Assessment

5.2.1 To address these determining issues, we will need to consider whether:

- a) The proposal is acceptable in principle;
- b) The proposal preserves the listed building and its setting;
- c) The proposal preserves or enhances the special character or appearance of the conservation area;
- d) The proposal impacts on the World Heritage Site; and
- e) Any impacts on equalities or human rights are acceptable.

a) Principle of development

5.2.2 **Policy Del 2** states that development which lies within the area of the City Centre will be permitted which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city.

5.2.3 The proposals would provide improved visitor facilities in an area of the city centre which is dominated by mixed uses and other visitor attractions. It is in a highly accessible location for visitors, close to bus routes, the trams, and to the airport bus route. It complies with **Policy Del 2**.

- 5.2.4 However, the main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SSCVA) lets is LDP **Policy Hou 7** (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted. There are no policies relating specifically to the control of short stay commercial visitor accommodation (SSCVA) in the current LDP.
- 5.2.5 The non-statutory **Guidance for Businesses** states that an assessment of a change of use of dwellings to SSCVA 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.
- 5.2.6 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"*.
- 5.2.7 There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:
- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
 - The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
 - The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
 - The nature of the locality and whether the property is located within an area of activity, such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.
- 5.2.8 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SSCVA properties, the economic benefits are a material planning consideration.

- 5.2.9 In this case, the property was a one-bedroom flat (sui generis) and the change to a one-bed short-term let (sui generis) will have no material impact on any nearby residential properties. The property has its own private on-street access and basement area/courtyard.
- 5.2.10 The retention in capacity of occupancy – one bed flat to one bed short-term let - means that there will be little change in how nearby services are used. In addition, there is no car parking so this will not change from the situation when used as a flat.
- 5.2.11 The current parameters for letting the property, and the evidence of the nature of the operation over the past seven months, demonstrates that the short-term commercial residential letting does not involve a greater level of noise generation and potential for increased disturbance to surrounding residents than retaining the property as a flat. Also, to date there have been no complaints specifically about undue noise arising from the use of the application site for short-term let over the last seven months.
- 5.2.12 The application site is a self-contained basement flat with its own main door access via a private locked gate with direct street access on to Castle Terrace. The basement area/courtyard is also for the sole use of the application site. Unlike other flats with a communal entrance hall there would be no undue disturbance arising from visitors using the entrance.
- 5.2.13 The impact on the established mixed use character of the area depends on the scale of activity and on the likely impact on the environment. Cambridge Street and the local area is a mixed use area of residential, office, commercial, theatre, restaurants and pubs. It has a mixed residential population including longer term residents, and a number of pedestrians moving both through and around the local area for work, living and leisure – Saltire Court office development, office/commercial uses in tenements, Usher Hall and the Traverse Theatre, and restaurants, cafes and pubs along Lothian Road, the Grassmarket and neighbouring streets. Whilst it is relatively quiet compared to the city centre it has a lively inner-city character with a constant background level of activity. In that context we consider that any potential increased activity associated with short term commercial letting would be negligible, and in this instance would have no noticeable impact on the mixed use character of the area.
- 5.2.14 The proposal complies with **Policies Del 2 and Hou 7**.

b) Impact on Listed Building

- 5.2.15 Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of

preserving the building or its setting or any features of special architectural or historic interest which it possesses"

- 5.2.16 Historic Environment Scotland's (HES) Guidance Notes on Managing Change in the Historic Environment set out the principles for alterations to listed buildings including physical alterations.
- 5.2.17 LDP **Policy Env 4**, Listed Buildings - Alterations and Extensions, permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.
- 5.2.18 The change of use proposed will not result in any physical changes to the interior or exterior of the building, which if so, may necessitate other planning permissions/consents in their own right.
- 5.2.19 The proposal complies with LDP **Policy Env 4** and Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 and HES Managing Change guidance.

c) Conservation Area

- 5.2.20 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."

- 5.2.21 LDP **Policy Env 6** (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.
- 5.2.22 The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential and commercial buildings. The external ambient noise in such a mixed use city centre location will mitigate any potential impact on residential amenity of short-term letting.
- 5.2.23 The change of use proposed will not result in any physical changes to the interior or exterior of the building. The change of use from a flat (sui generis) to a short-term let (sui generis) 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.
- 5.2.24 The proposal complies with LDP **Policy Env 6**.

d) World Heritage Site

5.2.25 **LDP Policy Env 1** states development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

5.2.26 The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

5.2.27 The proposals involve the change from flat (sui generis) to short term let (sui generis). There will be no impact on the reasons for inscription of the WHS. It complies with **Policy Env 1**.

e) Impacts on Equalities or Human Rights

5.2.28 This application was assessed in terms of equalities and human rights. No impacts were identified.

6 Conclusion

6.1 Conclusion

- 6.1.1 The proposals comply with the Local Development Plan. The proposed change of use to short term letting will not adversely impact on residential amenity; the proposed development would not result in a level of increased noise and disturbance which would be detrimental to the residential amenity of surrounding residents. It will preserve the character and appearance of the conservation area. It is compatible with the mixed-use character of the area. There are no material considerations which outweigh this conclusion.
- 6.1.2 We therefore conclude, for the reasons set out above, that the proposal therefore accords overall with the relevant provisions of the development plan, and there are no other material considerations which would still justify refusing to grant planning permission.
- 6.1.3 The City of Edinburgh Council is therefore respectfully requested to support this application and recommend the granting of permission subject to conditions.

Appendices *(separately attached)*

Appendix 1 Photo-study



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Appendix 1 – Photo-study

**Change of Use from a Flat (sui generis) to Short-term
Let (sui generis) (retrospective)**

at

1A Cambridge Street, Edinburgh EH1 2DY

on behalf of

Craigiebrook Ltd c/o FKMCV

March 2022



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: C/5550 | Rev: AA | Date: March 2022

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Document Control Sheet

Project Name: COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

Project Ref: C/5550

Report Title: Appendix 1 Photo-study

Doc Ref: C/5550

Date: 28th March 2022

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		28 th March 2022
Reviewed by:	Stefano Smith	Director		28 th March 2022
Approved by:	Stefano Smith	Director		28 th March 2022
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved
1	30 th March 2022	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

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1 Introduction

1.1 Background

- 1.1.1 This Photo-study has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of the flat (sui generis) to short-term let (sui generis) ('proposed development') at 1A Cambridge Street, Edinburgh EH1 2DY ('application site') on behalf of Craigiebrook Ltd c/o FKMCV (the applicant').

1.2 Structure

- 1.2.1 This Photo-study provides the visual context of the proposed development in the established mixed-use area of this part of the West End Conservation Area. It also identifies examples of change of use to short-term lets within the immediate area and adjacent conservation area – New Town Conservation Area.

1.3 Key Findings

- 1.3.1 The following key findings should be noted from the photo-study:
1. The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential, office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.
 2. The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
 3. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
 4. The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
 5. The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten-metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.

6. The public realm in the immediate are of the application site is of the highest quality in terms of the materials used.
7. In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

2 Photo-study

Photo 1 – Established mixed-use area of the West End Conservation Area: Castle Terrace & Lothian Road



Photo 2 – Established mixed-use area of the West End Conservation Area: Castle Terrace



**Photo 3 – Established mixed-use area of the West End Conservation
Area: Castle Terrace & Cambridge Street**



Photo 4 – View of application site: corner of Cambridge Street & Castle Terrace

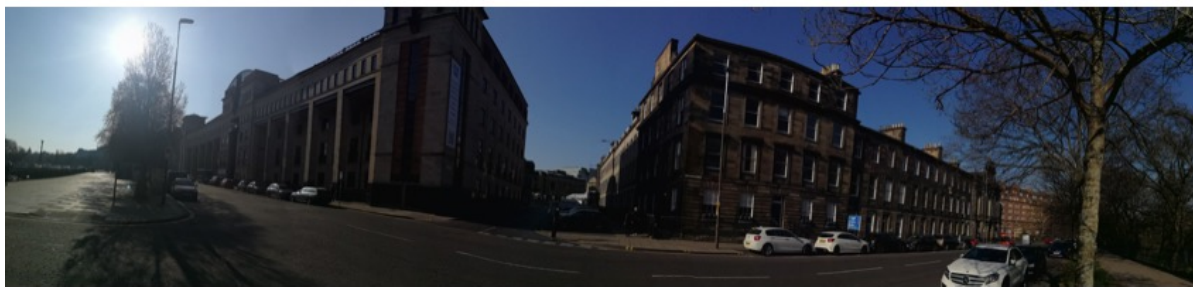


Photo 5 – View of application site: corner of Cambridge Street & Castle Terrace



Photo 6 – View opposite the application site towards Edinburgh Castle



Photo 7 – View of the 4-storey tenement at 1 Cambridge Street in which the application site is located at basement level



**Photo 8 – Dedicated controlled gate access to the application basement flat
with main door access**



Photo 9 – View of the application site from basement level



Photo 10 – View of the application site from basement level



Photo 11 – Existing short-term lets in the local area: Castle Street



Report of Handling

**Application for Planning Permission
1A Cambridge Street, Edinburgh, EH1 2DY**

Proposal: Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).

**Item – Local Delegated Decision
Application Number – 22/01652/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 regards 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.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a self-contained, basement flat at the corner of Cambridge Street and Castle Terrace. The property extends over a single floor and has an entrance hall, master bedroom, a living/dining room, kitchen, shower room and study. The property has its own main door which is accessed via a set of steps from Castle Terrace. There is a gate at the top of the steps. The property has its own private courtyard/basement area to the front.

Cambridge Street is a mix of residential and offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of

the street. The application property is in the basement of a four storey Victorian terrace. The four floors above are in residential use. The property is in the city centre, is a two-minute walk from Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport.

The application site is a B listed building (ref: LB 28484: date of listing 1.1.2003).

The application site is in the World Heritage Site and the West End Conservation Area.

Description Of The Proposal

The application seeks permission to change the residential use to a short term let apartment.

No internal or external physical changes are proposed.

The applicant has advised that the property has been used as a short term let since September 2021. The application is therefore retrospective.

Supporting Information

Planning Statement.

Relevant Site History

14/05110/FUL

1A Cambridge Street

Edinburgh

EH1 2DY

Change of use from class 4 offices to residential (flatted) and associated minor alterations.

Granted

18 February 2015

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 11 April 2022

Date of Advertisement: 29 April 2022

Date of Site Notice: 29 April 2022

Number of Contributors: 0

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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- 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 and its setting?

The following HES guidance is relevant in the determination of this application:

- Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent.
- 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 harms neither the listed building or its setting. It is therefore acceptable with regard to Sections 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 West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

There are no external alterations proposed and the development preserves both the character and appearance of the conservation area. The change of use from a one-bedroom domestic flat to a short-term holiday let (STL) 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 proposal does not harm the conservation area. Therefore, it is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 1, Env 3 and Env 6.
- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.
- LDP Delivering the Strategy policy Del 2.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

The non-statutory Guidance for Businesses is relevant when considering policy Hou 7.

Listed Buildings and Setting

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with LDP policy Env 3.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

World Heritage Site

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP policy Env 1.

Proposed Use

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The use of this property as a short term let would have the potential to introduce an increased frequency of movement to the flat, and to the courtyard in front of the flat, at unsociable hours. Although it is within the city centre, the street is not an overly busy thoroughfare and ambient noise levels are relatively low, particularly in the evening. Moreover, the property is in close proximity to residential flats. The proposed one bedroom short stay use would enable two or more 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 also 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. The site lies within the City Centre and policy Del 2 reflects SPP by stating it supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

Parking Standards

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

Parking is on-street within a parking controlled area. This is acceptable and there is no requirement for cycle parking for short term lets.

The proposal complies with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that would justify approval.

d) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little 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

No representations have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposal is acceptable with regards 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.

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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, 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.

Stefano Smith Planning.
FAO: Stefano Smith
58 Dean Path
Dean Village
Edinburgh
EH4 3AU

Craigiebrook Ltd C/o FKMCV.
FKMCV
Tinwald Downs Road
Dumfries
DG1 3SJ

Decision date: 25 October 2022

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

Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).
At 1A Cambridge Street Edinburgh EH1 2DY

Application No: 22/01652/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;

Conditions:-

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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:

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.

1A Cambridge Street Edinburgh EH1 2DY
STL COU Applications GRANTED by CEC – 2021 to 2022

APPENDIX 5

Decision Date	Ref.No.	Address	Ward	Description	Principle: Policy Hou 7 (Inappropriate Uses in Residential Areas)
*01/09/2022	22/01193/FUL	34A William Street	City Centre	Change the use from residential to commercial short-term let, (in retrospect)	<p>The supporting statement states that the premises was part of a former Chinese restaurant before it was sold separately in January 2018. The premises has been used as a short-term let since. However, there is no record of planning permission for this and the use requires to be considered as a new proposal under current policies. It should also be noted that the premises does not have planning permission as a flat.</p> <p>The proposed one-bedroom short stay use would enable two related or unrelated 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 also 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 than long standing residents.</p> <p>The property has the benefit of a main door access down from basement steps. While the basement steps have the potential to generate noise from luggage wheels being dragged to-and-fro, the relatively small size of the premises means that the turnover of noise would not be so significant as to impact on residential amenity. With the exception of the small basement area to access the premises, the property has no private outdoor space.</p> <p>Given the predominately commercial uses on the ground floor, daily occurrences of deliveries/vehicles, noise from cobbled road surface and proximation to nearby uses, existing residents would already be accustomed to a degree of ambience noise throughout the day and evening times. As the premises sits below an existing delicatessen and would largely be restricted to two guests staying at any one time, it is unlikely that its use as a short term let would have a materially detrimental impact on the living conditions of nearby residents in terms of noise.</p>

					<p>Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.</p> <p>It is expected that a turnover of two related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.</p> <p>There are no statutory policies on the loss of housing in the current Development Plan. The proposal complies with LDP Policy Hou 7.</p>
*6/07/2022	22/00672/FUL	35A Moray Place	City Centre	<p>Change of use (retrospective) from residential to short-term let apartment (Sui Generis)</p>	<p>Application reference 21/04512/FUL for the change of use of basement tenement flat to a short term let, was refused by the Council as the proposed use was considered contrary to LDP policy Hou 7. The reason referred to the potential for high turnover of visitors causing disturbance to residents on a quiet residential street. In addition, that the basement stair was likely to lead to noisy arrivals and departures and transient visitors may have less regard for neighbours' amenity than long standing residents.</p> <p>The report also referenced the potential for disturbance through use of external amenity space at basement level.</p> <p>The decision was overturned at appeal (ref: PPA-230-2367) with the reporter commenting on matters including the modest size of property and its external stair, the likely degree that the external space would be used and the surrounding ambient noise.</p> <p>Each case is assessed on its own merits however it is noted the characteristics of this property are similar to this basement flat at Fingal Place.</p> <p>The immediate area around the site is mainly residential in character. The property is accessed via a private staircase from street level at Moray Place.</p> <p>Visitors on arrival and departure would be in some proximity to adjacent flatted properties at ground and basement level.</p>

					<p>There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents. Use of the private external staircase may bring some noise from guests transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.</p> <p>However, whilst the area is primarily residential in character the property is located adjacent to a wide, cobbled road which has indirect access to busier city centre streets including Heriot Row and Queen Street. It is considered that current vehicular use along Moray Place would bring a level of existing ambient noise to the area.</p> <p>Furthermore, the size of the unit is relatively modest, containing one bedroom, dining, kitchen and living area. It is therefore likely to be used by smaller groups such as individuals, couples or small families.</p> <p>At basement level, the property has access to a private external space to the front. It is located near to residential property windows and use of this space may bring some noise.</p> <p>However, its size is limited and is tightly enclosed by boundary walls located below street level. In this regard, it is not good quality amenity space and is unlikely to be frequently used by guests in this city centre location; with local access to a range of amenities and large public green space nearby.</p> <p>In light of the above, it is not anticipated that there would be any material increase in noise from potential use of this space from the lawful residential use.</p> <p>In addition, it is noted the submitted planning statement refers to the property being operational as a short term let for over nine years without complaints. Environmental Protection have confirmed they have received no noise complaints in regard to its use.</p>
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					<p>Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity.</p> <p>The proposal complies with LDP policy Hou 7.</p>
06/07/2022	22/01239/FUL	46 Cumberland Street	City Centre	Change of Use from residential to short-term let (Sui Generis) (in retrospect)	<p>In this case the property has its own access and there is no access to semi-private or communal gardens. Any outside noise conflicts will be from the road outside to the front. Cumberland Street is mainly a residential street although there are two key thoroughfares, Dundas Street and St. Stephen Street/St. Vincent Street, at either end. There is, therefore, some low level ambient background noise and activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2015. On the balance of probability, there will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.</p>
15/06/2022	22/00881/FUL	6 Rutland Court Lane	City Centre	Change of use (retrospective) from residential to short- term let apartment (Sui Generis)	<p>The supporting statement indicates that the property has been used as a short-term let since April 2019. However, there is no record of planning permission for this and the use requires be considered as a new proposal under current policies.</p> <p>The proposed two-bedroom short stay use would enable four or more related or unrelated 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 also 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 than long standing residents.</p>

					<p>The property is a self-contained, lower ground floor flat on Rutland Court Lane with the benefit of a main door access from the pavement. The main door is located on the gable elevation of the existing building and its location on the lower ground floor means that the flat is isolated from other parts of the building. The property has no private outdoor space.</p> <p>The surrounding area is mainly in office use. Rutland Court Lane is accessed off Canning Street from the Western Approach Road, a high traffic area. A footbridge between Rutland Square and Conference Square overhangs the property. Directly across from the property is a modern office building. The location of the property means that it has limited interference with nearby residential uses. Therefore, given the character of the area and the size of the property with its own main door access, the frequency of guests coming and going throughout the day and evening is unlikely to result in significant disturbance to nearby residents.</p> <p>It is expected that a turnover of four or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.</p> <p>Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.</p>
15/06/2022	22/00535/FUL	16 Robertson's Close	City Centre	Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>In this case the property has its own access and there is no outdoor amenity area. Due to the location of the property a short distance away from a key thoroughfare and in an area of mixed uses including student accommodation, retail, cafe/restaurants, entertainment and leisure uses, there is already a degree of activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised</p>

					that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
15/06/2022	22/00803/FUL	17 Ashley Terrace	Fountainbridge/Craiglockhart	Change of Use (retrospective) from residential to short- term let	This is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
15/06/2022	22/00884/FUL	78 Spring Gardens	Craigtinny/Duddingston	Change of Use (retrospective) from residential to short- term let	<p>In this case the property has its own front entrance access and no direct access to garden/communal ground. Although the property is in a predominantly residential area, it is approximately 300 metres from a main thoroughfare and an area of mixed uses including commercial and retail uses. Consequently there is already a degree of activity nearby. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.</p>
30/03/2022	21/06792/FUL	46 Patriothall	Inverleith	Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>The applications (reference: 21/03508/FUL and 21/03509/FUL) were refused by the Council as short term accommodation was considered contrary to LDP policy Hou 7 due to potential for high turnover of visitors causing disturbance to residents on a quiet residential street. The access lane being shared and noise from transient visitors may have less regard for neighbours' amenity than long standing residents.</p> <p>The decisions were overturned at appeal (ref: PPA-230-2359 and PPA-230-2359) with the reporter commenting on matters including position of the</p>

				<p>property relative to commercial uses, potential existing ambient noise and the limited number of residential properties passed to access the accommodation.</p> <p>The immediate area around the site is mainly residential in character. The property is accessed from a shared lane which connects to Hamilton Place. Visitors arriving and departing would pass the main door of one residential flatted property at 45 Patriothall.</p> <p>There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents.</p> <p>There are footways along the lane, however, these narrow in part and use of the road's cobbled surface may bring some noise from transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.</p> <p>However, whilst the lane is primarily residential in character it is located near to the Stockbridge town centre on Hamilton Place where commercial uses are nearby. This includes a convenience store with staff parking in a courtyard area of Patriothall. In addition, an Artist Studio and Gallery near to this accessed via the lane which passes the property's main door and adjacent property. It is therefore considered that there is an existing level of ambient noise from the operation of these nearby commercial uses.</p> <p>The size of the unit is relatively small containing two bedrooms and has its own private access. Its location near to Hamilton Place minimises the level of interaction with other residential properties.</p> <p>In light of the above, whilst a level of noise is likely from guests arriving and leaving the property it is not anticipated that this gives rise to a significant disturbance to residents.</p> <p>The submitted planning statement details guests have access to the underground communal car park and rear courtyard on the rooftop above via external gates. Access to the car park is shared with other residential</p>
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					<p>properties and it is not anticipated that the commercial use results in any material increase in noise or disturbance from parking of cars.</p> <p>There is access to the communal rear courtyard, the roof of the underground car park via a staircase. The applicant has stated this area is managed by Scotmid and provides a fire exit for commercial and residential properties on Hamilton Place. There is outside seating evident and appears to be used as recreational space. It is located near to residential property windows and there is potential for its use to be a source of some noise. However, the property is relatively small scale and it does not have direct access to this area. It is therefore not anticipated that there is any material increase in noise from potential use of this space from the lawful residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity.</p> <p>The proposal complies with policy Hou 7.</p>
31/03/2022	21/06615/FUL	10A Blenheim Place	City Centre	Change of use of residential apartment to short-term let visitor accommodation	<p>In this case the property has its own access and there is a small outside area of hardstanding to the front and no garden ground to the rear. The entrance platt for the ground floor property is directly above the entrance door to the application property. Any outside noise conflicts will be from the road outside to the front or the roads and parking areas to the rear of the building. Due to the location of the property near two main thoroughfares and in an area of mixed uses including commercial and entertainment and leisure uses, there is already a degree of activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets and for visiting family members' holidays, as well as for residential use, since 2014. On the balance of</p>

					probability, there will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
31/03/2022	22/00362/FUL	PF1 1 West Park Place		Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>The area immediately to the south of West Park Place is considered as performing an important mixed- use function as recognised in the Adopted Local Development Plan and accordingly supports relatively high-footfall uses such as retail, food and drink, and sui generis uses such as barber shops and public houses. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless has an important residential function.</p> <p>While every application is considered on its own merits and on a case by case basis, when considering whether this use in this location is likely to result in a ‘further deterioration of living conditions’, it is perhaps instructive to compare these proposals with the application recently approved at 19 King’s Stables Lane (21/04825/FUL. Both applications relate to one-bedroom properties, without private outdoor spaces, in similarly mixed-use areas with residential functions, where both properties are close to busy, footfall generating commercial uses.</p> <p>When assessed against policy HOU7 in that instance, when taking into account both the size constraints of the property, and the character of the property’s environs, the Planning Officer’s Report of Handling noted the following:</p> <p><i>(Noting the mixed-use character of the area)... “The key issue is that this is a one-bedroom property suitable for two persons and the likelihood of disturbance to neighbours is low. Space inside the unit is limited and whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours’ amenity. On the balance of probability there will be no adverse impact on residential amenity and LDP policy Hou 7 is complied with”. (KSL)</i></p> <p>When assessed against the tests in policy HOU7, the property at West Park Place is also likely to have a similarly negligible impact on its qualifying interests, given living conditions for nearby residents are already largely dictated by the nearby presence of Dalry Road and the range of uses it supports. Moreover, the stringent management controls already in place for</p>

					<p>this property, coupled with its excellent location for its use, mean that it has already been operated as a short-term let for over 8 years with no reported incidents by either the police or the Council's planning enforcement team. This is considered useful as highlighting how no '<i>materially detrimental effect</i>' is being occasioned on the living conditions of nearby residents. Considering all of this in the round, it is challenging to see how the change of use sought here could be considered contrary to policy HOU7.</p>
23/02/2022	21/06621/FUL	41 Cumberland Street	City Centre	Change of use from residential to short-term let holiday apartment (in retrospect)	<p>Cumberland Street is primarily residential in character however other commercial uses are evident.</p> <p>The property has its own private access and the applicant has confirmed there is no garden ground to the front or rear.</p> <p>In terms of internal noise, the size of the unit is small, containing only one bedroom and potential impact is unlikely to be materially different from a residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity.</p> <p>The proposal complies with policy Hou 7.</p>
17/11/2021	21/04825/FUL	19 King's Stables Lane	City Centre	Retrospective change of use from residential dwelling to short-term let.	<p>In this case the property has its own access and there is no garden ground to the front or rear.</p> <p>Any potential noise conflicts will be from the lane outside or from within the property. As a lane with a mix of uses, there is already a degree of activity and the question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>The key issue is that this is a one-bedroom property suitable for two persons and the likelihood of disturbance to neighbours is low.</p>

					<p>Space inside the unit is limited and whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity.</p> <p>On the balance of probability there will be no adverse impact on residential amenity and LDP policy Hou 7 is complied with.</p>
01/11/2021	21/03890/FUL	13 Dewar Place Lane	City Centre	Change of use to short-term letting	<p>Dewar Place Lane has a mixed character and residential use no longer predominates. In the appeal decision on 4/4A Dewar Place Lane, the Reporter acknowledged that the area surrounding the appeal site, bounded by the main thoroughfares of Morrison Street, Torphichen Place, Dewar Place and Torphichen Street, is now substantially commercial in overall character. However, there are still residential properties in the lane, including adjacent to the application property, and their amenity must be considered.</p> <p>In this case the property has its own access and there is no garden ground to the front or rear. Any potential noise conflicts will be from the lane outside or from within the property. In the appeal decision for 4/4A Dewar Place lane the Reporter stated</p> <p><i>In this case I would observe that any resident of Dewar Place Lane already lives in an area subject to a considerable degree of transient activity associated with the comings and goings of visitors to the city, and other activity. This observation is material to the determination of the current application. A number of traffic movements occur in the lane with servicing of the hotels in Torphichen Street and Police Scotland West End Station with its associated vehicle parking, garaging and storage. The applicant has pointed out that this detrimental effect on the character of the lane is exacerbated by associated low quality urban paraphernalia for the hotels and offices. These include a smoking shelter, bin stores and external sheds, all located on the north side of the lane amongst the parking areas which are opposite the application premises. The conversion of this small mews property to short term lets is unlikely to further impact on residential amenity in terms of external noise and residential amenity. Any anti-social behaviour which may be associated with the use is a matter for the police.</i></p>

					<p>In terms of internal noise, the unit is small and the impact is unlikely to be any different from a residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity.</p> <p>The proposal complies with policies Del 2 and Hou 7.</p>
27/10/2021	21/04319/FUL	30 Castle Street	City Centre	Proposals are for commercially managed short term let studios. Reconfiguration of the internal layout	<p>In this case, the property is currently a guest house with 20 bedrooms and the change to 15 self-catering studios will have no material impact on any nearby residential properties. The property has its own access and there is no garden ground to the front or rear.</p> <p>The reduction in occupancy means there will be little change in how nearby services are used. In addition, there is no car parking so this will not change from the current situation.</p> <p>The proposal complies with policies Del 2 and Hou 7.</p>
10/09/2021	21/03226/FUL	3B Dundas Street	City Centre	Change of use of from flatted dwelling to use for short-term letting	<p>The change of use from a domestic residential flat to a short stay commercial visitor accommodation shown for a maximum of six persons would be no greater than what the existing residential flat could currently accommodate. The property has its own private access to the front. It is located on a busy thoroughfare and local residents will be used to some degree of noise and disturbance from the commercial uses and vehicles/traffic.</p> <p>The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden.</p> <p>It is acknowledged that that the flat is typical of the New Town and the rooms are spacious so more than six people could be accommodated. However, this is not something the planning authority can restrict by condition as it would not be possible to enforce. The location of the property on the street edge and the lack of rear garden means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti- social behaviour are a matter for the</p>

					<p>police and not a planning matter and there are other environmental controls available if necessary. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity.</p> <p>Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts and would support the local economy.</p> <p>Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal. This also applies to any Scottish Government research which may show the links between short stay lets and reduced quality of life.</p> <p>Based on the criteria established above, the proposal complies with LDP Policy Hou 7 and is acceptable in principle.</p>
10/09/2021	21/02664/FUL	Drylaw House 32 Groathill Road North	Inverleith	Change of use of Drylaw House to short-term let visitor accommodation (Sui Generis)	<p>The property is located on a residential street. The property is detached, has large garden grounds and its own private access. The dwelling is substantial in size currently with 15 bedrooms.</p> <p>Environmental Protection was consulted on the application and it stated that it had no objections to the proposal. It stated that "<i>Short-term letting noise issues regularly comes down to how well the premises are being managed. The Applicant has advised that they would maintain a guest handbook containing robust terms and conditions, with all potential guests being vetted, and large deposits taken. They also have CCTV in the grounds to monitor for any antisocial behaviour</i>". Environmental Protection also noted that the property sits within extensive walled grounds.</p> <p>Police Scotland were also consulted as part of the assessment of the application. It stated that they would welcome the opportunity for one of their Police Architectural Liaison Officers to meet with the architect to discuss</p>

					<p>Secured by Design principles and crime prevention through environmental design in relation to the development.</p> <p>It is further acknowledged that planning permission has recently been granted for the change of use of the property from class 9 (Domestic) to class 7 (Hotel). Under this agreed use, a large number of new individuals would already be permitted 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.</p> <p>Given the above, on the balance of probability, it is unlikely that the SCVA would result in an unacceptable impact upon existing levels of residential amenity.</p> <p>Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits, including that of tourism, are a material planning consideration.</p> <p>The proposal is acceptable in principle and it complies with LDP policy Hou 7.</p>
11/08/2021	21/02615/FUL	41 Barony Street Edinburgh	CityCentre	Change of use from a residential property to short term commercial visitor accommodation	<p>The change of use from a domestic residential flat to a short stay commercial visitor accommodation with a maximum of four persons would be no greater than what the existing residential flat could currently accommodate.</p> <p>The property has its own private access to the front. Although located in a mainly residential street, the property is next to a small concentration of commercial and business uses at Broughton Market and local residents will be used to some degree of noise and disturbance from the uses such as vehicles/traffic.</p> <p>In addition, there are no policies which limit the number of short stay lets in a particular area so the assessment can only be based on the potential impact on</p>

					<p>residential amenity. The cumulative impact may be significant but there have been no other applications for short terms lets in Barony Street.</p> <p>The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden. As a two bedroom flat, the application property can accommodate four residents and the proposed change of use to a SSCVA will also accommodate four visitors/guests. Therefore, there will be no increase in the numbers of people who can be accommodated in the flat.</p> <p>The small size of the flat (two- bedroom) and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity.</p> <p>Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts.</p> <p>Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal.</p> <p>Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.</p>
22/06/2021	21/01591/FUL	48 Howe Street	City Centre	Proposed change of use of flat to a short term let	The use is relatively small-scale and the flat is located on a busy road in a prominent location. It has its own private access. Although it has been developed as a flat, according to the supporting statement it has not been used as such. The surrounding uses are a mixture of business, residential and

					<p>commercial. The proposed introduction of this use would not detract from the aforementioned characteristics, in this instance.</p> <p>Based on the criteria established above, the proposal is acceptable in principle.</p>
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Decision Date	App.Ref.	Address	Description	Principle: Policy Hou 7 (Inappropriate Uses in Residential Areas)
13/04/2022	PPA-230-2367	1B Fingal Place, Sciennes	Change of use from a residential property to a commercial short term visitor self-catering accommodation	<p>Policy Hou 7 safeguards against developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents. The accompanying explanatory text makes clear that the policy applies to mixed use areas with an important residential function, as well as predominantly residential areas.</p> <p>The first issue before me is whether changing the flat’s primary and lawful use from residential to commercial short term visitor self-catering accommodation would be acceptable in principle. Policy Hou 7 does not preclude such a use outright. The policy test for the acceptability or otherwise of the proposal should therefore principally be based on whether the use would be materially detrimental to the amenity of other residents as set out in the council's report of handling.</p> <p>According to the council, the proposed use would entail large numbers of visitors staying at the premises for a short period of time on a regular basis throughout the year. This, the council argues, would be in a manner which is dissimilar to that of permanent residents. I consider below whether any such differences would indicate that the proposed use would be incompatible with neighbouring residential uses.</p> <p>The Meadows is an area which has large pedestrian footfall comprising primarily of the students who reside in the Newington Pollock Halls, Argyle Place, Chalmers Crescent, Sciennes Road and surrounding roads. I noted that there were a mix of uses in the vicinity of the appeal site especially on Argyle Place with a variety of commercial uses on the ground floor, including bars and a yoga studio with residential uses on the upper floors. Running parallel</p>

				<p>to Fingal Place is a relatively busy A road, A700/Melville Drive which is separated from Fingal place by a road verge and pedestrian footpaths. To the north of the A700/Melville Drive is the Meadows Park which at the time of my visit was well patronised.</p> <p>I consider that given the nature of this location, the occupiers of the residential flats on Fingal Place would be accustomed to some degree of ambient noise or disturbance. On my site visit I observed that there was high background noise from the traffic and the park. I accept that the latter noise could have been as a result of the relatively warmer and sunny weather and therefore inviting to outdoors pursuits in the park opposite the appeal site. In addition, there was construction works going on a couple of doors away from the appeal property and a major demolition further down the road. Notwithstanding these unique set of circumstances, I consider that the normal background noise would be midway between what one would experience in an inner-city environment and a suburban environment. I would not characterise the area as a quiet residential area as the council has done in the report of handling.</p> <p>The building is set in the basement level and benefits from a direct access from the road. The access is obtained from an original or historic staircase formed of ten stone slab steps, leading to a small landing area on the front of the only external door. There does not appear to be concerns that noise generated from within the property causes disturbance to neighbours. The external staircase which is the only means of access to and egress from the flat is for the sole use of the occupants and is not shared with any of the adjoining flats. The area to the front is small but can be used as private amenity space.</p> <p>The council is concerned that the external area at the bottom of the stairs could be used as private amenity space as it provides sufficient space to accommodate a table and chairs. However, in</p>
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				<p>my opinion it is unlikely that, when presented with such an array of activities that are in the vicinity of the appeal site and more appealing outdoor amenity facilities in the form of surrounding parks which are a stone's throw away, the visitors who are only staying for a limited time would prefer to sit underneath a set of stairs, below a pavement with no views.</p> <p>Usually in considering material change of use proposals, an assessment has to be made as to the likely impact of a proposal, against the baseline of the lawful use. The appeal flat has one bedroom, one lounge, one bathroom, and is relatively modest in size. It would therefore be incapable of satisfactorily accommodating large groups of individuals and would be more suited to use by single occupants, couples or small families at the most. It is highly unlikely that for a property of this size, there would be a noticeable difference in the average daily number of occupants' movements in and out of the property between the lawful use and the proposed use. These factors in my view significantly reduce the likelihood of disturbance arising from guests whether inside, or outside the flat.</p> <p>As set out above, the flat benefits from its own external door which is accessed by a set of ten stone slab steps. Concerns have been raised in representations regarding noise of suitcases being pulled up and down the steps. There are only 10 steps, so in a worst case this would be audible for only a few seconds. General ambient noise in this area is of a level where this would not give rise to any significant disturbance affecting residential amenity.</p> <p>The council's non-statutory 'Guidance for Business' though not a development plan policy is a material consideration. The guidance states that, amongst other criteria, an assessment of a change of use to short-term letting should consider the character of the proposed use within its spatial context; pattern of use including the number of occupants; periods of use; noise and disturbance; and parking demand. With respect to flatted properties, the</p>
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				<p>guidance says that, change of use will generally only be acceptable where there is a private access from the street. The proposal satisfies this criterion. Other than the parking demand, I have addressed all these criteria in my assessment above. The council has no concerns about the parking demand arising from the proposal. Based on the relatively central location of the appeal site within easy reach of the historical and city centre of Edinburgh and its proximity to the central universities, I have no reason to take a different view.</p> <p>Given also the nature of this location, type of access arrangements, size of the property as outlined in preceding paragraphs, I am satisfied that the flat could be used for short-term holiday letting without any materially detrimental effects on the living conditions of nearby residents. I therefore find the proposal accords with LDP policy Hou 7.</p>
26/01/2022	PPA-230-2358	7A Jamaica Street South Lane	Change of use of dwelling to commercial short-term holiday let	<p>The appeal property occupies the lower ground floor of what is apparently a converted town house fronting onto Heriot Row. The property is accessed down a short lane passing between some garages and a residential property at 7C Jamaica Street South Lane. This lane joins onto Jamaica Street South Lane at its eastern end, close to its junction with Jamaica Street.</p> <p>Jamaica Street South Lane has a largely quiet residential character, whereas Jamaica Street contains mostly commercial uses, including a public house on the corner of Jamaica Street South Lane, studios and offices. Nearby is Howe Street, which is one of the major thoroughfares of Edinburgh's New Town. The entrance to the lane leading to the appeal property is located at the transition point between these commercial and residential areas.</p> <p>It seems most likely to me that visitors staying at 7A Jamaica Street South Lane would mainly arrive and leave the property via Jamaica Street, as this would be the quickest route to the city centre and commercial attractions of Howe Street. I would not therefore</p>

				<p>expect any noticeable increase in disturbance to the residents of Jamaica Street South Lane as a whole.</p> <p>Of some possible concern is the individual property at 7C Jamaica Street South Lane. Visitors to the appeal property must walk alongside number 7C, and directly pass its front door. The access lane is at this point paved with setts, and I note the council's concerns regarding the potential for noise disturbance from wheeled suitcases on this surface. While I accept such noise could arise at the start and end of visitors' stays, it would cause only a brief and occasional disturbance.</p> <p>I accept that the pattern of use of a commercial short term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. I note the objection from the flat above the appeal property, but overall there does not appear to have been a history of numerous complaints over the years this use has been operating. For these reasons I conclude that the proposal would be unlikely to give rise to any significant disturbance to local residents.</p> <p>I note the statement in the council's guidance that permission will not normally be granted in respect of flatted properties, but in this case, the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of</p>
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				<p>use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal.</p> <p>For the above reasons, I therefore conclude that there would be no materially detrimental effect on the amenity of nearby residents, and that the proposal complies with Policy Hou7 of the local development plan, and with the plan as a whole.</p>
26/01/2022	PPA-230-2359	7B Jamaica Street South Lane	Change of use of dwelling to commercial short-term holiday let	<p>Policy Hou7 of the plan resists changes of use that would have a materially detrimental effect on the amenity of nearby residents. The council has also issued a guidance document for businesses, which includes advice around changing residential property to short term commercial visitor accommodation. Although non-statutory, and therefore not part of the development plan, the guidance assists in the interpretation of Policy Hou7. It states that proposals will be assessed in terms of their likely impact on neighbouring residential properties, with considerations to include background noise in the area and proximity to nearby residents. The guidance goes on to resist proposals in flatted properties, which are characterised as having the greatest potential adverse impact on residential amenity. A separate section on flatted properties states that changes in the use of such properties will generally only be acceptable where there is a private access from the street.</p> <p>7. The appeal property occupies the lower ground floor of what is apparently a converted town house fronting onto Heriot Row. The property is accessed down a short lane passing between some garages and a residential property at 7C Jamaica Street South Lane. This lane joins onto Jamaica Street South Lane at its eastern end, close to its junction with Jamaica Street.</p> <p>8. Jamaica Street South Lane has a largely quiet residential character, whereas Jamaica Street contains mostly commercial uses, including a public house on the corner of Jamaica Street South Lane, studios and offices. Nearby is Howe Street, which is one of the major thoroughfares of Edinburgh's New Town. The</p>

				<p>entrance to the lane leading to the appeal property is located at the transition point between these commercial and residential areas.</p> <p>9. It seems most likely to me that visitors staying at 7B Jamaica Street South Lane would mainly arrive and leave the property via Jamaica Street, as this would be the quickest route to the city centre and commercial attractions of Howe Street. I would not therefore expect any noticeable increase in disturbance to the residents of Jamaica Street South Lane as a whole.</p> <p>10. Of some possible concern is the individual property at 7C Jamaica Street South Lane. Visitors to the appeal property must walk alongside number 7C, and directly pass its front door. The access lane is at this point paved with setts, and I note the council's concerns regarding the potential for noise disturbance from wheeled suitcases on this surface. While I accept such noise could arise at the start and end of visitors' stays, it would cause only a brief and occasional disturbance.</p> <p>I accept that the pattern of use of a commercial short term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. Furthermore I have not been made aware that there have been any complaints of noise or disturbance relating to this property over the years this use has been operating. For these reasons I conclude that the proposal would be</p>
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				<p>unlikely to give rise to any significant disturbance to local residents.</p> <p>12. I note the statement in the council's guidance that permission will not normally be granted in respect of flatted properties, but in this case, the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal.</p> <p>For the above reasons, I therefore conclude that there would be no materially detrimental effect on the amenity of nearby residents, and that the proposal complies with Policy Hou7 of the local development plan, and with the plan as a whole.</p>
24/04/2021	PPA-230-2325; PPA-230-2326; PPA-230-2327; PPA-230-2328	Flats 1, 2, and 3, no 4 Dewar Place Lane, and flat 4A Dewar Place Lane	Change of use from residential to holiday flat	<p>The appellant has offered to enter into a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997. He suggests that in order to address the possibility of potential conflict between short stay lets and residential uses within the building, he would be willing to enter into a Section 75 Agreement which firstly, would restrict the use of each of the flats in the building so that no single flat can be used for residential purposes while there are short-term letting uses within the building. Secondly, the appellant would also be willing to provide a restriction on the number of individuals which may occupy each flat at any one time, to address the council's concern that planning cannot readily control limits on occupancy. For flat 1 he suggests a restriction to 4 maximum occupants; for flat 2, which has 3 bedrooms, a maximum of 6; for flat 3, with one bedroom and a lounge bed, a maximum of 4; and for flat 4A with two bedrooms and a lounge bed, a maximum of 6 occupants. The planning obligations would be registered as a title restriction against each of the properties.</p> <p>Any such proposed agreement must meet the legal and policy tests explained in Scottish Government Planning Circular 3/2012:</p>

				<p>Planning Obligations and Good Neighbour Agreements (revised 2020) Any obligation which should more properly be contained in a condition should not be imposed via a planning obligation. Here I consider that the level of detailed control of the use of the premises is better monitored and delivered by a positive management undertaking by the owner, rather than left with the council as a planning condition which they would require to actively monitor. Further, it will give the council some assurance and influence over matters which are indeed usually difficult for the planning authority to monitor and enforce. The obligation would allow them to require the owner to comply with the terms of the agreement should any problems arise and come to the council's attention through complaints.</p> <p>In my view, both strands of the planning obligation suggested would meet the circular tests, albeit with the exclusion of the need to retain flat 4A in short-term letting use from the agreement. I regard the other suggested restrictions as necessary, because they would render the appeal proposals for flats 1-3 acceptable in planning terms, in that they would minimise conflict of uses, and prevent the use of the premises by excessive numbers of short-term tenants in anyone let. I do not consider the restriction to short term use necessary for flat 4A, because it has a separate entrance, and so if it were ever to revert to residential use, there would be much less conflict with the short-term tenants. However, the proposals to restrict the numbers using this flat should be taken up, as a measure against excessive use. In protecting residential amenity, the obligations would serve a proper planning purpose. The obligations proposed are directly related to the proposed development, and the consequences of the development. I consider the obligations tendered to be fair and reasonable in all the circumstances.</p> <p>27. I do not consider that the council would require to monitor compliance, so long as the development operated in a satisfactory manner. It would, however, give them a means of enforcement if</p>
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				<p>there were complaints or problems, and the development was found to be operating in a manner which did not comply with the obligation. In my view the planning obligation offered should be favourably considered and would result in an acceptable proposal.</p> <p>28. I therefore conclude that the proposals would not accord with the development plan, in that they would be contrary to policy HOU 7, as regards any persons who might use any of flats 1-3 in the appeal building as their main residence, when it is also used for short term lets. However, the proposals can be made acceptable if the suggested planning obligation described above was entered into. This would avoid the possibility of conflict of uses and residential disamenity through the potential use of the premises by excessive numbers of short-term tenants.</p> <p>29. I conclude that a planning obligation restricting or regulating the development or use of the land should be completed in order to protect the amenity of any persons who may otherwise come to use the building for residential use. I will accordingly defer determination of this appeal for a period of up to 8 weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 8-week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office.</p>
30/01/2020	PPA-230-2290	9 Briery Bauks, Edinburgh	Change of use from residential to commercial short term residential let	<p>It is the contention of the appellant that the pattern of activity in this particular property, with its own private access and garden, three day letting periods, and limiting letting to 5 persons at any one time has no greater impact on the residential character and amenity of the area than the previous use of the property for student accommodation. He asserts that such is the negligible degree of change with respect to the use of the property and any potential impact on the residential character of the area or</p>

				<p>amenity of nearby residents that a material change of use has not occurred. The proposal is not therefore, in his view, contrary to the criteria set out in Policy HOU7 of the local development plan.</p> <p>The council accept that the appeal property has direct access from the street and that there would not be direct interaction between the short-term occupants and those longer- term residents of the surrounding residential properties. They consider however, that short term lets, by their very nature, result in a turnover of occupants, frequent comings and goings during the day, which together with the meet and greet, servicing and cleaning of the property all create a level of disturbance in excess of what may be regarded as normal in a residential street. This, in their view, would be detrimental to the established residential character of the area and to residential amenity, contrary to policy HOU7 of the ELDP.</p> <p>There are two separate considerations here. The first is the appellants' assertion that the use does not require planning permission and the second whether the permission sought would be contrary to the local development plan. Regarding the first of these, whether planning permission is needed, is not a matter before me. There are other procedures to establish existing use. What is before me is an application to establish such use by way of a planning permission.</p> <p>The current residential classification for the appeal property is a single use (sui generis). There are not therefore a range of different uses encompassed within that definition. Whether short-term letting represents a material change of use has been determined by the courts to be a matter of fact and the degree of impact on residential amenity. The applicable planning policy is ELDP Policy HOU7. The only further guidance regarding the implementation of this development plan policy comes from the council's non- statutory Guidance for Business which states that the Council will not normally grant planning permission in respect</p>
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				<p>of flatted properties where the potential impact on residential amenity is greatest or where there is a communal entrance lobby. This is often taken to relate to the impact arising from the intense use of communal entrance halls or from noise generated on upper floors neither of which circumstance applies in this case. The council also notes recent appeal decisions where decisions to grant permission for short-term letting have taken into consideration the external ambient noise in busy city centre locations when reaching a conclusion on the impact on residential amenity of short-term letting.</p> <p>There is no doubt in my mind that short term commercial residential letting inherently involves a greater level of noise generation and the potential for increased disturbance to surrounding residents than long-term letting or other forms of residential tenure. As the council notes the minimum three-night stay could result in a turnover of occupants 120 times a year with a constant supply of new residents with no inherent reason to respect the character of their locality. Whilst I accept that in the current letting pattern this is very much a maximum it would in all probability result in a level of noise and disturbance above the more usual residential six-month tenure for rented properties.</p> <p>Secondly the dwelling concerned is a terrace property with its own entrance directly onto the street, parking provision and a secluded rear garden area well screened from surrounding properties. Unlike a flat with a communal entrance hall there would be no undue disturbance arising from a stream of strangers using the entrance. The occupation of a three-bedroom house by a maximum of five people would not be an abnormal occupation. I am also mindful however that there are presently no controls or reasonable planning conditions which could limit the rate of turnover or the maximum number of occupants to that currently applied by the appellant. I note from the council's submitted reports that there have to date been no complaints specifically about undue noise arising from the use over the last year. The</p>
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				<p>complaint which initiated the planning investigation and pending enforcement action related solely to the lack of planning permission.</p> <p>I therefore conclude that the increased activity currently associated with short-term letting is not likely to result in undue noise and disturbance detrimental to the surrounding residents. Any increase in the number of occupants beyond what may be regarded as normal for this property, or undue increase in the frequency of changeover could however result in undue disturbance. The council have not suggested planning conditions to control the occupation level or frequency of changeover, but I consider these necessary to make the proposal acceptable. Excessive noise generated by occupant's anti-social behaviour would be controlled under other legislation.</p> <p>Finally, the impact on the residential character of the area depends on the scale of activity and on the likely impact on the environment. Briery Bauks is a residential street, a mixture of terraced houses and apartment buildings. It has a mixed residential population including longer term residents, student accommodation and quite a number of pedestrians moving both through and around the development to reach the main road, Pleasance (approximately 100 metres), with its mix of cafes and bars. Whilst it is relatively quiet compared to the city centre it has a lively inner-city character with a constant background level of activity. In that context I consider that the increased activity associated with short term commercial letting would not in this instance have a noticeable impact on the residential character of the area.</p> <p>I therefore conclude, for the reasons set out above, that the proposed development would not result in a level of increased noise and disturbance which would be detrimental to the residential amenity of surrounding residents. The proposal therefore accords overall with the relevant provisions of the</p>
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				development plan and there are no other material considerations which would still justify refusing to grant planning permission. I therefore grant consent.
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Architectural Service.
FAO: Darren Beresford
237 Baldridgeburn
Dunfermline
KY12 9EG

Mrs Hart
13 Farrer Grove
Edinburgh
EH7 6SF

Decision date: 24 October 2022

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

Loft conversion to include dormer and velux.
At 13 Farrer Grove Edinburgh EH7 6SF

Application No: 22/03718/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 22 July 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;

Conditions:-

Reason for Refusal:-

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not an acceptable scale, form, or design; and is detrimental to the character of the neighbourhood.

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 proposed works to the dwelling are not in accordance with the Development Plan. The works are not compatible with the existing dwelling and surrounding neighbourhood character. There are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is not acceptable.

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 Tom Hutchinson directly at tom.hutchinson1@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
13 Farrer Grove, Edinburgh, EH7 6SF**

Proposal: Loft conversion to include dormer and velux.

**Item – Local Delegated Decision
Application Number – 22/03718/FUL
Ward – B14 - Craigentiny/Duddingston**

Recommendation

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

Summary

The proposed works to the dwelling are not in accordance with the Development Plan. The works are not compatible with the existing dwelling and surrounding neighbourhood character. There are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is not acceptable.

SECTION A – Application Background

Site Description

The site is an end-terraced property, located north of Fishwives Causeway and adjacent train tracks. The dwelling is within a primarily residential area and on the east side of Farrer Grove.

Description Of The Proposal

The proposal is for installation of one Velux rooflight to the rear elevation and erection of a large dormer to the front elevation.

Relevant Site History

20/00030/FUL
13 Farrer Grove
Edinburgh
EH7 6SF

Proposed cut down and erection of extension to rear of dwellinghouse to create sitting room. (as amended)

Granted
11 March 2020

Other Relevant Site History

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 29 July 2022

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 0

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- 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 comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Design policies Des 12.

The non-statutory Householder Guidance is a material consideration that is relevant when considering policy Des 12.

Scale, form, design and neighbourhood character

The non-statutory Householder Guidance states that when erecting a dormer, the relationship between a dormer and its surroundings is particularly important. Dormers should be of such a size that they do not dominate the form of the roof and should not come to the edges of the roof, retaining visible expanses of roof on all four sides. Where possible, the dormer should align with existing fenestration on the building's elevation. On principal elevations a single dormer should be no greater in width than one third of the average roof width.

Whilst there are other examples of dormers within the surrounding area, there is nothing similar in scale to the proposed dormer. Although the proposed dormer does line up with the existing fenestration of the house, it is considered that the dormer, as currently proposed, is too large and would dominate the property's existing roofscape. The dormer is significantly over the one third scale, detailed in the non-statutory Guidance for Householders, encompassing over 80% of the existing roofscape. As proposed, the dormer extends almost directly up to the left edge of the roof and extends down to the edge of the eaves, failing to retain sufficient visible expanses of roof of these sides. Whilst it is noted that a slightly larger dormer could be acceptable in this location, as it faces onto train tracks, it is also noted that the property's primary elevation will be visible from public views, particularly along Fishwives Causeway, which runs adjacent to the train tracks.

As such, it is considered that the proposed dormer would dominate the existing roofscape and fails to retain visible expanses to the edges of the roof to the left and below, as such, the proposal is not an acceptable scale, form and design and is not compatible with the existing dwelling and surrounding area.

Neighbouring Amenity

With respect to privacy, overshadowing and loss of daylight or sunlight, the proposals have been assessed against requirements set out in the non-statutory 'Guidance for Householders'. The proposals will not result in any unreasonable loss to neighbouring amenity.

Conclusion in relation to the Development Plan

The proposals are not compatible with either the existing building or neighbourhood character and although they do not result in an unreasonable loss of neighbouring amenity, the proposals do not comply with LDP policy Des 12 or the overall objectives of the Development Plan.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

It is considered that the proposal fails to comply with Paragraph 29 of SPP as the application does not comply with the guiding principles of supporting good design as the proposal is too large on the existing roofscape and is not compatible with the existing property or surrounding area.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little 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

No comments have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The proposed works to the dwelling are not in accordance with the Development Plan. The works are not compatible with the existing dwelling and surrounding neighbourhood character. There are no material considerations which indicate that the proposal should be granted. Therefore, the proposal is not acceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal

1. The proposal is contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it is not an acceptable scale, form, or design; and is detrimental to the character of the neighbourhood.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 22 July 2022

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Tom Hutchinson, Planning Officer
E-mail:tom.hutchinson1@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

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Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100584225-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Architectural services		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Darren	Building Name:	
Last Name: *	Beresford	Building Number:	237
Telephone Number: *	07535015595	Address 1 (Street): *	Baldridgeburn
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Dunfermline
Fax Number:		Country: *	UK
		Postcode: *	KY12 9EG
Email Address: *	Andrew.bird@architecturalservicesscotland.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Ms"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Kate"/>	Building Number:	<input type="text" value="13"/>
Last Name: *	<input type="text" value="Hart"/>	Address 1 (Street): *	<input type="text" value="Farrer Grove"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH7 6SF"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="Andrew.bird@architecturalservicescotland.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="13 FARRER GROVE"/>
Address 2:	<input type="text" value="CRAIGENTINNY"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH7 6SF"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="674105"/>	Easting	<input type="text" value="329491"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Loft conversion with dormer

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see supporting document.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

13 Farrer Appeal document which contains photos of similar dormers in the surrounding area.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/03718/FUL

What date was the application submitted to the planning authority? *

22/07/2022

What date was the decision issued by the planning authority? *

24/10/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Darren Beresford

Declaration Date: 24/01/2023

13 Farrer Grove – Information in Support of Planning Application

The following houses are within the immediate neighbourhood or direct sight of my clients house with similar features we are looking to incorporate into our plan.

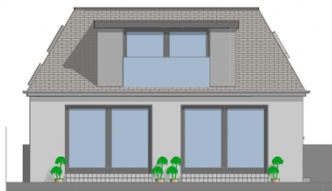


Above is 30 Farrer Terrace which is on the road directly adjacent to the clients. It overlooks several houses opposite it.



17 Farrer Terrace, in adjacent road to clients' property.

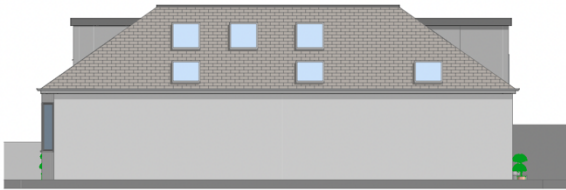
31 Farrer Terrace



north east



north west



south east



south west

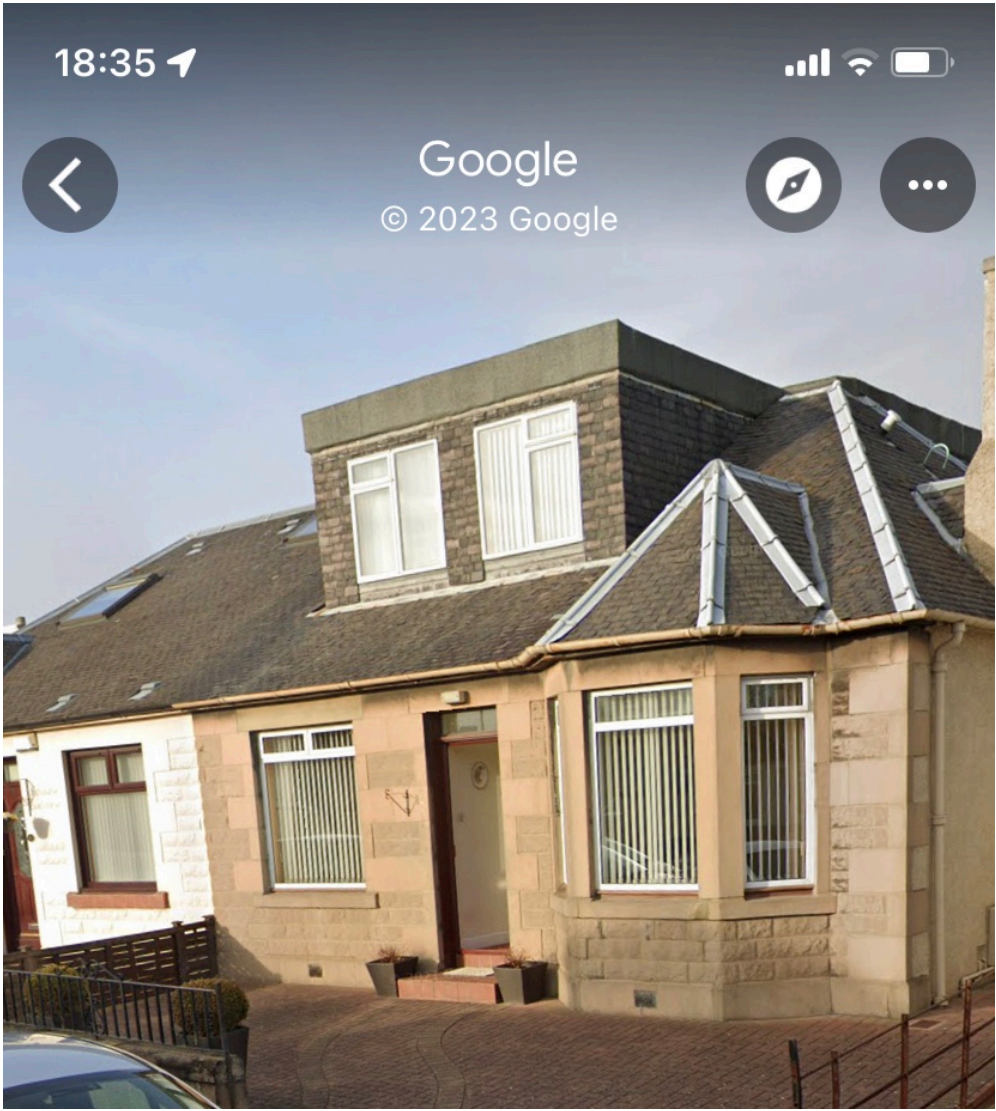


grey membrane flat roofs
 slate grey concrete tile pitched roofs
 Velux rooflights
 dark grey UPVC windows & patio doors
 white rendered walls

alterations and extension to existing house
31 FARRER TERRACE
EDINBURGH, EH7 6SG
proposed elevations
 scale 1:100 April 2022 drg.P3
Whitelaw Assoc 01968 660452

This is 31 Farrer Terrace, planning application 22/02016 which was granted 9/6/22. This was granted despite neighbours' concerns over the size of the dormer. The frontage features a large double dormer overlooking neighbours' gardens and property.

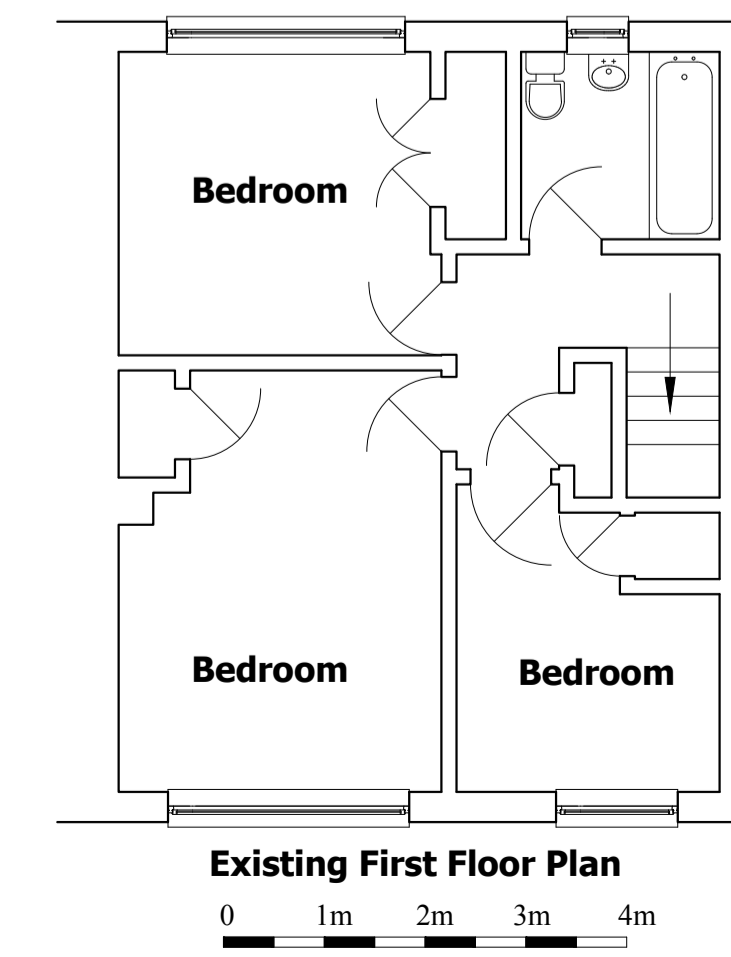
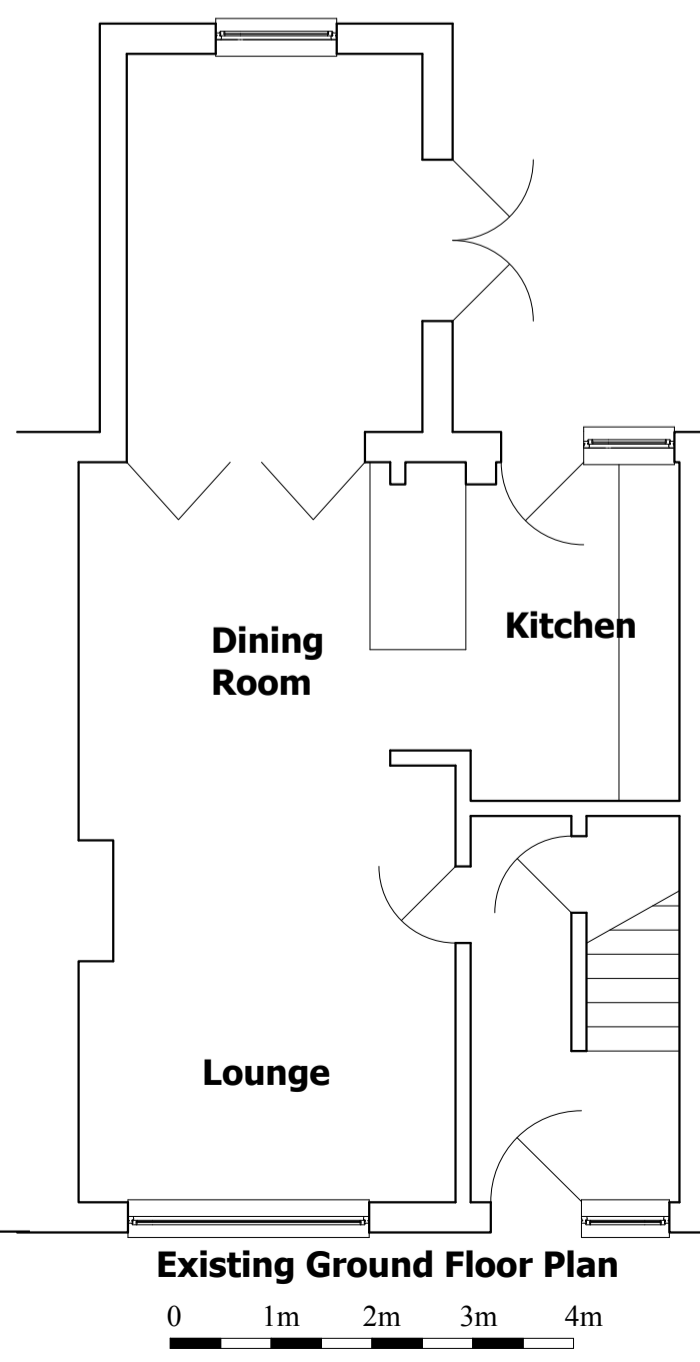
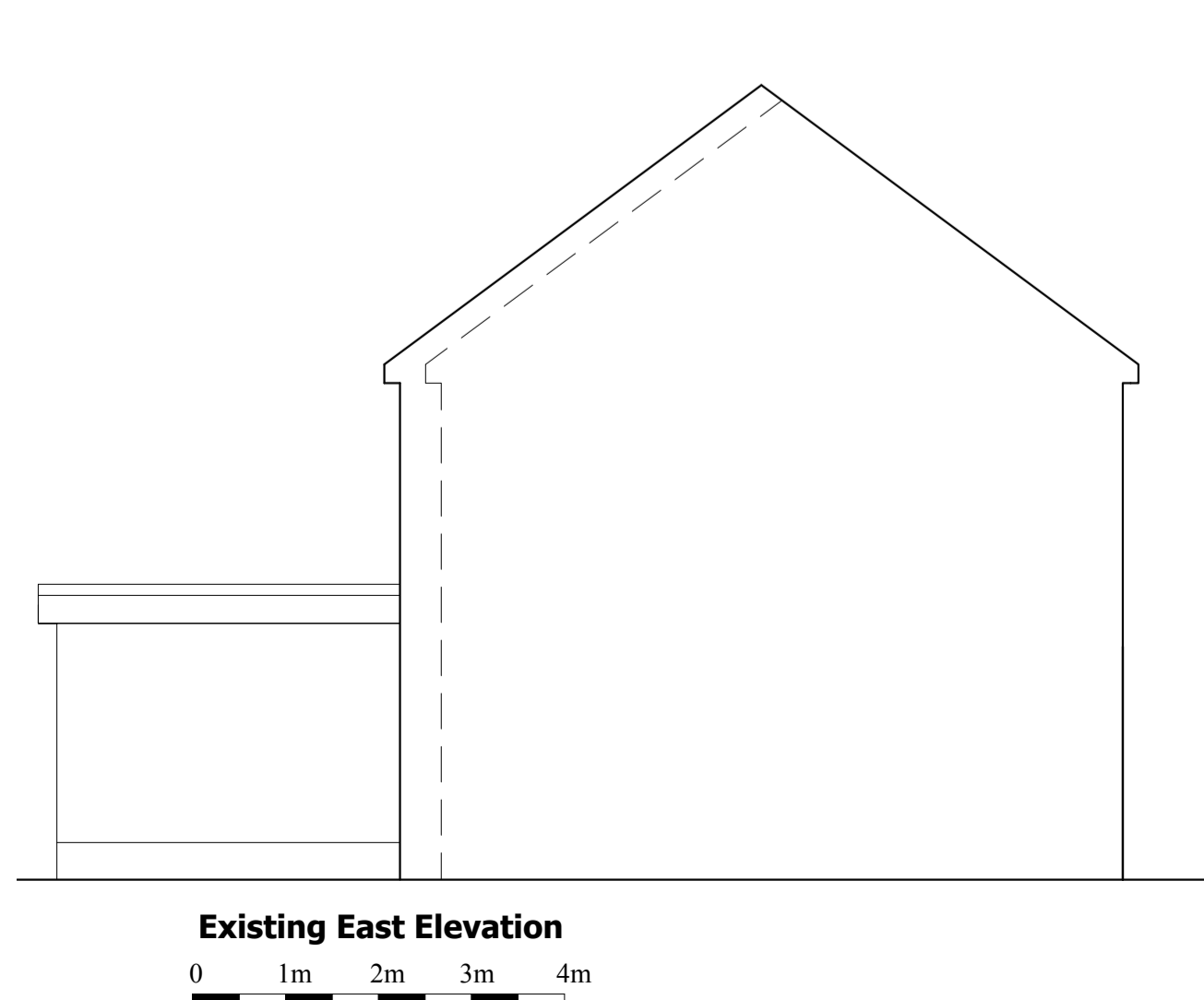
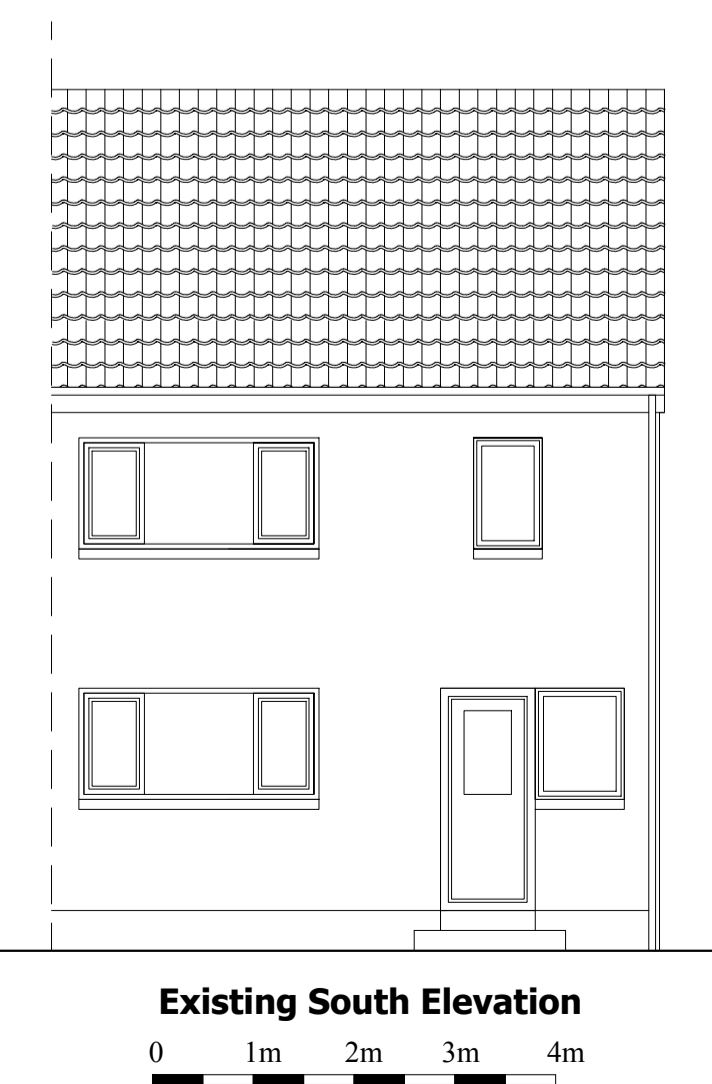
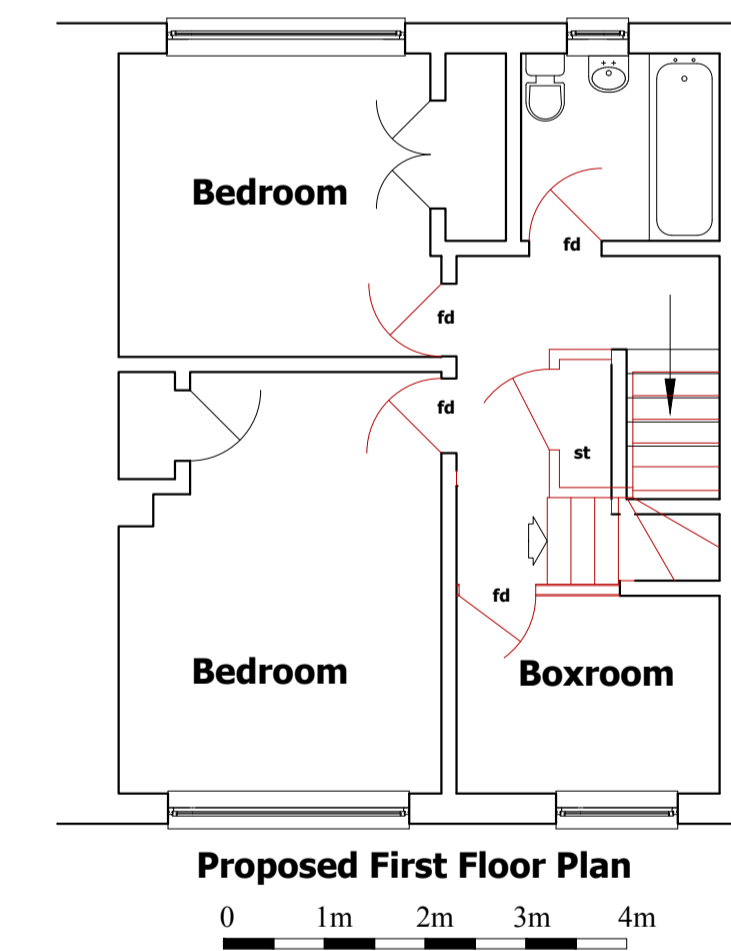
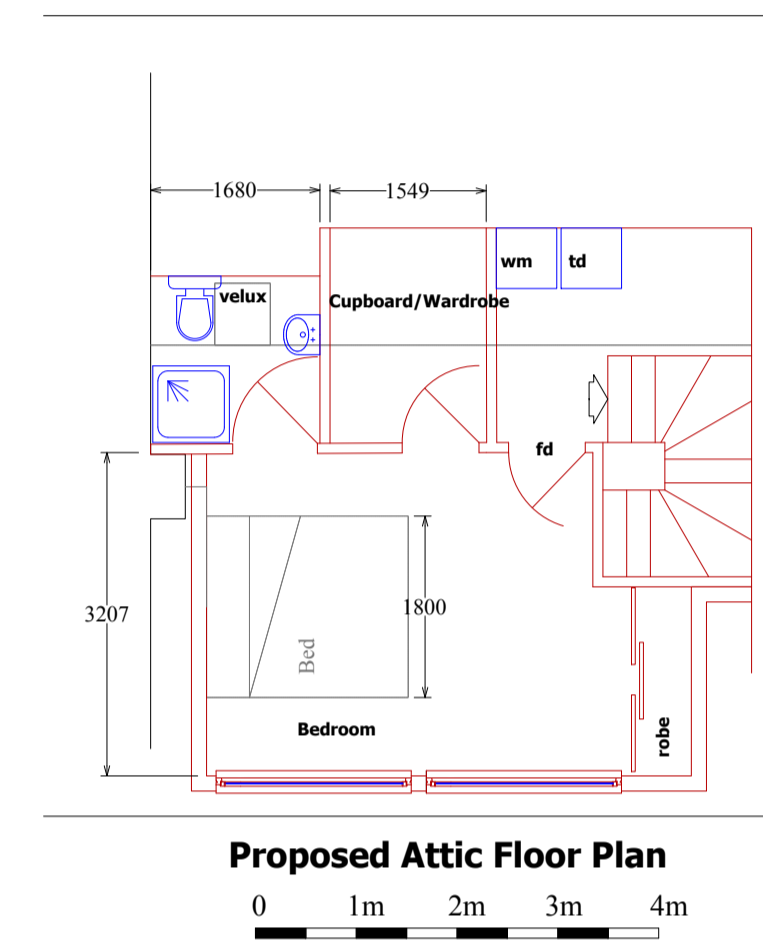
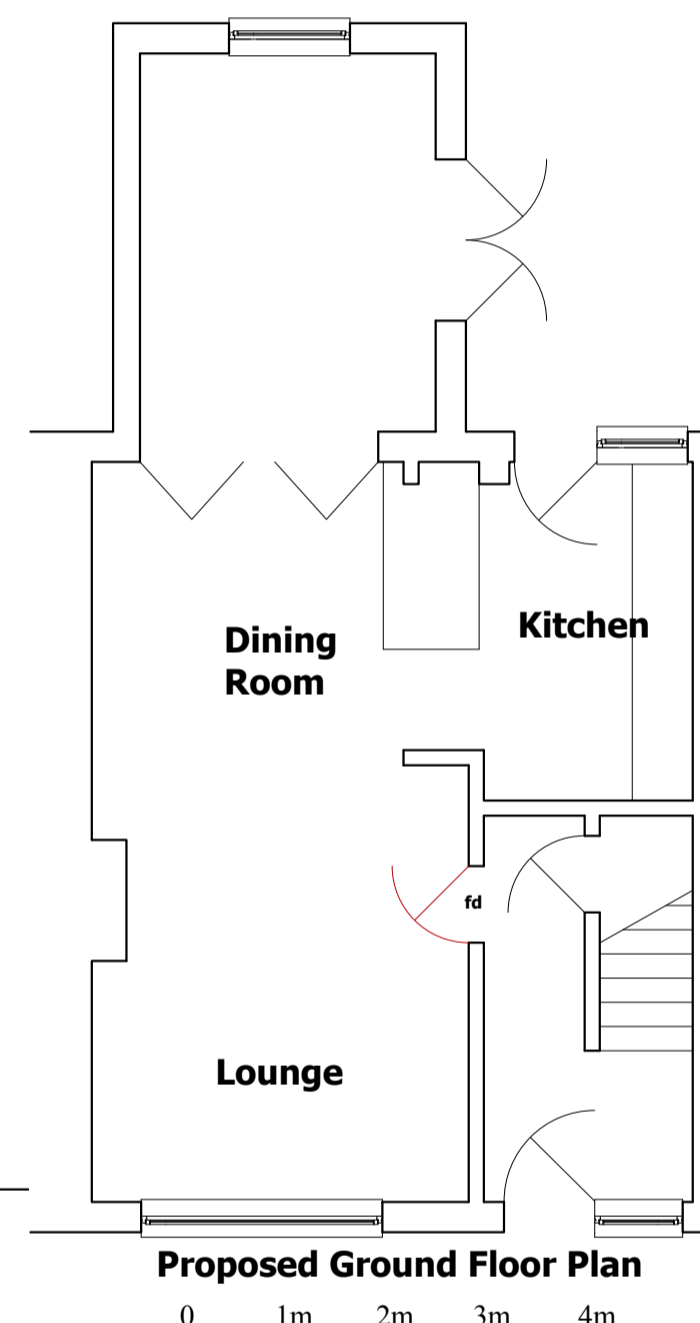
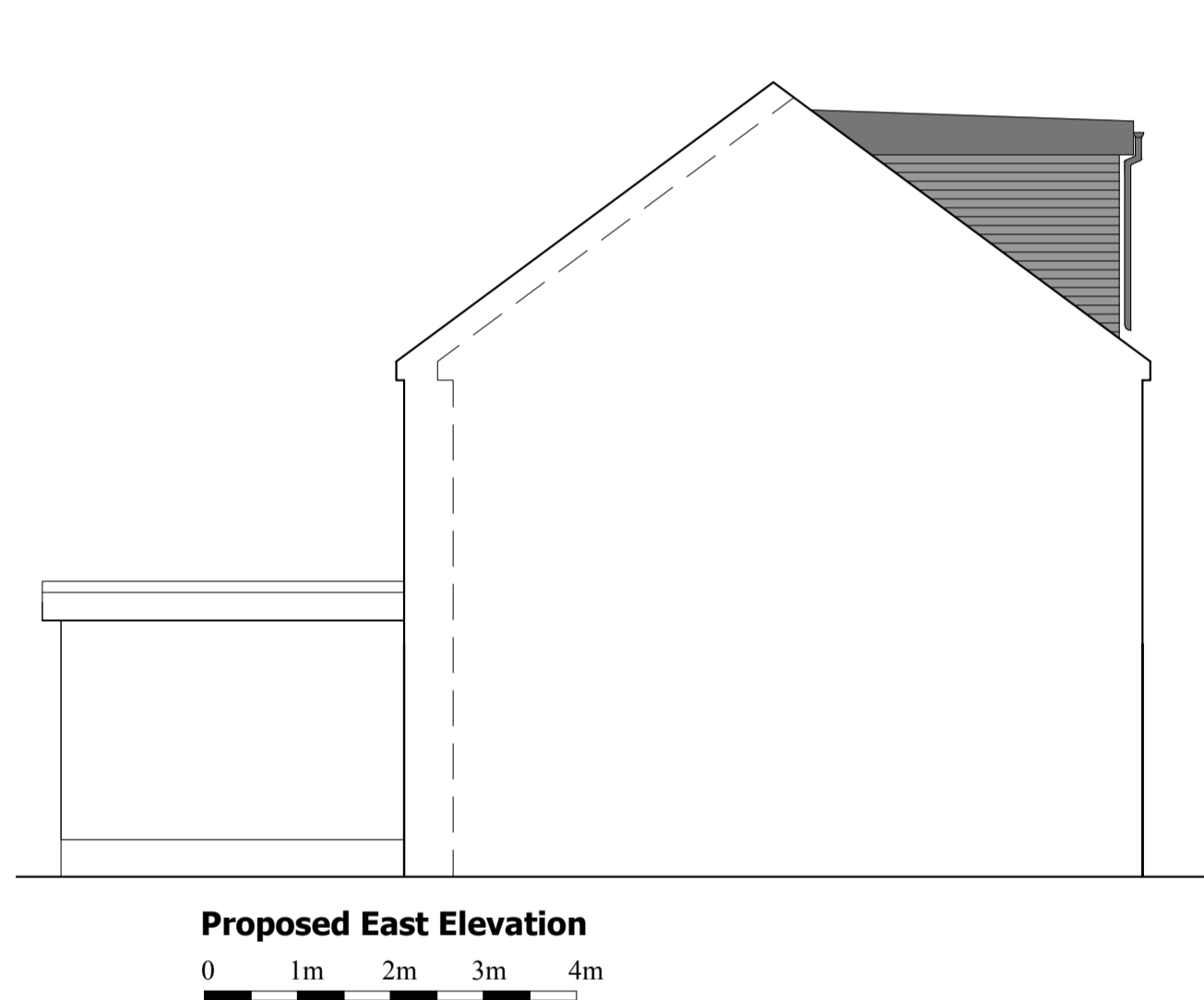
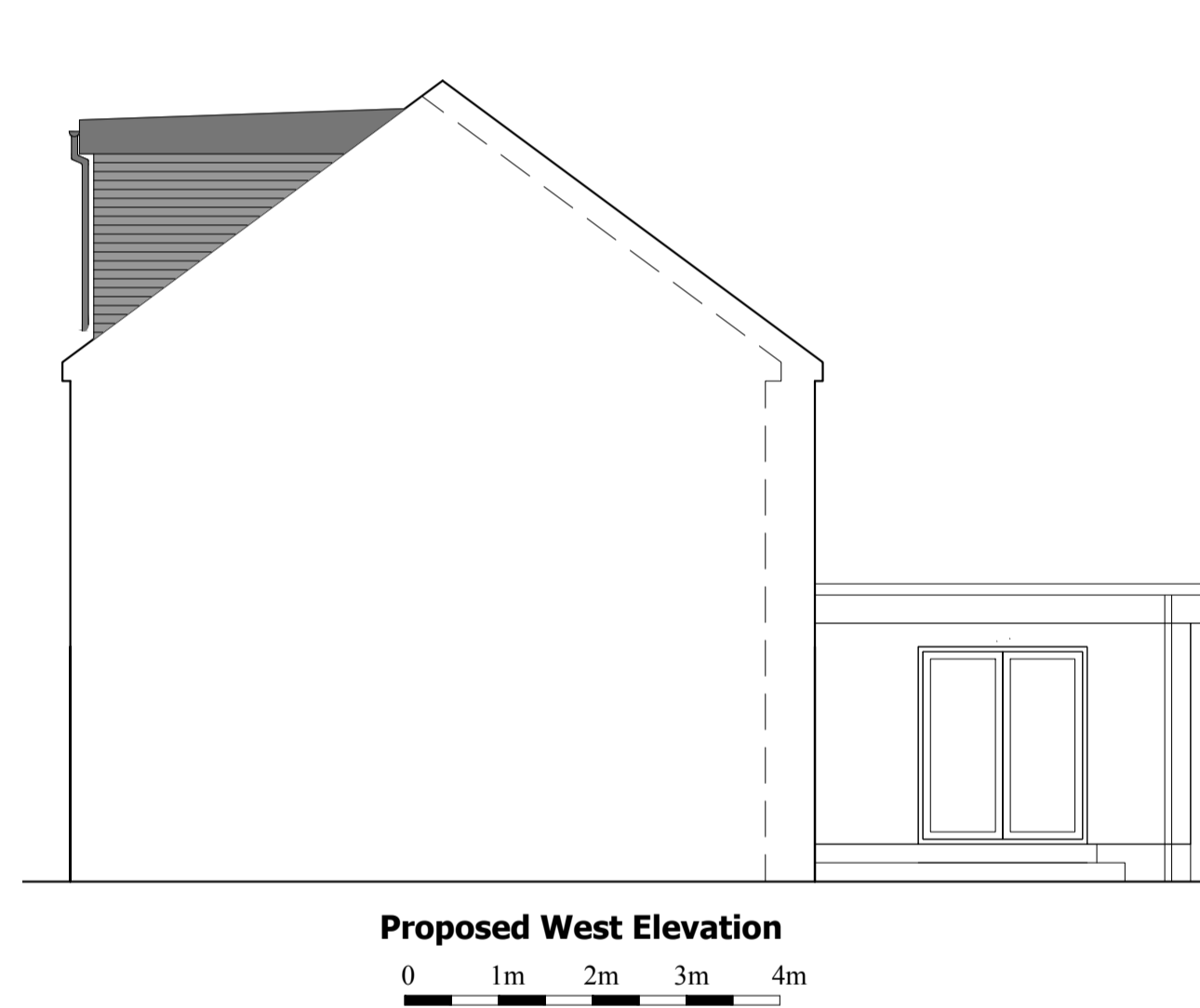
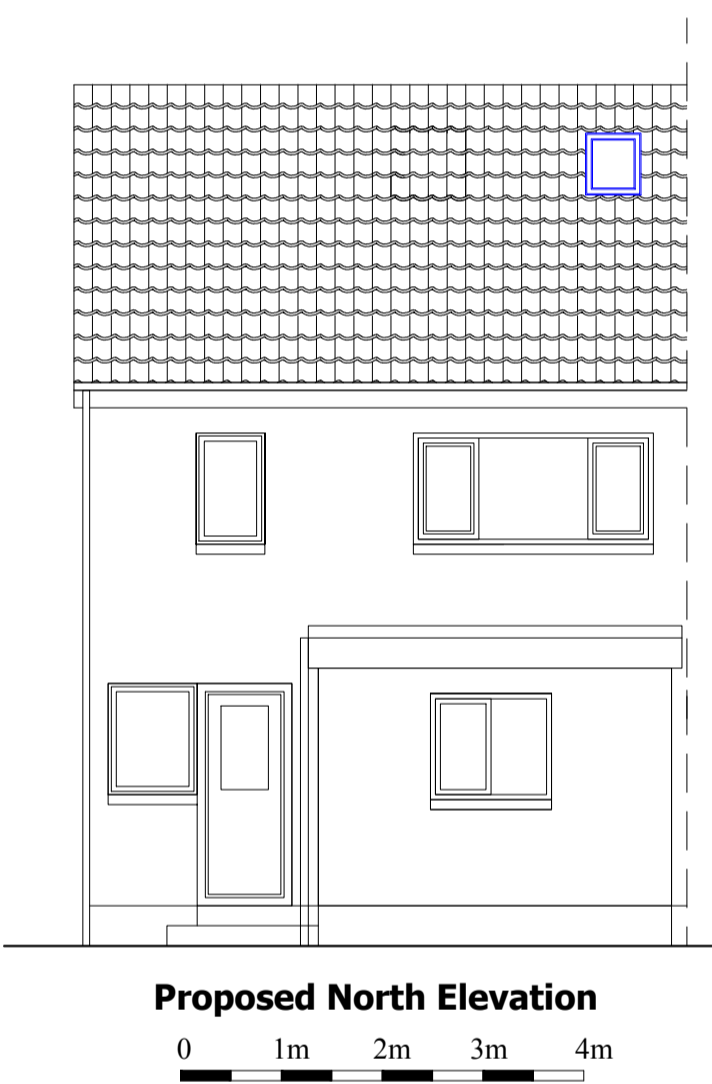
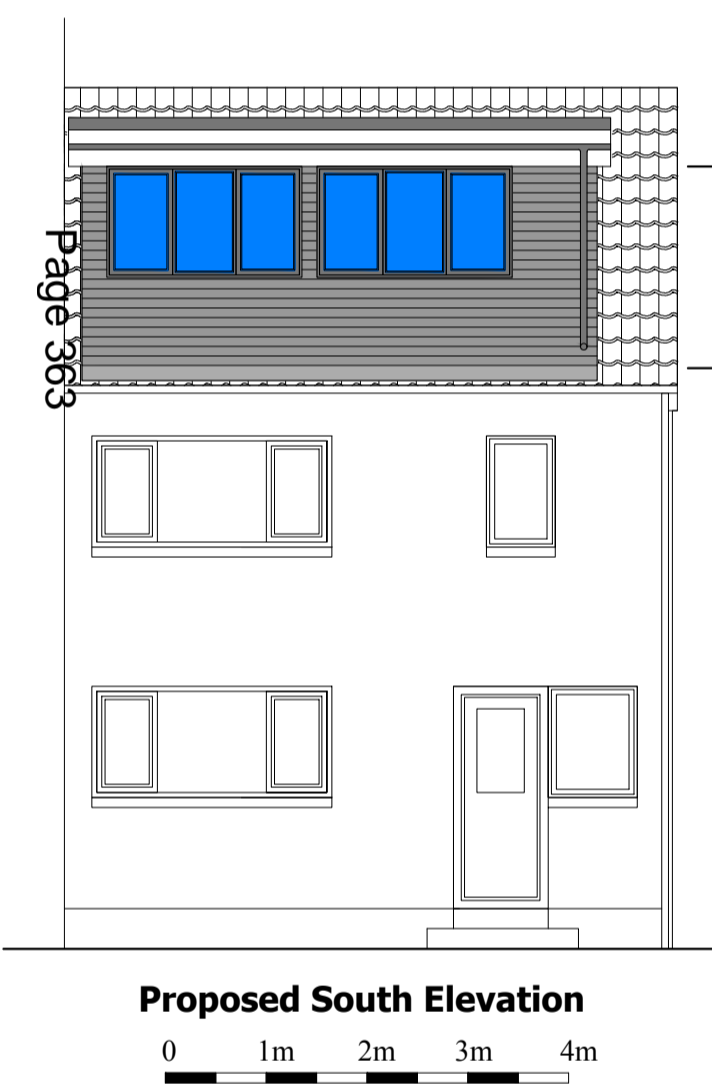
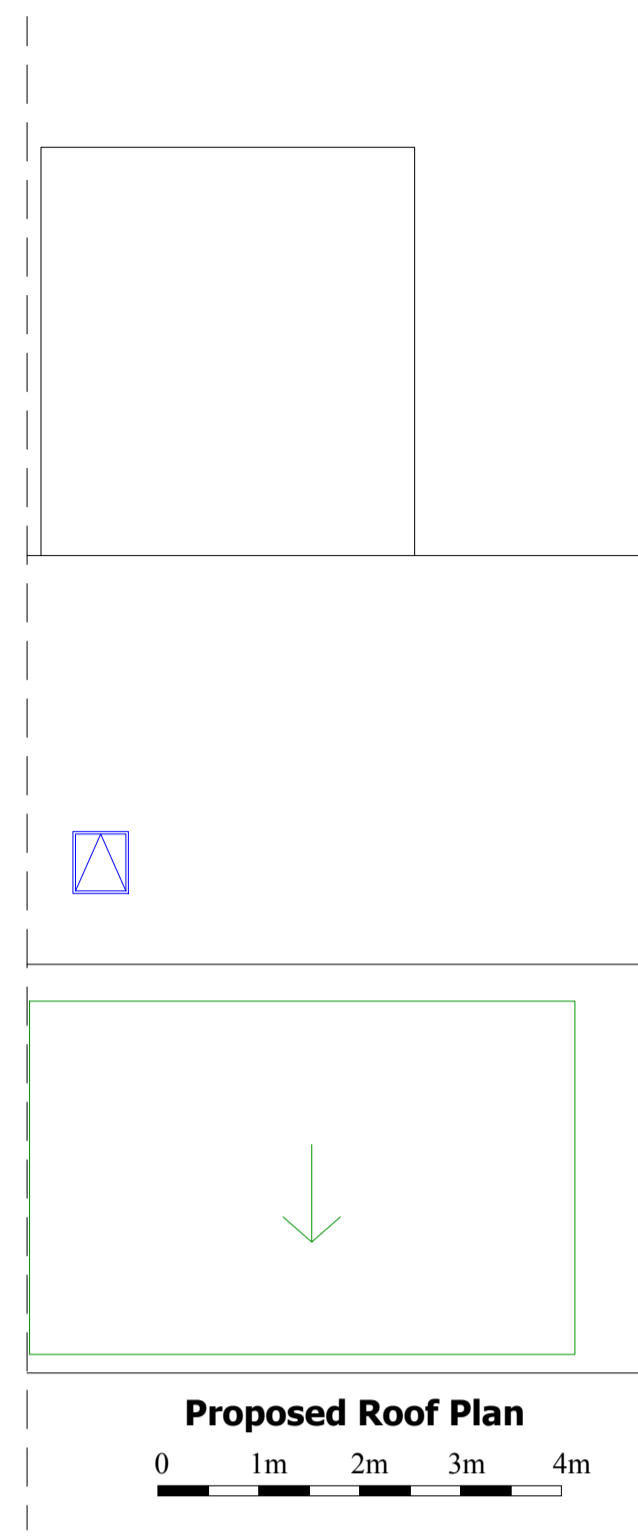
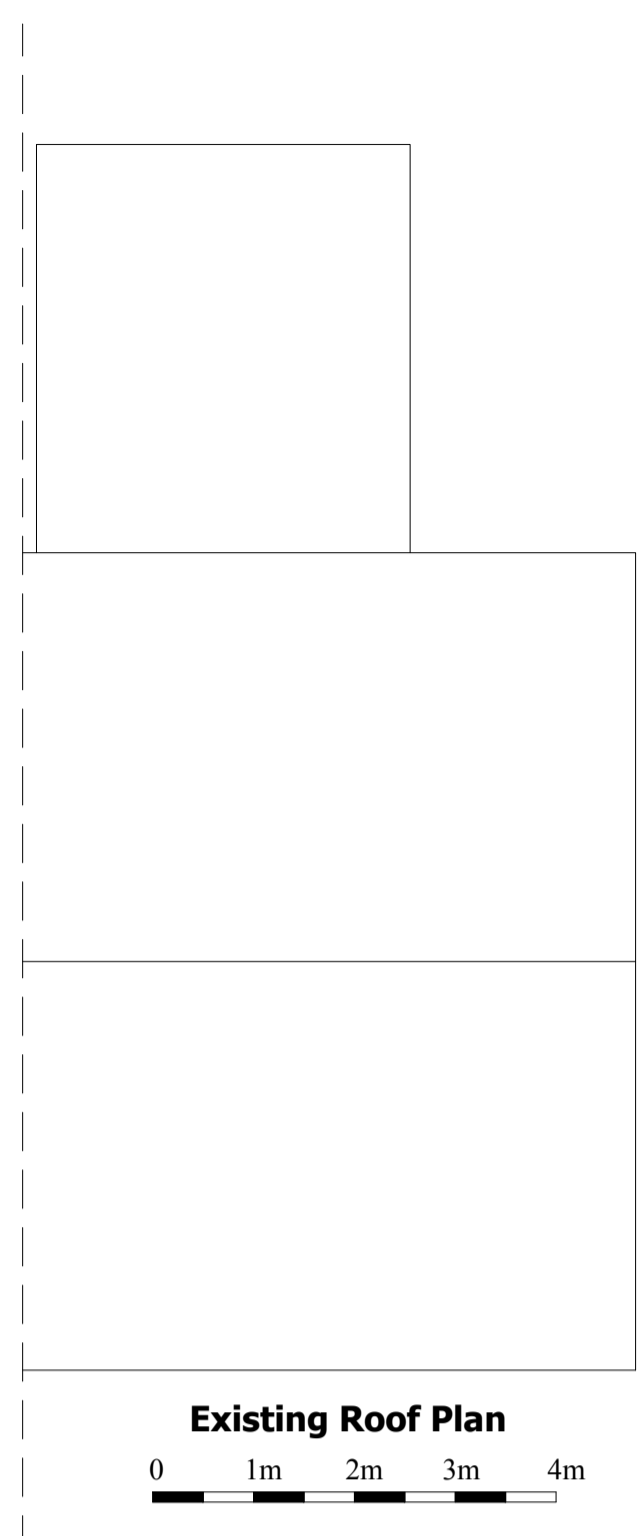
Our proposal will not impact any neighbours as it overlooks a pedestrian area, Fishwives causeway.



This is 3 Parker Terrace which is very near to the clients' property. As you can see it has a large dormer especially in proportion to the house



Above is 11 Parker Terrace which has a large double dormer which takes up nearly the whole roof and overlooks properties on the other side of the road.



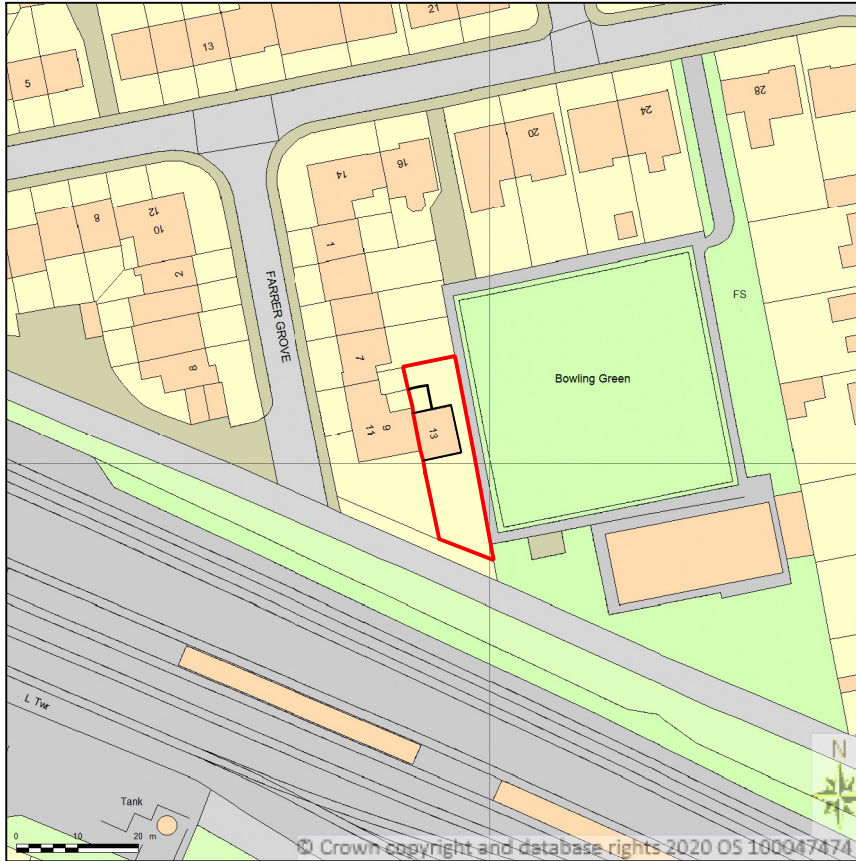
Velux to roof, 55x78 please see catalogue
Grey cedarboard cladding to dormer
Anthracite UPVC RWG and UPVC windows

ARCHITECTURAL SERVICES
237 Baldridgeburn
Dunfermline
KY12 9EG
T: 07535015595

Project name and address
Loft conversion
Kate and Stewart Hart
13 Farrer Grove
Edinburgh
EH7 6SF

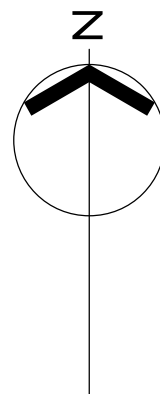
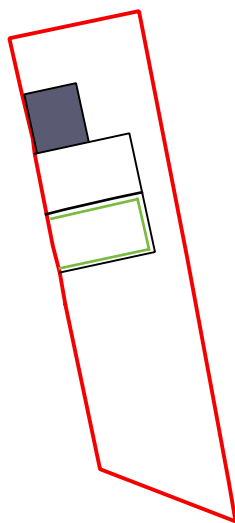
This drawing has been prepared to attain statutory
Local Authority Consent. All sizes and existing
structure to be confirmed on site prior to
commencing work.
W: www.ArchitecturalServicesScotland.com
E: Info@ArchitecturalServicesScotland.com
T: 07535015595

Project Dormer Loft Conversion	Sheet A1
Date 5th July 2022	1
Scale 1:75	



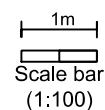
Proposed Location Plan

Scale - 1:1250



Proposed Site Plan

Scale - 1:500



Architectural Services 237 Baldrigeburn Dunfermline KY12 9EG		
CLIENT	Kate Hart	
LOCATION	13 Farrer Grove Edinburgh EH7 6SF	
CONTRACT		
Project Title	Dormer and Velux	
ISSUE	AMENDMENT	DATE
		13th July 22
Scale - 1:1250 @ A4		Drawing No.
		02

Stefano Smith Planning.
FAO: Stefano Smith
58 Dean Path
Edinburgh
EH4 3AU

Ms Lindsay Callander.
Blaiket Mains
Crocketford Road
Dumfries
DG2 8QW

Decision date: 25 October 2022

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

Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).
At 44 Jordan Lane Edinburgh EH10 4QX

Application No: 22/02875/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 31 May 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;

Conditions:-

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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:

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
44 Jordan Lane, Edinburgh, EH10 4QX**

Proposal: Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).

**Item – Local Delegated Decision
Application Number – 22/02875/FUL
Ward – B10 - Morningside**

Recommendation

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

Summary

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

The proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application property is a self-contained one-bed apartment set within the ground floor of a four-storey Victorian tenement at 44 Jordan Lane, Morningside. The property has its own main access door on to Jordan Lane. It has direct access to a communal garden from the kitchen to the rear.

Jordan Lane is predominantly residential. The immediate surrounding area contains a mix of uses including shops, cafes, restaurants and bars. The property is a two-minute walk from Morningside Road which is a key thoroughfare into the city centre and an important bus route. The property is very close to the town centre of Bruntsfield/Morningside as identified in the Local Development Plan (LDP) 2016..

The application site is located in the Morningside Conservation Area.

Description Of The Proposal

The application seeks planning permission for a change of use from residential to a short term let visitor accommodation. It is a retrospective application because the short term let use has been operating since 2018.

Supporting Information

Planning statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 25 October 2022

Date of Advertisement: 24 June 2022

Date of Site Notice: 24 June 2022

Number of Contributors: 2

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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the character or appearance of the conservation area?

The Morningside Conservation Area Character Appraisal emphasises that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. The proposal will not have a negative impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 6
- 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 policy Env 6.

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering policy Hou 7.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). It was concluded that the change of use would not have any

material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

Proposed Use and Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

The property is a ground floor flat accessed via a main door opening directly on to Jordan Lane. It is a one bedroom property- with a box room - on the ground floor of a four storey flatted block.

The property is in a residential street formed mainly of tenements. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat and in the street at unsociable hours. The proposed one bedroom short stay use would enable two or more 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 also 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect and may impact on community cohesion and neighbours' sense of security.

The location of the flat, on the ground floor, surrounded by a high number of residential units, creates a situation where such a use would instead bring additional noise and disturbance immediately outside the flat in the residential street.

Anti-social behaviour can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

Parking Standards

There is controlled parking on Jordan Lane where residents permits are required.. The site is highly accessible by public transport. There is no cycle parking standards for SCVAs. 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 proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that outweigh this conclusion.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with Paragraph 29 of SPP. It would not protect the amenity of existing development nor contribute to a sustainable community and, therefore, will not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Negative impact on residential amenity. Addressed in b) above.
- Not in accordance with Scottish Planning Policy on 'Socially Sustainable Places'. Addressed in c) above.
- Negative impact on parking. Addressed in b) above.
- Negative impact on community and security. Addressed in b) above.
- Increase in litter. The applicant should agree a waste strategy with CEC Waste Services.

non-material considerations

- Worsens Edinburgh's housing crisis. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Does not accord with Scottish Government Housing Policy on More Homes. The application has to be assessed against the Strategic and Local Development Plans.
- Housing should be for local people. This is not a material consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

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

The proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let

will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 31 May 2022

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.

Comments for Planning Application 22/02875/FUL

Application Summary

Application Number: 22/02875/FUL

Address: 44 Jordan Lane Edinburgh EH10 4QX

Proposal: Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).

Case Officer: Lesley Porteous

Customer Details

Name: Miss Karen Williamson

Address: 43 Jordan Lane Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Jordan Lane is in a residential area; with property much sought after by individuals and families for homes to buy or rent, contributing to the immediate community and bringing wider benefits for the city. Short term lets do not bring these benefits and overall can act to detract from city services at cost to the area.

Comments for Planning Application 22/02875/FUL

Application Summary

Application Number: 22/02875/FUL

Address: 44 Jordan Lane Edinburgh EH10 4QX

Proposal: Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).

Case Officer: Lesley Porteous

Customer Details

Name: Mr Stewart McNair

Address: 14/5 Canaan Lane Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We object to this development:

- 1). The development is contrary to the Scottish Government Housing policy on More homes - "everyone has a quality home that they can afford and that meets their needs"[1]
- 2). The development is contrary to Scottish Planning Policy on "socially sustainable places" and "supporting delivery of accessible housing".[2]
- 3). The development would have unacceptable impacts on neighbourhood amenity.

Applications for short term visitor accommodation (Airbnb type rentals) are usually rejected on amenity grounds (3). PLACE believes Scottish Government Policy already exists to reject applications on the basis of the impact on housing availability (1), plus community cohesion and accessible housing grounds (2).

Scottish Government Policy is listed as a material consideration under "Planning Circular 3/2013: Development management procedures, possible material considerations".[3]

Edinburgh has a housing crisis, and accessible housing crisis[4]. The Strategic Housing Investment Plan states the rapid growth in short term lets is creating further pressure on supply, rent levels and house prices in some areas as properties are purchased for short term let rather than long term rent or owner occupation.[5]

To demonstrate the scale of the problem, independent research for the Scottish Government finds 12.78% of all City Centre dwellings are listed as entire-property short-term lets on Airbnb alone.[6]

In the Old Town, one in four properties are listed on Airbnb.[7] Very few have planning authorisation. Short-term letting affects the ability of the area to function as a "socially sustainable place".

It has been concluded at thirty-three (and rising) DPEA planning appeals, that short-term lets have a materially detrimental impact on the living conditions for close neighbours⁸, such as in this case.

Significant impacts on neighbours include: increased antisocial behaviour, noise, disruption, intrusion by a frequent turnover of strangers, loss of community, loss of security and impacts on bins and parking.[8] [Main door properties only] - Main door properties have been found unacceptable for short-term letting when they are close to other residential properties and / or share communal spaces as in tenements [9],[10],[11],[12],[13],[14].

[1] <https://www.gov.scot/policies/more-homes/>

[2] <https://www2.gov.scot/Resource/0045/00453827.pdf>

[3] <https://www.gov.scot/publications/planning-series-circular-3-2013-development-management-procedures/pages/12/>

[4] <https://www.equalityhumanrights.com/en/publication-download/housing-and-disabled-people-scotlands-hidden-crisis>

[5] <https://democracy.edinburgh.gov.uk/mgConvert2PDF.aspx?ID=10135>

[6] <https://www.gov.scot/publications/short-term-lets-consultation-regulatory-framework-scotland-analysis-consultation-responses/>

[7] <https://www.theguardian.com/technology/2020/feb/20/revealed-the-areas-in-the-uk-with-one-airbnb-for-every-four-homes>

[8] <https://docs.google.com/document/d/1MV0-bfYx8B3bkCjF0i16ksV9QytfUmP4RGEevRAXEP8/edit>

[9] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120999>

[10] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120857>

[11] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=120050>

[12] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120492>

[13] <http://dpea.scotland.gov.uk/CaseDetails.aspx?ID=120047>

[14] <https://www.russell-cooke.co.uk/media/1039650/2012-ewca-civ-1202.pdf>

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Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100615000-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Stefano Smith Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stefano	Building Name:	
Last Name: *	Smith	Building Number:	58
Telephone Number: *	07464 744337	Address 1 (Street): *	Dean Path
Extension Number:		Address 2:	Dean Village
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH4 3AU
Email Address: *	stefano@stefanosmithplanning.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Ms"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Blaiket Mains"/>
First Name: *	<input type="text" value="Lindsay"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Callandar"/>	Address 1 (Street): *	<input type="text" value="Crocketford Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Dumfries"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DG2 8QW"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="44 JORDAN LANE"/>
Address 2:	<input type="text" value="NEWBATTLE"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH10 4QX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="671140"/>	Easting	<input type="text" value="324616"/>
----------	-------------------------------------	---------	-------------------------------------

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Appeal against the City of Edinburgh Council's refusal of retrospective planning application for change of use from flat (Sui generis) to short term let (Sui generis) at 44 Jordan Lane, Edinburgh EH10 4QX

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Statement of Appeal (including Appendices and Site Location/Floor Plan)

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Site Location and Floor Plan (included in Appeal Statement - Figures 4 & 6 respectively). Appeal Statement & Appendices: Appendix 1 (Photo-study of Site 7 Surroundings); Appendix 2 (Documents submitted with Application 22/02875/FUL); Appendix 3 (Report of Handling); Appendix 4 (Decision Notice); Appendix 5 (STL Applications Granted by CEC 2021 to 2022); Appendix 6 (STL Appeals Allowed by DPEA 2020 to 2022); and Appendix 7 (LRB Appeal Documents & Decision: 26 Barony Street Edinburgh).

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/02875/FUL

What date was the application submitted to the planning authority? *

31/05/2022

What date was the decision issued by the planning authority? *

25/10/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Stefano Smith

Declaration Date: 24/01/2023



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Planning Statement in Support of Notice of Review

Retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis)

at

44 Jordan Lane Edinburgh EH10 4QX

On behalf of

Ms Lindsay Callandar

Application No.22/02875/FUL

January 2023



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: D/5550/1 | Rev: AA | Date: January 2023

Document Control Sheet

Project Name: 44 Jordan Lane Edinburgh EH10 4QX

Project Ref: D/5550/1

Report Title: Planning Statement in Support of Notice of Review

Doc Ref: D/5550/1

Date: January 2023

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		30/12/2022
Reviewed by:	Stefano Smith	Director		02/01/2023
Approved by:	Stefano Smith	Director		06/01/2023
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved
A	23/01/2023	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

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- Figure 2** Aerial View of Property (source Google Maps)
- Figure 3** Edinburgh Land Use Map 2010
- Figure 4** Site Location
- Figure 5** Morningside Conservation Area Boundary
- Figure 6** Floorplan of Application Site

Appendices

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/02875/FUL
- Appendix 3** Report of Handling
- Appendix 4** Decision Notice
- Appendix 5** STL Applications Granted by CEC 2021 to 2022
- Appendix 6** STL Appeals Allowed by DPEA 2020 to 2022
- Appendix 7** LRB Appeal Documents & Decision: 26 Barony Street Edinburgh

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Executive Summary

This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on 24th January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').

We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal, and analysis of development plan policy, non-statutory Guidance for Businesses and other material considerations.

It demonstrates that the proposal by Ms Lindsay Callandar ('the applicant') for the retrospective planning application for change of use from flat (*sui generis*) to short-term let (*sui generis*) at 44 Jordan Lane Edinburgh EH10 4QX ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016). It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:

- The character of the new use and the wider area;
- The size of the property;
- The pattern of activity associated with the use, including:
 - The number of occupants
 - The period of use
 - Issues of noise and disturbance
 - Parking demand
- The nature and character of any services provided.

There are also no **material considerations** that are considered to outweigh the justification for approval, namely:

- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
- Scottish Planning Policy (SPP);
- Revised Draft NPF4;
- Proposed City Plan 2030;
- Morningside Conservation Area Appraisal;
- Public representations; and
- Any other identified material considerations (e.g. economic benefit, applications and appeals).

The application was Refused for the following single reason:

'1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'

We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.

In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.

The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to

the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.

This self-contained, one-bedroom main door access flat on Jordan Lane lies centrally within the town centre/neighbourhood of Morningside Edinburgh, that has long been home to a wide mix of uses.

The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated. Such regulation is supported by the applicants who want the City's hospitality offer to be attractive and well-regulated. Accordingly, they seek a determination of this planning application as a prelude to applying for a licence once the procedure for doing so has been confirmed.

The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence. The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. This is especially the case given the discernible trend recognised by industry insiders for tourists to seek out more authentic travel experiences that can allow them to 'live like locals'. In the circumstances, the type of accommodation offered here is hugely popular among visitors; meaning that the wholesale loss of this type of accommodation from Scotland's capital city would be an unfortunate outcome.

Properties like 44 Jordan Lane, Edinburgh appropriately located in a town centre/neighbourhood and well-connected area and managed to the most exacting standards, can play an important future role by continuing to offer some diversity to the City's visitor accommodation offer. Properties like this can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is simply not appropriate.

In the Scottish context, Edinburgh occupies a unique position in terms of its attraction to ever-growing numbers of tourists. Evidence from the last decade suggests that additional supply of tourist accommodation across the city is quickly taken up by increased demand, meaning that healthy occupancy rates can be maintained by a wide range of different visitor accommodation providers. This small property on Jordan Lane has been exceptionally well-managed over the last few years, as evidenced by a faultless record of customer satisfaction throughout the period. What it offers by way of visitor accommodation appeals to a growing number of travellers and serves as an asset to the city's tourism landscape by providing choice into the overall mix.

In relation to access to the rear communal garden from the appeal property the proposed mitigation is outlined below:

- The back door to the property at 44 Jordan Lane will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunders Street, where the Reporter did not agree with the Council's general view that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application;
- It is the appellants view here that the Saunders Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real

adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 44 Jordan Lane as delivering a simple and workable way to safeguard living conditions.

Taking such a view would of course also save the expense and disruption of having to stop-up the door using a **planning condition** and **permitted development rights**. This option, which could be delivered through a planning condition, would not be the appellant's preferred way of addressing concerns around use of the rear garden area. Nonetheless, it would deliver an outcome that clearly addresses the only reason for refusal of this planning application. Accordingly, such a condition could be added if the Local Review Body considered that the Officer decision should be overturned but felt that the ongoing management practices were not sufficient to safeguard living conditions for other residents using the rear garden space.

Taking all of the foregoing into account, it is hoped that the Local Review Body will be able to support this appeal, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. Should this appeal be allowed, it is considered that there will be no adverse impact on either the amenity of neighbouring residential properties, or the overall ambience of the area where a blend of different uses can be absorbed. There are not considered to be any policy matters that would warrant refusal of this appeal, and accordingly it is respectfully requested that this appeal be allowed.

We therefore respectfully request that the Local Review Body do not uphold the decision by the Chief Planning Officer and grant planning permission for the change of use from flatted accommodation (sui generis) to short-term let accommodation (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh.

1 Introduction

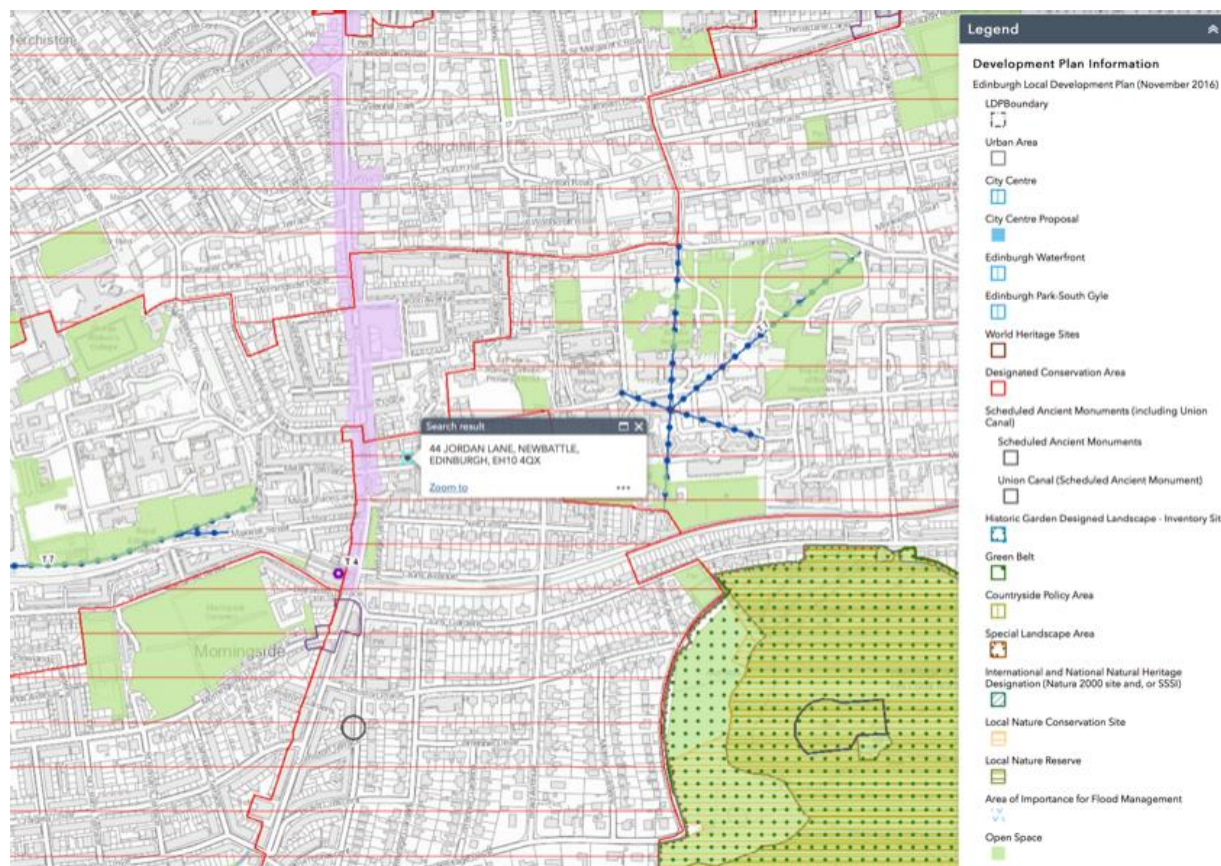
1.1 Background

- 1.1.1 This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on the 24th January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').
- 1.1.2 It demonstrates that the proposal by Ms Lindsay Callandar ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 44 Jordan Lane Edinburgh EH10 4QX ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016).
- 1.1.3 It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:
- The character of the new use and the wider area;
 - The size of the property;
 - The pattern of activity associated with the use, including:
 - The number of occupants
 - The period of use
 - Issues of noise and disturbance
 - Parking demand
 - The nature and character of any services provided.
- 1.1.4 There are also no **material considerations** that are considered to outweigh the justification for approval, namely:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
 - Scottish Planning Policy (SPP);
 - Revised Draft NPF4;
 - Proposed City Plan 2030;
 - Morningside Conservation Area Appraisal;
 - Public representations; and
 - Any other identified material considerations (e.g. economic benefit, applications and appeals).

Site Description

- 1.1.5 The application property is a self-contained one-bed apartment set within the ground floor of a four-storey Victorian tenement at 44 Jordan Lane, Morningside. The property has its own main access door on to Jordan Lane. It has direct access to a communal garden from the kitchen to the rear.
- 1.1.6 Jordan Lane is predominantly residential. The immediate surrounding area contains a mix of uses including shops, cafes, restaurants and bars. The property is a two-minute walk from Morningside Road which is a key thoroughfare into the city centre and an important bus route. The property is very close to the town centre of Bruntsfield/Morningside as identified in the Local Development Plan (LDP) 2016. The application site is located in the Morningside Conservation Area. See Figures 1 to 3.

Figure 1 Edinburgh Local Development Plan 2016 Proposals Map (extract)



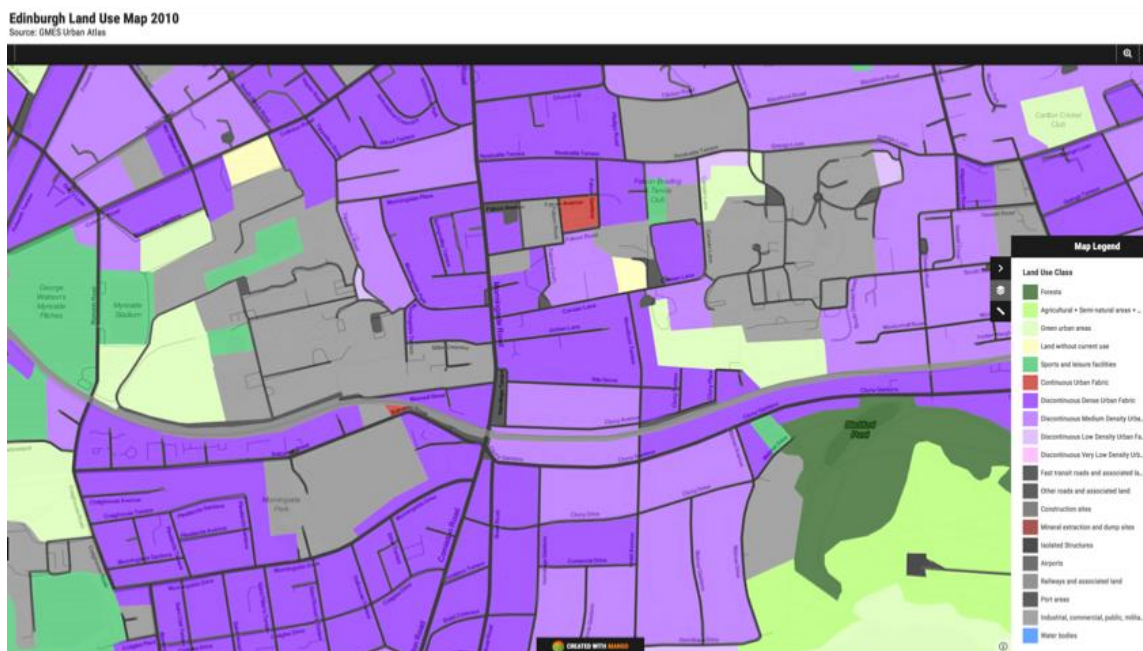
- 1.1.7 The application property is a self-contained one-bed apartment set within the ground floor of a four-storey Victorian tenement at 44 Jordan Lane, Morningside. The property has its own main access door on to Jordan Lane. It has direct access to a communal garden from the kitchen to the rear. See Appendix 1.

Planning Statement in Support of Notice of Review – 44 Jordan Lane Edinburgh EH10 4QX

Figure 2 Aerial View of Property (extract from Google Maps)



Figure 3 Edinburgh Land Use Map 2010



Description of the Proposal

- 1.1.8 The application seeks permission to change the residential use to a short term let apartment (retrospective). No internal or external physical changes are proposed.
- 1.1.9 It has successfully operated as a short-term let (STL) property for visitor accommodation since September 2021 without any complaints from neighbours.

Relevant Site History

- 1.1.10 No relevant site history.

1.2 Purpose

Planning Application Process

- 1.2.1 The planning application for retrospective planning permission for change of use from flat (sui generis) to short term let (sui generis) at 44 Jordan Lane, Edinburgh was validated by the Council on the 31st May 2022 (App.No.22/02875/FUL). The documents submitted with the application in support of the proposal comprised the following:

- Completed application form
- Drawings
 - Location Plan
 - Floor Plan
- Planning Statement
- Photo-study

See Appendix 2.

- 1.2.2 The application was publicised by the Council on the 24th June 2022. The neighbour consultation period ended on the 25th October 2022. The application received two representations of objection from neighbours. No representations received from consultees.

- 1.2.3 The Council's Decision Notice was decided by Local Delegated Decision and issued on the 25th October 2022. See Appendix 3. The application was Refused for the following single reason (Appendix 4):

'1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'

Key Assessment Issues

- 1.2.4 Having regard to the provisions of the development plan and other material considerations where appropriate, the determining issues in this Local Review are considered to be:
- Do the proposals comply with the **development plan**, including relevant policies of the Edinburgh Local Development Plan – particularly Edinburgh Local Development Plan **Policy Hou 7 in respect of Inappropriate Uses in Residential Areas** which was specifically referred to in the single reason for refusal; and
 - Are there any **other material considerations**/compelling reasons that weigh in favour of the proposals, such as SPP, Revised Draft NPF4, Proposed City Plan 2030 and relevant Non-Statutory Guidelines (particularly the non-statutory Guidance for Businesses, although the Guidance is not specifically referred to in the single reason

for refusal), economic benefits and recent City of Edinburgh Short-Term Let (STL) planning applications granted permission and appeal decisions.

1.2.5 To address these determining issues, the following criteria needs to be carefully considered in terms of an assessment of the materiality of a change of use of dwellings to an STL:

- 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 and disturbance;
 - parking demand; and
- The nature and character of any services provided.

1.2.6 We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.

1.2.7 In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.

1.2.8 The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.

1.2.9 Regulations under the Planning Act give allowance to seek a review of the decision within three months, that is, by the 24th January 2023, and the Notice of Review has been duly submitted within that period, that is, on the 24th January 2023.

1.3 Structure

1.3.1 This Planning Statement in support of the Notice of Review is structured as follows:

Section 1 – Introduction

Section 2 – Context of Proposal

Section 3 – Development Plan and Material Considerations

Section 4 – Determining Issues and Assessment

Section 5 – Summary and Conclusion

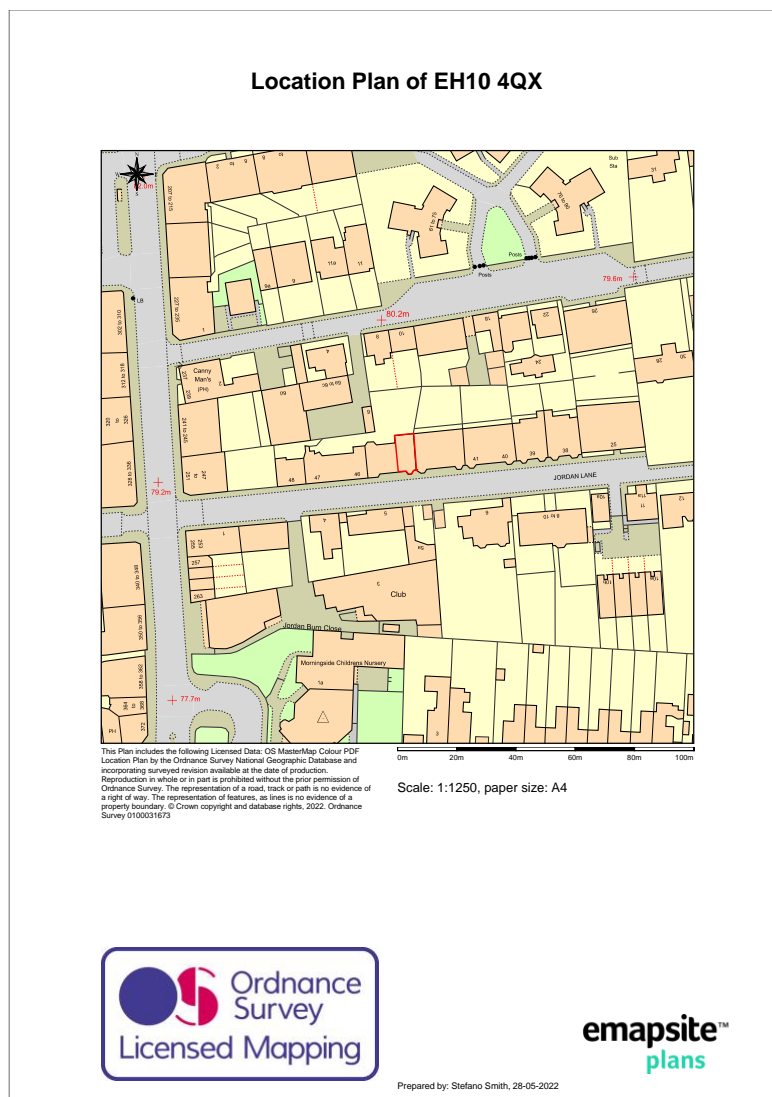
2 Context of Proposal

2.1 Property Description and Surroundings

Site Surroundings & Context

- 2.1.1 The application site is located approximately 4.5kms (3 miles) to the south of the city centre within the Morningside/Bruntsfield town centre. The City By-pass can be accessed within approximately 1.5kms (1 mile) of the property.
- 2.1.2 There are excellent shopping facilities located at Morningside Road including a Waitrose superstore and a wide choice of small specialist shopping, along with the usual variety of banks, building societies and a post office. Sporting and recreational facilities close by include the Braidburn Valley Park, Hermitage Park, Blackford Hills, Craiglockhart Sports Centre and a variety of golf courses including the Braid Hills Golf Course.
- 2.1.3 A frequent public transport system offers regular services to most parts of the City. See Figures 1 to 4.

Figure 4 Site Location



- 2.1.4 44 Jordan Lane, Edinburgh ('application site') is located within the **Morningside Conservation Area**. It is not a Listed Building. See Figure 5. The Morningside Conservation Area lies to the south of The Grange Conservation Area and was originally designated in 1996. The conservation area is situated some 4kms from the City centre.
- 2.1.5 The northern boundary of the conservation area zig zags between Jordan Lane and Canaan Lane. In this small area there is a small eclectic mix of buildings and periods, ranging over vernacular single storey buildings, to Georgian detached buildings and Victorian tenements. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
- 2.1.6 Residential uses predominate throughout the conservation area, producing a Victorian environment of high quality and high amenity. This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.

Figure 5 Morningside Conservation Area Boundary



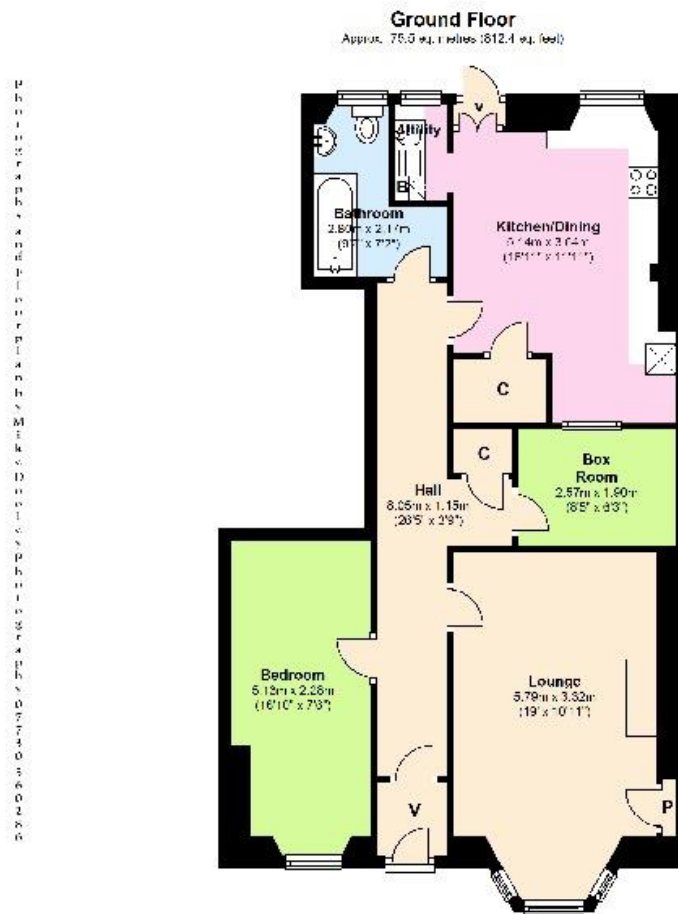
2.1.7 A **photo-study** has been undertaken of the application site and the local area. See Appendix 1. The key issues to note from the photo-study are:

1. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
2. Jordan Lane is essentially a residential street, but the immediate surrounding area is characterised by mixed use.
3. The character of the local area is one of an established mixed use, including residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
4. Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage and The Ball Room Sports Bar in close proximity to the application site.
5. Jordan Lane is accessed to the west from Morningside Road which is the primary north-south route through the area, and acts as the main shopping street for the area.
6. To the east of Jordan Lane is a dead-end leading to residential properties at 20 Jordan Lane (Helen's Place) and Jordan House.
7. Jordan Lane is a controlled parking area with on-street parking.
8. A frequent public transport system offers regular services to most parts of the City.

Property Description

- 2.1.8 The property is a main-door flat, situated in the prime residential area of Morningside, located approximately 4.5 kms (3 miles) south of Princes Street. See Figure 3.
- 2.1.9 The direct access to the application site from the street means that there would not be direct interaction between the short-term occupants and those longer-term residents in the flats in the main tenement accessed from a common main door at 45 Jordan Lane.
- 2.1.10 The accommodation comprises: an entrance vestibule, hall, bay-windowed sitting room, dining kitchen with utility room off, double bedroom, large boxroom, and bathroom. The property further benefits from access to a well-maintained communal garden to the rear from the kitchen.
- 2.1.11 The approximate gross internal floor area of the flat is 75.5 sqm. See Figure 6.
- 2.1.12 The car parking on Jordan Lane is mainly on-street within a parking-controlled zone – permit holders only. However, there are a small number of pay and display spaces in the surrounding streets which are applicable Monday to Friday 8.30am to 5.30pm. It is free outside of these times. The free parking starts about a 5-minute walk away from the application site.

Figure 6 Floorplan of application site



2.1.13 In the above context, it is considered that the one-bedroom property on Jordan Lane needs to be understood as a compact property in a unique and well-connected neighbourhood in the Morningside neighbourhood. The presence of the property functioning in this way for several years has had little impact on neighbouring residential amenity or on the character of the wider area. By offering accommodation of this sort in this environment, it is considered that the property in fact acts as an important asset to the city, as it allows visitors the chance to experience what life is actually like staying in such a popular bustling and active neighbourhood of the city.

2.2 Management of the Property

Ongoing Management Measures

- 2.2.1 Under current proposals a separate licence application covering specific management measures looks likely to be required to be made in order to operate the property as visitor accommodation. Nevertheless, it seems appropriate in this statement to explain a little of the background to the applicant themselves and detail the arrangements they already have in place to ensure safe and responsible hosting.
- 2.2.2 The focus of the owners of the property at 44 Jordan Lane (the applicant) since their purchase of the property in 2018 (followed by a period of refurbishment and redecoration) has been on providing an exceptional level of Scottish hospitality of the kind that they would enjoy.

- 2.2.3 Visit Scotland’s recent paper ‘Localism and Authentic Experiences’ (May 2021) (part of its Innovation Insight series, a series which looks at ‘trends developing in tourism today from consumer demands and business innovations around the world’) shows that this aspiration aligns with a noted global change in tourist aspiration. The paper notes that visitors are increasingly demanding an experience that reflects the “unique identity of a destination”, noting specifically that “visitors will crave living like a local and creating memories discovering their own authentic Scotland’.
- 2.2.4 The application site has been let on a short-term commercial basis for approximately four years and is advertised on the Airbnb website – https://www.airbnb.co.uk/rooms/22653201?source_impression_id=p3_1653920258_9ql%2F58fOXkBViq%2Fj
- 2.2.5 The terms upon which the application site is let on a short-term commercial basis is detailed on the website. The key points to note include the following:
- The apartment is designed as a 1-bedroom plus study/bed 2/3 guest accommodation;
 - Check-in at 4pm and check-out at 11am; and
 - Smoking is not allowed within the apartment.
- 2.2.6 The limited number of occupants and the parameters for occupation ensures that large parties and anti-social occupants are excluded. Cleaning and servicing of the apartment is undertaken by a private independent cleaning business arranged by the owner on the change of occupancy.
- 2.2.7 The pattern of activity in this particular property, with its own private access, letting periods and limiting letting to 2/3 persons at any one time (the majority of guests are couples), results in no greater impact on the residential character of the tenement and mixed-use amenity of the area than the original use as a flat.
- 2.2.8 To date, the management arrangements that are already in place have resulted in there being no complaints of any description from neighbours, no complaints of any description to the City of Edinburgh Council and no call-outs from Police Scotland since it has been in the possession of the applicants.
- 2.2.9 The intimate domestic nature of the property means that it isn’t suitable for any events or large groups, but for the avoidance of doubt, the property is also not available as accommodation for the likes of stag and hen parties. The focus has always been on providing outstanding accommodation for couples and single people – with many making repeat (and in some cases multiple repeat) visits to the apartment.

2.3 Economic benefit

- 2.3.1 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a **material planning consideration**.
- 2.3.2 44 Jordan Lane was purchased in 2018, and a period was spent redecorating the interior of the property prior to letting as a short-term rental property in February 2018 providing visitor accommodation.
- 2.3.3 This was an entirely Scottish based team generating employment for painter & decorator, cleaning team etc.
- 2.3.4 This resulted in the very high standard of interior decoration that can be seen on the Airbnb ad and other channels.

Planning Statement in Support of Notice of Review – 44 Jordan Lane Edinburgh EH10 4QX

2.3.5 The property management, maintenance and cleaning are outsourced to a local Edinburgh based company. This company cleans and sets up the flat prior to guests arriving.

3 Development Plan and Material Considerations

3.1 Introduction

- 3.1.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) directs that planning applications should be determined *'in accordance with the Development Plan unless material considerations indicate otherwise'*.
- 3.1.2 The **development plan** comprises the adopted Edinburgh Local Development Plan 2016.
- 3.1.3 In the assessment of **material consideration** we consider the following:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
 - Scottish Planning Policy (SPP);
 - Revised Draft NPF4;
 - Proposed City Plan 2030;
 - Morningside Conservation Area Appraisal;
 - Public representations; and
 - Any other identified material considerations (e.g. economic benefit, applications and appeals).
- 3.1.4 Due to the proposals also being within a conservation area, this report also considers the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act").

3.2 Development Plan

- 3.2.1 The relevant development plan is the adopted Edinburgh Local Development Plan (November 2016) (ELDP). The relevant policies of the ELDP are:
- LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area;
 - LDP Policy Hou 7 Inappropriate Uses in Residential Areas establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents; and
 - LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking.
- 3.2.2 The single reason for refusal refers only to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas:
- '1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'***
- 3.2.3 The supporting text to ELDP Policy Hou 7 at para 234 states that:
- 'The intention of the policy is firstly, to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed-use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation (i.e. for five or more people). Further advice is set out in Council Guidance.'*

- 3.2.4 The further advice referred to in Policy Hou 7 is the Council's non-statutory Guidance for Businesses (November 2021).
- 3.2.5 On the basis that the reason for refusal only identifies that the proposal is contrary to ELDP Policy Hou 7, by inference the proposed development complies with all other relevant development plan policies within the ELDP. The Council's Report of Handling confirms this (Appendix 4):
- The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area;
 - The proposal complies with the following LDP policies:
 - LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area; and
 - LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking.

3.3 Material Considerations

Non-statutory Guidance for Businesses (November 2021)

- 3.3.1 This guidance is intended to assist businesses in preparing applications to change the use of a property or carry out alterations to a business premises, such as changing a residential property to a commercial use (e.g. short term commercial visitor accommodation):

'The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had 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.'*

Scottish Planning Policy (SPP)

- 3.3.2 Scottish Planning Policy (SPP) (2014) is a statement of Scottish Government policy on land use planning. Where relevant to the current proposals, SPP recognises tourism as one of the "key sectors for Scotland with particular opportunities for growth".
- 3.3.3 SPP presumption in favour of sustainable development is currently a significant material consideration due to the development plan being over 5 years old. Following the adoption of NPF4 due on the 13th February 2023 SPP will become redundant and superseded.
- 3.3.4 Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

- 3.3.5 The proposal is considered to comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would protect the amenity of existing development. The proposal will therefore contribute to sustainable development.

Revised Draft NPF4

- 3.3.6 On the 11th January 2023 the Scottish Parliament voted to approve National Planning Framework 4 (NPF4). The intention is that Scottish Ministers will adopt and publish NPF4 on 13 February 2023 at 9am, meaning that it is in force and National Planning Framework 3 and Scottish Planning Policy are superseded from that date and time. Publication of NPF4 on 13 February will also have the effect that all strategic development plans and any supplementary guidance issued in connection with them cease to have effect on that date. Until 13 February, NPF4 is not part of the development plan and the weight given to it in decision making is a matter for the decision maker.
- 3.3.7 Given NPF4 has now been approved by the Scottish Parliament, and its adoption and publication (in its approved form) is the only outstanding action, it is considered as a significant material consideration during this period in the determination of this application.

Proposed City Plan 2030

- 3.3.8 The Proposed City Plan 2030 sets out the strategy for development, proposals and policies to shape development and inform planning decisions in the city over the next 10 years and beyond. Following approval at Planning Committee on Wednesday 30 November, the Proposed City Plan 2030 was submitted for examination on Friday 9 December 2022.
- 3.3.9 As such, appropriate weight can be attached to it as a material consideration in the determination of this application.

Morningside Conservation Area Character Appraisal

- 3.3.10 The Morningside Conservation Area Character Appraisal (9th March 2006) emphasises that the area is characterised by mixed, residential and commercial buildings.
- 3.3.11 The Morningside Conservation Area lies to the south of The Grange Conservation Area and was originally designated in 1996. The conservation area is situated some 4kms from the City centre.
- 3.3.12 The northern boundary of the conservation area zig zags between Jordan Lane and Canaan Lane. In this small area there is a small eclectic mix of buildings and periods, ranging over vernacular single storey buildings, to Georgian detached buildings and Victorian tenements. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
- 3.3.13 Residential uses predominate throughout the conservation area, producing a Victorian environment of high quality and high amenity.
- 3.3.14 This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.
- 3.3.15 Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage (Power Motor House Mechanics - https://nicelocal.co.uk/scotland/autoservice/d_h_powerhouse/) and The Ball Room Sports Bar (pool, snooker & darts - <https://www.ballroomscotland.com/morningside>) in close proximity to the application site. Morningside Road and the Morningside/Bruntsfield Town Centre is also a 250m walk from the application site.

- 3.3.16 ***The external ambient noise in such a mixed-use neighbourhood will mitigate any potential impact on residential amenity of short-term letting.***

Public representations

- 3.3.17 The application received no statutory representations (by inference no objections) and two public objections.

Economic Benefit

- 3.3.18 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

Applications and Appeals

- 3.3.19 The Council has referenced application and appeal decisions as material considerations in their assessments.

3.4 Summary

- 3.4.1 Overall, the proposed development must demonstrate that it is consistent with the development plan, and that there are no material considerations that indicate it should nonetheless be refused. By achieving this, the proposed development should be granted permission.
- 3.4.2 The next section assesses the proposed development in terms of the key determining issues.

4 Determining Issues and Assessment

4.1 Introduction

4.1.1 We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal and analysis of development plan policy, non-statutory Guidance for Business and other relevant material considerations.

4.1.2 We do not consider that the planning officials gave adequate regard to the merits of the proposed development in deciding to refuse planning permission. We now request that the Local Review Body consider the following matters in overturning this decision and granting planning permission.

4.2 Determining Issues

4.2.1 We initially consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) with a particular focus on the single 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 the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'

4.2.2 The determining issues in this appeal are:

- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, the determination should be to grant planning permission unless material considerations indicate otherwise?
- If the proposals do not comply with the development plan, the determination should be to refuse planning permission unless material considerations indicate otherwise?

4.2.3 In the assessment of material considerations we consider the following:

- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
- Scottish Planning Policy (SPP);
- Revised Draft NPF4;
- Proposed City Plan 2030;
- Morningside Conservation Area Appraisal;
- Public representations; and
- Any other identified material considerations (e.g. economic benefit, applications and appeals).

4.2.4 The Council officer's in their Report of Handling concluded that, *'...the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents [i.e. LDP policy Hou 7 (Inappropriate Uses in Residential Areas)]. It does not comply with the objectives of SPP, as*

it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.' (see Appendix 3).

- 4.2.5 Due to the proposals also being within a conservation area, this report also considers the proposals in terms of Section 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:
 - 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?
- 4.2.6 The Council officer's in their Report of Handling concluded that, '*The proposal is acceptable [our underlining] with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.*' (see Appendix 3).

4.3 Assessment

Policy Hou 7 Inappropriate Uses in Residential Areas

- 4.3.1 To firstly address the determining issues in relation to the single reason for refusal, that is, the principle proposed use, we assess the main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA), that is, Policy Hou 7 Inappropriate Uses in Residential Areas which states that developments, including change of uses which would have a materially detrimental impact on living conditions of nearby residents, will not be permitted.
- 4.3.2 The non-statutory Guidance for Businesses (November 2021) sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:
- a. The character of the new use and of the wider area;
 - b. The size of the property;
 - c. The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
 - d. The nature and character of any services provided.
- 4.3.3 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.
- 4.3.4 The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.
- 4.3.5 As detailed in Section 2 of this Statement, the area immediately surrounding the property at 44 Jordan Lane is considered as performing a mixed-use function, and many businesses evident in the local neighbourhood encourage relatively high-footfall uses such as Class 1 retail, Class 3 food and drink, Class 4 Business, Class 7 Hotels and Hostels, Class 10 Non-residential Institutions, Class 11 Assembly and Leisure, and sui generis uses such as public houses and

hot food takeaways. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless retains residential functions.

4.3.6 In recent planning decisions, City of Edinburgh Council has demonstrated that perhaps the key amenity test such change of use applications must be assessed against is whether they would have an *'unreasonable impact on residential amenity'* (application reference 21/06792/FUL). While every application is considered on its own merits and on a case-by-case basis, when considering whether the ongoing use at 44 Jordan Lane is likely to result in a *'further deterioration of living conditions'* or an *'unreasonable impact on residential amenity'*, it is perhaps instructive to compare the current proposals with the application approved at **46 Patriothall (21/06792/FUL)**, **48 Howe Street (21/01591/FUL)** and **BF18 Torphichen Street (20/03051/FUL)**. See Appendix 5. These applications all relate to small format properties in similar mixed-use areas with residential functions, close to busy, footfall generating commercial uses.

4.3.7 When these applications were assessed against policy HOU7 and in particular when both the size constraints of the properties and the character of the properties' environs were assessed, the Planning Officer's Report of Handling noted the following:

"The size of the unit is relatively small containing two bedrooms and has its own private access. Its location near to Hamilton Place minimises the level of interaction with other residential properties...In light of the above, whilst a level of noise is likely from guests arriving and leaving the property it is not anticipated that this gives rise to a significant disturbance to residents... Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity". (Patriothall)

"The use is relatively small scale and the flat is located on a busy road in a prominent location. It has its own private access... The surrounding uses are a mixture of business, residential and commercial. The proposed introduction of this use would not detract from the aforementioned characteristics, in this instance". (Howe Street)

"The use is relatively small scale and the flat is located on a busy road in a city centre location. It has its own private access. The surrounding uses are a mixture of business, residential and commercial". (Torphichen Street).

4.3.8 In summary, it is considered that no *'materially detrimental effect'* or *"unreasonable impact"* is being imposed upon the living conditions of nearby residents as a result of the ongoing operation of this property for short-term let visitor accommodation. In this contest, it is challenging to see how the change of use sought at the application site could be considered contrary to policy HOU7.

4.3.9 The non-statutory Guidance for Businesses (November 2021) also examines amenity in greater detail than policy HOU7 as an issue that will need to be considered for such applications. It states:

"proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents...In the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

4.3.10 A further statement specifically on flatted properties is made on page 7 of the Guidance where it notes:

"Change of use in flatted properties will generally only be acceptable where there is a private access from the street".

- 4.3.11 With regard the property at 44 Jordan Lane which enjoys its own private street access in an area where some ambient noise and activity can be expected, it is considered that the change of use proposed here is in accordance with the non-statutory Guidance. For the reasons already rehearsed in relation to policy HOU7, it is not considered that there are any potential adverse impacts on residential amenity that would warrant an overall assessment that such a use was unacceptable.
- 4.3.12 The application property offers a very distinctive form of town centre living interspersed with commercial offices and surrounded by a mix of other uses including retail. The property is within the urban area/town centre.
- 4.3.13 Given the mixed-use context of the area and the small-scale of the property, it is difficult to see how this exceptionally well-managed apartment could be considered to either introduce or intensify any incompatible uses to this area or result in any material deterioration in living conditions. By contrast, given there is understood to be only a tiny number of short-term holiday lets in the immediate locality, and if as seems likely, many of short-term lets in the city will cease to function over the coming years, this property if approved for the current use, will offer a quite unique opportunity for visitors that want to 'live like a local' while experiencing for themselves domestic life in one of *"the most important and best-preserved examples of urban planning in Britain"*.
- 4.3.14 Given the mixed-use context of the area and the small-scale of the property, it is difficult to see how this exceptionally well-managed apartment could be considered to either introduce or intensify any incompatible uses to this area or result in any material deterioration in living conditions. By contrast, given there is understood to be only a tiny number of short-term holiday lets in the immediate locality, and if as seems likely, many of short-term lets in the city will cease to function over the coming years, this property if approved for the current use, will offer a quite unique opportunity for visitors that want to 'live like a local' while experiencing for themselves domestic life in one of *"the most important and best-preserved examples of urban planning in Britain"*.

4.4 Application & Appeal Decisions

- 4.4.1 In terms of Policy HOU7 Residential Amenity there are several recent and relevant applications and appeals that have been granted/allowed the change of use from flat (sui generis) to self-catering accommodation (sui generis) (retrospective). See Appendices 5 and 6.

Applications

- 4.4.2 While every application is considered on its own merits and on a case-by-case basis, it is considered instructive to compare these proposals with the application approved at **41 Barony Street (21/02615/FUL)** for the change of use of a residential property to a short-term let. See Appendix 5. There are considered to be a number of important similarities between the two properties including: the retrospective nature of the applications; their diminutive size; and the nearby elements of mixed uses. When the proposals under application (21/02615/FUL) were assessed against policy HOU7, the Planning Officer's Report of Handling noted that:

"Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity".

- 4.4.3 It is considered that when assessed against the tests in policy HOU7, the property at 44 Jordan Lane is also likely to have a similarly negligible impact on the lives and living conditions of nearby residential properties, as the scale of the property combined with the exemplary management procedures in place allows it to continue to function in almost every regard like a residential property. Given that the property is marketed and managed in order to allow guests to 'live like a local', it is not considered that the change of use sought here is contrary to policy HOU7.

4.4.4 The City of Edinburgh Council have granted several retrospective change of use applications from flat (sui generis) to short-term let (sui generis) during 2021/2022 where when tested against Policy Hou 7 the proposals were considered not to significantly impact on residential amenity, and therefore be in compliance with the policy. See Appendix 5. The following applications which are particularly similar to the property at 44 Jordan Lane, Edinburgh and are in compliance with Policy Hou 7 include the following:

- **17 Ashley Terrace (Fountainbridge/Craiglockhart) (Ref.No.22/00803/FUL) (15 June 2022)** - this is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
- **78 Spring Gardens (Craigtinny/Duddingston) (Ref.No.22/00884/FUL) (15 June 2022)** - in this case the property has its own front entrance access and no direct access to garden/communal ground. Although the property is in a predominantly residential area, it is approximately 300 metres from a main thoroughfare and an area of mixed uses including commercial and retail uses. Consequently, there is already a degree of activity nearby. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity. This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
- **41 Cumberland Street (City Centre) (Ref.No.21/06621/FUL) (23 February 2022)** - Cumberland Street is primarily residential in character however other commercial uses are evident. The property has its own private access and the applicant has confirmed there is no garden ground to the front or rear. In terms of internal noise, the size of the unit is small, containing only one bedroom and potential impact is unlikely to be materially different from a residential use. Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity. The proposal complies with policy Hou 7.
- **41 Barony Street (City Centre) (Ref.No.21/02615/FUL) (11 August 2021)** - the small size of the flat (two- bedroom) and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity. Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts. Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal. Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.

Appeals

4.4.5 The Council has referenced recent appeal decisions as material considerations in their assessments. The following paragraphs consider firstly the key determining matters that have

been identified by the Council from recent appeal decisions by the DPEA and then assesses the current proposals against these issues. The main determining issues in these cases relate to the following:

- *The **location of the property** and whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;*
- *The **frequency of movement** and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;*
- *The **impact on the character of the neighbourhood**. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;*
- *The **nature of the locality** and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/disturbance;*
- *These appeals have also found that short stay visitor accommodation units can be **acceptable in predominately residential areas**.*

Location of property

- 4.4.6 In terms of the issue of a private access, this property does not share a common stair and has its own front door with direct access to the street.

Frequency of movement

- 4.4.7 This is a small property which is in the heart of an area within the neighbourhood where there are plenty of amenities. It seems reasonable to therefore assume that guests will want to explore both local amenities and the wider city during their visit. As a result, they may in fact be out of the property for much of the time during their rental. Overall, however there is nothing to suggest that the likely frequency of the movement of one or two guests in the course of such exploration is likely to cause any disturbance to neighbours, given the property and its neighbours share no common internal spaces.

Impact on the character of the neighbourhood

- 4.4.8 As noted above, this is a small property, centrally located within a neighbourhood of the city. It seems reasonable to speculate that guests staying here may wish to take advantage of its location and the relative abundance of amenities nearby to go out for meals and drinks, but to otherwise shop in a reasonably conventional fashion. The property is not considered large enough to warrant large orders for delivered food or groceries. If guests do wish to use the amply provisioned kitchen facilities it seems more reasonable to expect that they might use the amenities of nearby Morningside/Bruntsfield town centre/neighbourhoods. In this regard their shopping behaviour is likely to be very similar to that of neighbouring properties, hence aligning with the overall ethos that guests 'live like locals'. In summary, it seems reasonable to expect that guests' dining behaviour may occasion them to leave the property more than an owner or tenant, hence removing them from the property for long spells, while their shopping behaviour is likely to be much the same as that of an owner or tenant.

Nature of locality & acceptability in predominantly residential areas

- 4.4.9 In terms of the last two criteria, these are perhaps best considered together on a street such as Jordan Lane. Firstly, it is important to recognise that noise and disturbance from this

property are likely to be minimal owing to a combination of the absence of any residential property below, strict conditions of rental rigorously policed by the applicants, and the physical configuration and orientation of the property minimising conflict with noise sensitive spaces in neighbouring properties. While the area is largely residential, it does occupy an enviable location in very close proximity to a number of relatively high footfall areas both by day and night (Morningside/Bruntsfield Town Centre/Neighbourhoods). Accordingly, activity and movement in the general area are not uncommon here and therefore no unusual activity would be introduced or particularly intensified by way of this proposal.

- 4.4.10 Also considered specifically relevant to this application are the recent appeal decisions at **7A and 7B Jamaica Street Lane (references PPA-230-2358 and PPA-230-2359)** where the DPEA Reporter offered commentary on a number of matters that would also seem material to the determination of this application at 44 Jordan Lane. See Appendix 6. Of particular relevance the Reporter noted the following:

“the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal”.

“I accept that the pattern of use of a commercial short-term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. I note the objection from the flat above the appeal property, but overall there does not appear to have been a history of numerous complaints over the years this use has been operating. For these reasons I conclude that the proposal would be unlikely to give rise to any significant disturbance to local residents”.

- 4.4.11 The recent appeal decision under reference PPA-230-2367 overturned the refusal of planning application 21/04512/FUL at **1B Fingal Place, Sciennes**. See Appendix 6. Describing the general ambience of the Meadows area, the Reporter noted the following:

“I consider that the normal background noise would be midway between what one would experience in an inner-city environment and a suburban environment. I would not characterise the area as a quiet residential area as the council has done in the report of handling”.

- 4.4.12 Further, in the successful appeal decision for **4/4A Dewar Place Lane** (reference PPA-230-2328), the DPEA Reporter noted the following comments which are considered to be entirely comparable to the situation at Jordan Lane:

“In this case I would observe that any resident of Dewar Place Lane already lives in an area subject to a considerable degree of transient activity associated with the comings and goings of visitors to the city, and other activity”.

- 4.4.13 It is significant that in the Committee Report to the successful planning application at 13 Dewar Place Lane (21/03890/FUL), it was noted that these observations from the DPEA Reporter to the appeal at 4/4A Dewar Place Lane were ‘material to the determination of the current application’. It is considered that they should also apply to this application.

- 4.4.14 In summary, when assessing appeals for Change of Use applications such as this, the DPEA has identified a number of key tests and considerations that should be material to the determination process. These have also been recognised by City of Edinburgh Council Planning Officers. Importantly, when assessed against these tests and considerations, it is

contended that the continued use of this property for short-term letting should be considered as being acceptable.

4.4.15 Overall, when considered against the determining matters that have been articulated in recent appeal decisions, the proposals at 44 Jordan Lane, Edinburgh are considered to measure up favourably.

4.4.16 Several appeals that have been allowed by Reporters of the DPEA between 2020 and 2022 for the change of use from flat to short-term let are outlined in Appendix 6.

4.4.17 A recent **City of Edinburgh Planning Local Review Body** on the 14th September 2022 considered a similar application for a retrospective change of use from flat to short-term let at **26 Barony Street, Edinburgh (Ref.No.22/01089/FUL)**. The key issue of relevance was in relation to access to the rear communal garden from the appeal property and the proposed mitigation. The Statement submitted in support of the LRB appeal by the applicant's agent in relation to access to shared spaces that can be taken from a one-bedroom property, as is the situation at 44 Jordan Lane, made the following points:

- **Planning appeal reference PPA-230-2315** overturned the refusal of planning application 20/00724/FUL at **Flat 1, 1 Saunders Street, Edinburgh** for the Change of Use of a residential property to a short-term let. A copy of the full decision letter is attached as Appendix 7;
- Of particular interest within the Reporter's decision letter is the section (in paragraphs 11-18) where the Reporter considers concerns that had been expressed by the Council that visitors could in theory access the property through a shared door rather than the preferred private access;
- The Reporter here notes at paragraph 12 that as part of the appellant's submission documents, the appellant "*did not intend to provide an access for visitors and that they will need to use the dedicated private access*". At Jordan Lane, the situation is even clearer in terms of initial access to the property, as this can only be taken from Jordan Lane and therefore not from the rear garden area itself;
- Following the Reporter's site visit on Saunders Street, he further records at paragraph 14 that he feels reassured that general on-site management practices on the part of the appellant will mean that in practice, guests would be in no doubt as to which entrance they were able to use, and which to avoid. In a similar way it is considered that simple and clear instructions to guests would suffice to ensure that they do not try and use the rear garden area; to which the access door is now and will continue to be locked;
- The Reporter's decision goes further, by questioning the extent to which the potential occasional use of a communal area might have a real or material impact on the living conditions of local full-time residents. In this regard he queries the concerns of the Council about such impacts. The Reporter sets out his analysis of this at paragraph 17:

"I do not agree with the council that the internal access would be disruptive and would have an unacceptable effect on the living conditions of nearby residents. I am satisfied that there would be no material difference in terms of frequency of movement, or other disturbance for neighbours, than is currently possible from a full-time tenant occupying the flat".

4.4.18 The back door to the property at 44 Jordan Lane will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunders Street, whereas detailed above, the Reporter did not agree with the Council's general view

that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application.

- 4.4.19 It is the appellants view here that the Saunders Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 44 Jordan Lane as delivering a simple and workable way to safeguard living conditions.
- 4.4.20 Taking such a view would of course also save the expense and disruption of having to stop-up the door using a **planning condition** and **permitted development rights**. This option, which could be delivered through a planning condition, would not be the appellant's preferred way of addressing concerns around use of the rear garden area. Nonetheless, it would deliver an outcome that clearly addresses the only reason for refusal of this planning application. Accordingly, such a condition could be added if the Local Review Body considered that the Officer decision should be overturned but felt that the ongoing management practices were not sufficient to safeguard living conditions for other residents using the rear garden space.

5 Summary and Conclusion

5.1 Summary

- 5.1.1 This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on 24th January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').
- 5.1.2 We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal, and analysis of development plan policy, non-statutory Guidance for Businesses and other material considerations.
- 5.1.3 It demonstrates that the proposal by Ms Lindsay Callandar ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 44 Jordan Lane Edinburgh EH10 4QX ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016). It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:
- The character of the new use and the wider area;
 - The size of the property;
 - The pattern of activity associated with the use, including:
 - The number of occupants
 - The period of use
 - Issues of noise and disturbance
 - Parking demand
 - The nature and character of any services provided.
- 5.1.4 There are also no material considerations that are considered to outweigh the justification for approval, namely:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
 - Scottish Planning Policy (SPP);
 - Revised Draft NPF4;
 - Proposed City Plan 2030;
 - Morningside Conservation Area Appraisal;
 - Public representations; and
 - Any other identified material considerations (e.g. economic benefit, applications and appeals).
- 5.1.5 The application was Refused for the following single reason:
- '1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.'***
- 5.1.6 We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.
- 5.1.7 In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.

5.1.8 The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.

5.2 Conclusion

This self-contained, one-bedroom main door access flat on Jordan Lane lies centrally within the town centre/neighbourhood of Morningside Edinburgh, that has long been home to a wide mix of uses.

The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated. Such regulation is supported by the applicants who want the City's hospitality offer to be attractive and well-regulated. Accordingly, they seek a determination of this planning application as a prelude to applying for a licence once the procedure for doing so has been confirmed.

The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence. The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. This is especially the case given the discernible trend recognised by industry insiders for tourists to seek out more authentic travel experiences that can allow them to 'live like locals'. In the circumstances, the type of accommodation offered here is hugely popular among visitors; meaning that the wholesale loss of this type of accommodation from Scotland's capital city would be an unfortunate outcome.

Properties like 44 Jordan Lane, Edinburgh appropriately located in a town centre/neighbourhood and well-connected area and managed to the most exacting standards, can play an important future role by continuing to offer some diversity to the City's visitor accommodation offer. Properties like this can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is simply not appropriate.

In the Scottish context, Edinburgh occupies a unique position in terms of its attraction to ever-growing numbers of tourists. Evidence from the last decade suggests that additional supply of tourist accommodation across the city is quickly taken up by increased demand, meaning that healthy occupancy rates can be maintained by a wide range of different visitor accommodation providers. This small property on Jordan Lane has been exceptionally well-managed over the last few years, as evidenced by a faultless record of customer satisfaction throughout the period. What it offers by way of visitor accommodation appeals to a growing number of travellers and serves as an asset to the city's tourism landscape by providing choice into the overall mix.

In relation to access to the rear communal garden from the appeal property the proposed mitigation is outlined below:

- The back door to the property at 44 Jordan Lane will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunders Street, where the Reporter did not agree with the Council's general view that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application;

- It is the appellants view here that the Saunders Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 44 Jordan Lane as delivering a simple and workable way to safeguard living conditions.

Taking such a view would of course also save the expense and disruption of having to stop-up the door using a **planning condition** and **permitted development rights**. This option, which could be delivered through a planning condition, would not be the appellant's preferred way of addressing concerns around use of the rear garden area. Nonetheless, it would deliver an outcome that clearly addresses the only reason for refusal of this planning application. Accordingly, such a condition could be added if the Local Review Body considered that the Officer decision should be overturned but felt that the ongoing management practices were not sufficient to safeguard living conditions for other residents using the rear garden space.

Taking all of the foregoing into account, it is hoped that the Local Review Body will be able to support this appeal, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. Should this appeal be allowed, it is considered that there will be no adverse impact on either the amenity of neighbouring residential properties, or the overall ambience of the area where a blend of different uses can be absorbed. There are not considered to be any policy matters that would warrant refusal of this appeal, and accordingly it is respectfully requested that this appeal be allowed.

We therefore respectfully request that the Local Review Body do not uphold the decision by the Chief Planning Officer and grant planning permission for the change of use from flatted accommodation (sui generis) to short-term let accommodation (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh.

Appendices

See City of Edinburgh Council's Planning Portal:

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>

Separately attached:

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/02875/FUL
- Appendix 3** Report of Handling
- Appendix 4** Decision Notice
- Appendix 5** STL Applications Granted by CEC 2021 to 2022
- Appendix 6** STL Appeals Allowed by DPEA 2020 to 2022
- Appendix 7** LRB Appeal Documents & Decision: 26 Barony Street Edinburgh



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Appendix 1 – Photo-study

**Change of Use from a Flat (sui generis) to Short-term
Let (sui generis) (retrospective)**

at

44 Jordan Lane, Edinburgh EH10 4QX

on behalf of

Ms Lindsay Callander

May 2022



STEFANO SMITH PLANNING

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Prepared by **Stefano Smith Planning**

Project Ref: C/7500 | Rev: AA | Date: May 2022

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Document Control Sheet

Project Name: COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Project Ref: C/7500

Report Title: Appendix 1 Photo-study

Doc Ref: C/7500

Date: 30th May 2022

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		27 th May 2022
Reviewed by:	Stefano Smith	Director		28 th May 2022
Approved by:	Stefano Smith	Director		30 th May 2022
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

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1 Introduction

1.1 Background

- 1.1.1 This Photo-study has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of the flat (sui generis) to short-term let (sui generis) ('proposed development') at 44 Jordan Lane, Edinburgh EH10 4QX ('application site') on behalf of Ms Lindsay Callander (the applicant').

1.2 Structure

- 1.2.1 This Photo-study provides the visual context of the proposed development in the established residential/mixed-use/town centre area of this part of the Morningside Conservation Area.

1.3 Key Findings

- 1.3.1 The following key findings should be noted from the photo-study:
1. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
 2. Jordan Lane is essentially a residential street, but the immediate surrounding area is characterised by mixed use.
 3. The character of the local area is one of an established mixed use, including residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
 4. Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage and The Ball Room Sports Bar in close proximity to the application site.
 5. Jordan Lane is accessed to the west from Morningside Road which is the primary north-south route through the area, and acts as the main shopping street for the area.
 6. To the east of Jordan Lane is a dead-end leading to residential properties at 20 Jordan Lane (Helen's Place) and Jordan House.
 7. Jordan Lane is a controlled parking area with on-street parking.
 8. A frequent public transport system offers regular services to most parts of the City.

2 Photo-study

Photo 1a – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane



Photo 1b – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane



Photo 1c – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 1d – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane

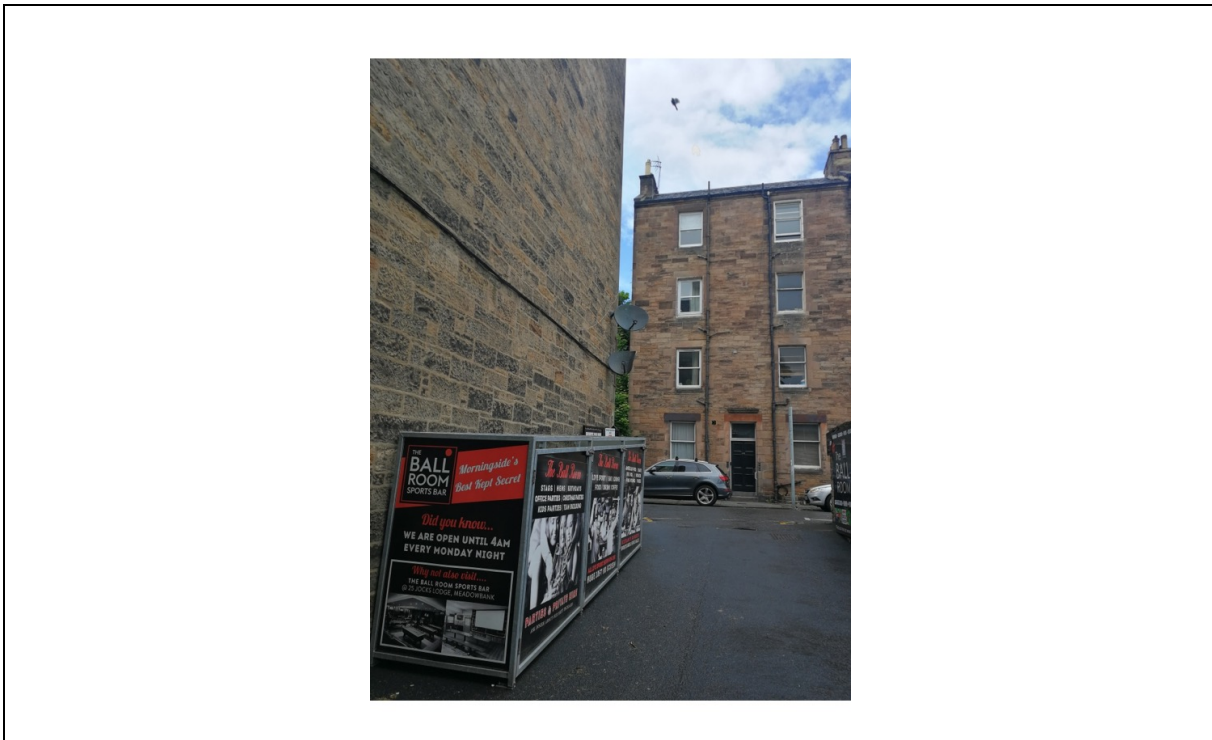


Photo 1e – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane



Photo 2a – Established town centre/mixed-use area of the Morningside Conservation Area: Jordan Lane/Morningside Road



Photo 2b – Established town centre/mixed-use area of the Morningside Conservation Area: Jordan Lane/Morningside Road



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 2c – Established town centre/mixed-use area of the Morningside Conservation Area: Jordan Lane/Morningside Road



Photo 3a – Established controlled parking and public transport accessibility of the Morningside Conservation Area: Jordan Lane/Morningside Road/Morningside & Bruntsfield Town Centre



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 3b – Established controlled parking and public transport accessibility of the Morningside Conservation Area: Jordan Lane/Morningside Road/Morningside & Bruntsfield Town Centre

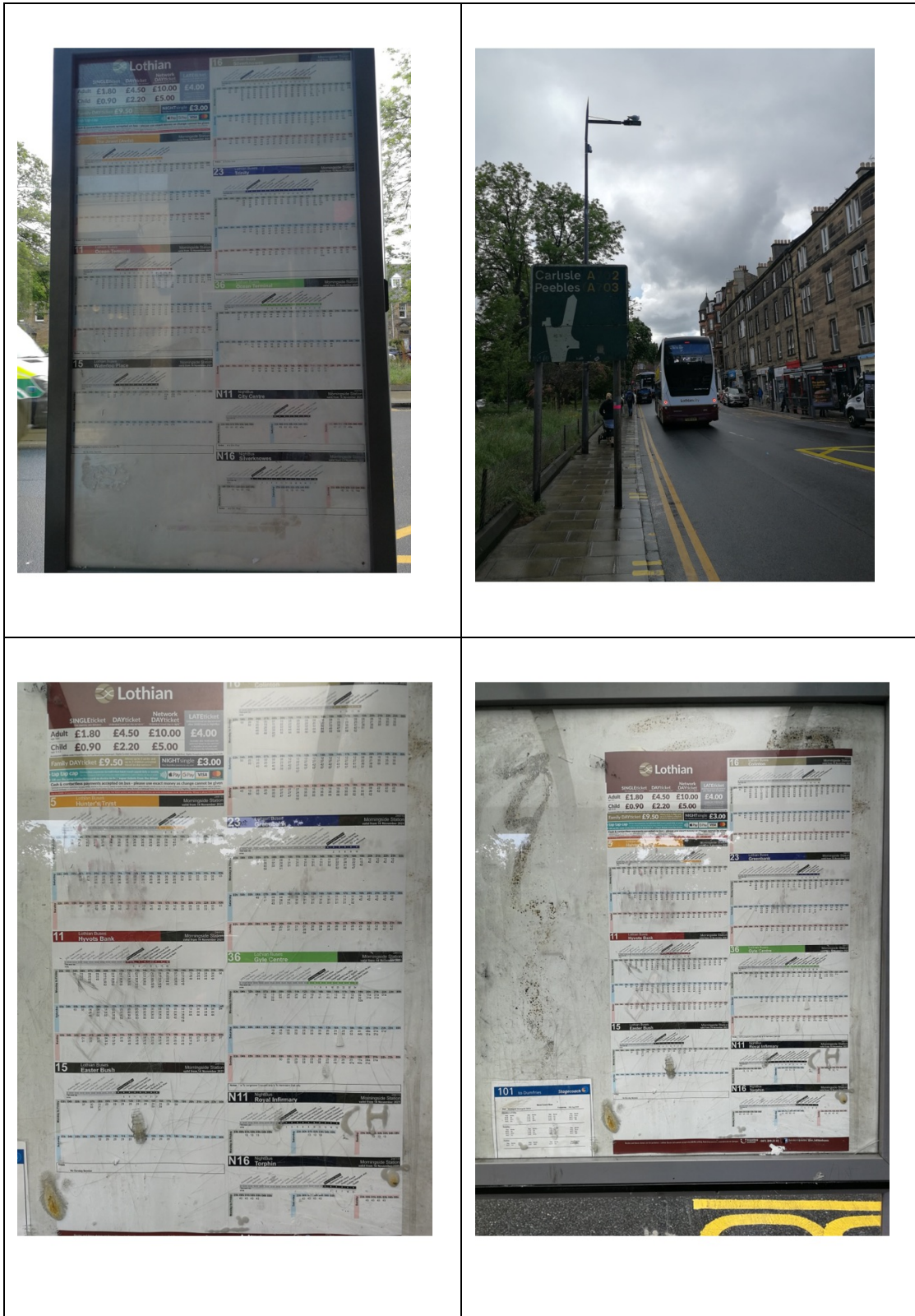


Photo 3c – Established controlled parking and public transport accessibility of the Morningside Conservation Area: Jordan Lane/Morningside Road/Morningside & Bruntsfield Town Centre



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Planning Statement

**Change of Use from a Flat (sui generis) to Short-term
Let (sui generis) (retrospective)**

at

44 Jordan Lane, Edinburgh EH10 4QX

on behalf of

Ms Lindsay Callander

May 2022



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: C/7500 | Rev: AA | Date: May 2022

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Document Control Sheet

Project Name: COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Project Ref: C/7500

Report Title: Planning Statement

Doc Ref: C/7500

Date: 30th May 2022

	Name	Position	Signature	Date
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Reviewed by:	Stefano Smith	Director		28 th May 2022
Approved by:	Stefano Smith	Director		30 th May 2022
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved

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Appendices *(separately attached)*

Appendix 1 Photo-study

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1 Introduction

1.1 Background

- 1.1.1 This Planning Statement ('Statement') has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of a flat (sui generis) to short-term let (sui generis) ('proposed development') at 44 Jordan Lane, Edinburgh EH10 4QX ('application site') on behalf of Ms Lindsay Callander (the applicant').
- 1.1.2 The one-bedroom flat at 44 Jordan Lane, Edinburgh (the subject property) is owned by Ms Lindsay Callander. It was subsequently let as a short-term rental property providing visitor accommodation – 'secondary letting' where the host is letting premises which are not their own home. The proposed visitor accommodation is a 'sui generis' use, as is the residential use of the flat. A planning application for the change of use from a flat to a short-term let is therefore required, as the activity constitutes a material change of use of the property.
- 1.1.3 The Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 confirms that in short term let control areas [Edinburgh is now incorporated within such an area (subject to Ministerial approval)], planning permission will be required for the change of use from flat to short-term let. Ms Callander therefore wishes to regularise the situation through the submission of a retrospective planning application for change of use.
- 1.1.4 The change of use proposed will not result in any physical changes to the interior or exterior of the building, which if so, may necessitate other planning permissions/consents in their own right.
- 1.1.5 The Scottish Government has also introduced a licensing regime for short-term lets in Scotland. Planning permission for the short-term let will be required in order to obtain a Licence. Licence applications are to be made to the Local Authority (LA) in the area where the property is located. One licence will be needed for each property and the licence holder will be the only person who can deal with the day to day running of the property. Licences are expected to last around three years but LAs will be able to renew a licence for a longer period after the initial grant. Each LA has the ability to set their own fees for licensing applications.
- 1.1.6 The City of Edinburgh Planning Committee meeting on 23 February 2022, which approved the extent of Edinburgh's short term let control area, also considered a Committee Report and accompanying Statement of Reasons background report on short term lets. Both the reports clearly state that the formalisation of the short term let control area does not amount to a 'blanket ban' on short term lets and that each application for change of use will be dealt with on its own merits.

- 1.1.7 The reports are clear that the key assessment criteria are whether such proposals would have a *'materially detrimental effect on the living conditions of nearby residents'*, and also noted that such changes would only generally be acceptable where properties enjoyed a private access from the street. The subject property at 44 Jordan Lane is considered to meet these assessment tests.
- 1.1.8 In addition, we consider that the proposed change of use of this property will positively contribute to Edinburgh's important tourist economy and reputation as a business destination. Such a change of use is considered to be appropriate both to the character of the building, as well as the character of the local area.

Economic Benefits of Short-term Lets/Self-catering Accommodation

- 1.1.9 As stated in the Consultation Draft National Planning Framework 4 (NPF4) tourism can *"bring a wealth of economic, social and cultural benefits to our communities, cities and regions, supporting resilience and stimulating job creation"*, but believes the sector needs to be supported for its recovery from the impact of Covid-19, and that an appropriate balance in the regulatory framework is required. We also endorse the First Minister's comment in Scotland's Outlook 2030 that *"an innovative, resilient and welcoming [tourism] industry is vital, not only for Scotland's future prosperity, but for Scotland's place in the world"*.
- 1.1.10 Tourism is a mainstay of the Scottish economy; and short-term lets/self-catering is hugely important to Scottish tourism in terms of jobs, revenue, and world-class experiences offered to guests. To be such an essential part of Scotland's tourism mix is even more remarkable for the sector when most short-term lets/self-caterers operate small or micro businesses.
- 1.1.11 For Scotland to remain competitive as a leading tourism destination, it needs to be responsive and adaptive to consumer trends, both in respect of the range of accommodation available, as well as for more environmentally conscious options. As the Scottish Tourism Alliance told the Scottish Government in September 2021, when articulating concerns from the tourist industry about short-term let licensing: *"In these Covid times there has over these past months been a sizeable upturn in demand for self-catering accommodation and insights would suggest that this trend is unlikely to change in the years ahead...In 2021 we have seen a significant increase in domestic tourism since re-opening in the summer. Many guests have chosen to travel domestically for the first time and self-catering has been the accommodation of choice. While international travel is likely to recover strongly in 2022, I am confident that we will continue to see strong demand for Scottish self-catering."*
- 1.1.12 Short-term lets/self-catering provides a £867m per annum boost to the Scottish economy, benefiting local communities the length and breadth of Scotland, supporting 23,979 FTE jobs. Given the importance of this sector to the Scottish tourism industry, which has experienced such a challenging time due to the impact of Covid-19, a supportive environment to help businesses recover and

flourish should be encouraged. The recovery of Scottish tourism will benefit small businesses, while responsible and sustainable tourism can help communities to recover too.

1.2 Supporting Material

1.2.1 The planning application package comprises:

- Completed application form (including landownership certificate)
- Plans
 - Location Plan
- Photo-study
- Planning Statement

1.3 Structure

1.3.1 This Statement initially outlines the proposed development in terms of the site and surroundings and a description of the proposed development. The policy context in terms of the development plan and guidance is subsequently considered in terms of how this may impact upon the proposal. The determining issues and assessment process of the material planning issues in the consideration of the planning application is also considered.

1.3.2 This Statement is structured as follows:

Section 1	Introduction
Section 2	Site and Surroundings
Section 3	Proposed Development
Section 4	Policy Context
Section 5	Determining Issues and Material Considerations
Section 6	Summary and Conclusion

2 Site and Surroundings

2.1 Site Context

- 2.1.1 The application site is located approximately 4.5kms (3 miles) to the south of the city centre within the Morningside/Bruntsfield town centre. The City By-pass can be accessed within approximately 1.5kms (1 mile) of the property.
- 2.1.2 There are excellent shopping facilities located at Morningside Road including a Waitrose superstore and a wide choice of small specialist shopping, along with the usual variety of banks, building societies and a post office. Sporting and recreational facilities close by include the Braidburn Valley Park, Hermitage Park, Blackford Hills, Craiglockhart Sports Centre and a variety of golf courses including the Braid Hills Golf Course.
- 2.1.3 A frequent public transport system offers regular services to most parts of the City. See Figures 1a and 1b.

Figure 1a – Edinburgh Local Development Plan Proposal Map (Extract) (Designated Conservation Area)

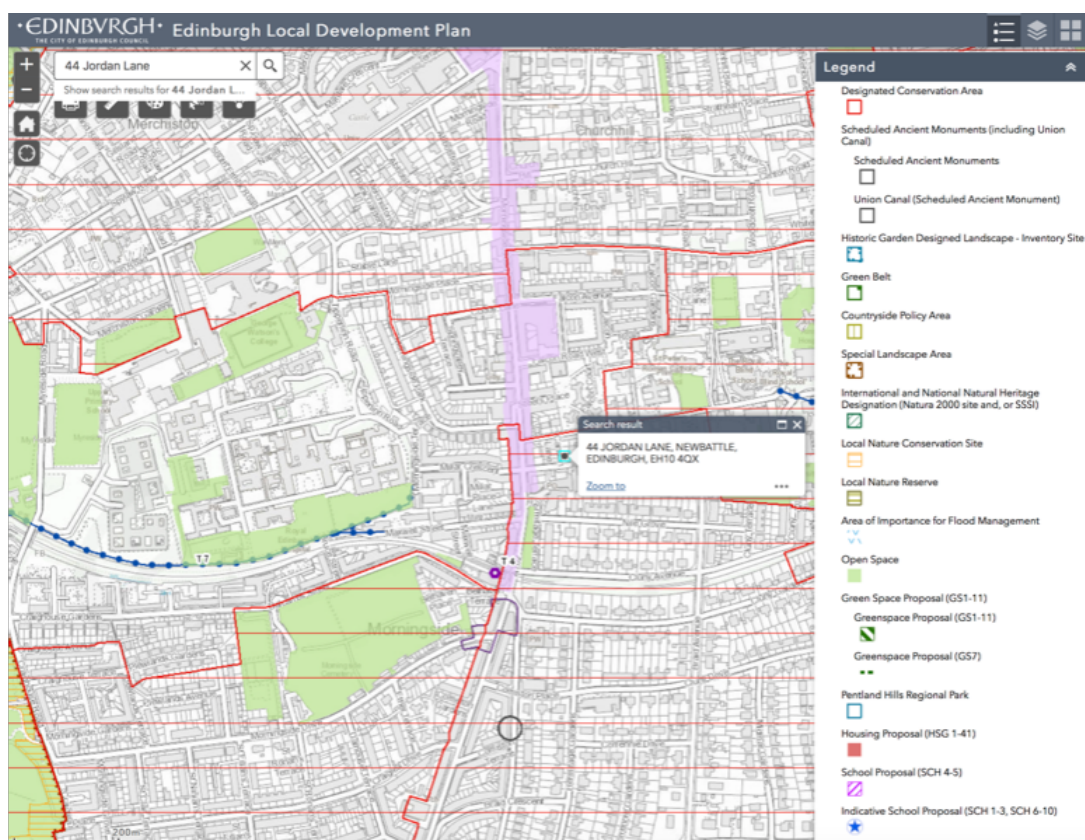
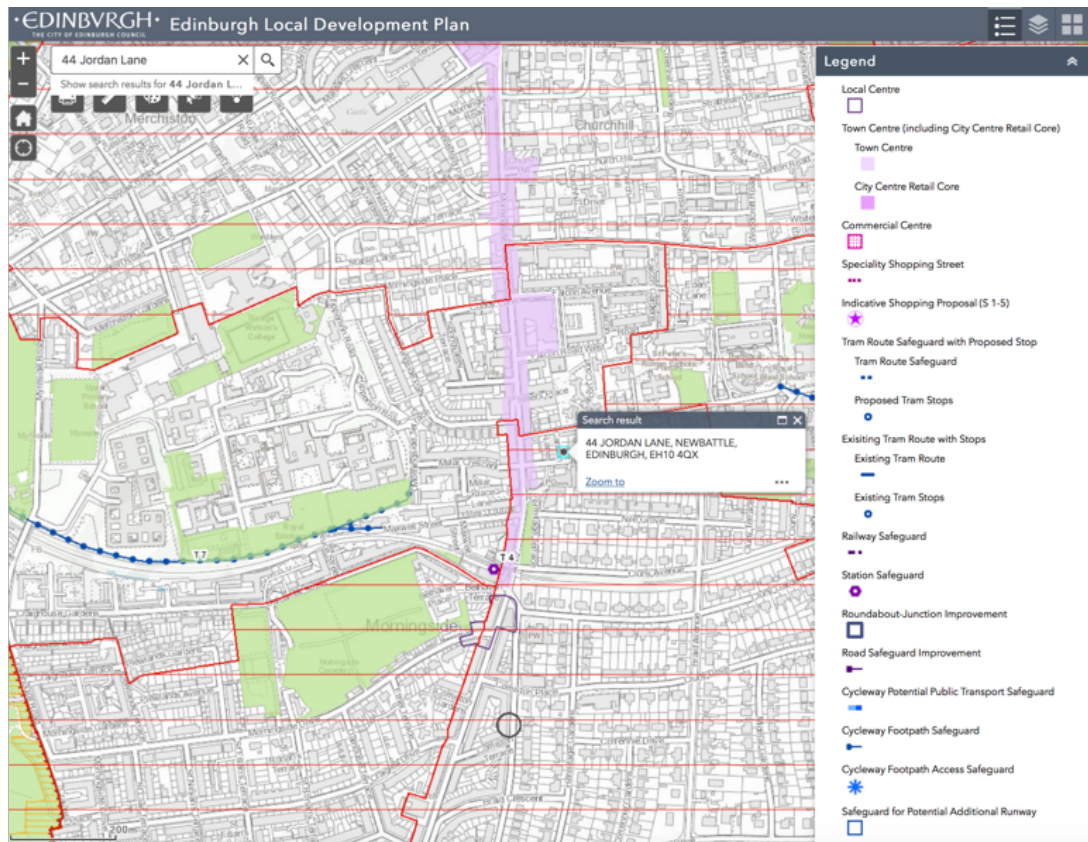


Figure 1b – Edinburgh Local Development Plan Proposal Map (Extract) (Town Centre)



- 2.1.4 44 Jordan Lane, Edinburgh ('application site') is located within the **Morningside Conservation Area**. It is not a Listed Building. See Figure 2.
- 2.1.5 The Morningside Conservation Area lies to the south of The Grange Conservation Area and was originally designated in 1996. The conservation area is situated some 4kms from the City centre.
- 2.1.6 The northern boundary of the conservation area zig zags between Jordan Lane and Canaan Lane. In this small area there is a small eclectic mix of buildings and periods, ranging over vernacular single storey buildings, to Georgian detached buildings and Victorian tenements. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
- 2.1.7 Residential uses predominate throughout the conservation area, producing a Victorian environment of high quality and high amenity.
- 2.1.8 This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.

2.1.9 Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage (Power Motor House Mechanics - https://nicelocal.co.uk/scotland/autoservice/d_h_powerhouse/) and The Ball Room Sports Bar (pool, snooker & darts - <https://www.ballroomsotland.com/morningside>) in close proximity to the application site. Morningside Road and the Morningside/Bruntsfield Town Centre is also a 250m walk from the application site.

Figure 2 Morningside Conservation Area Boundary



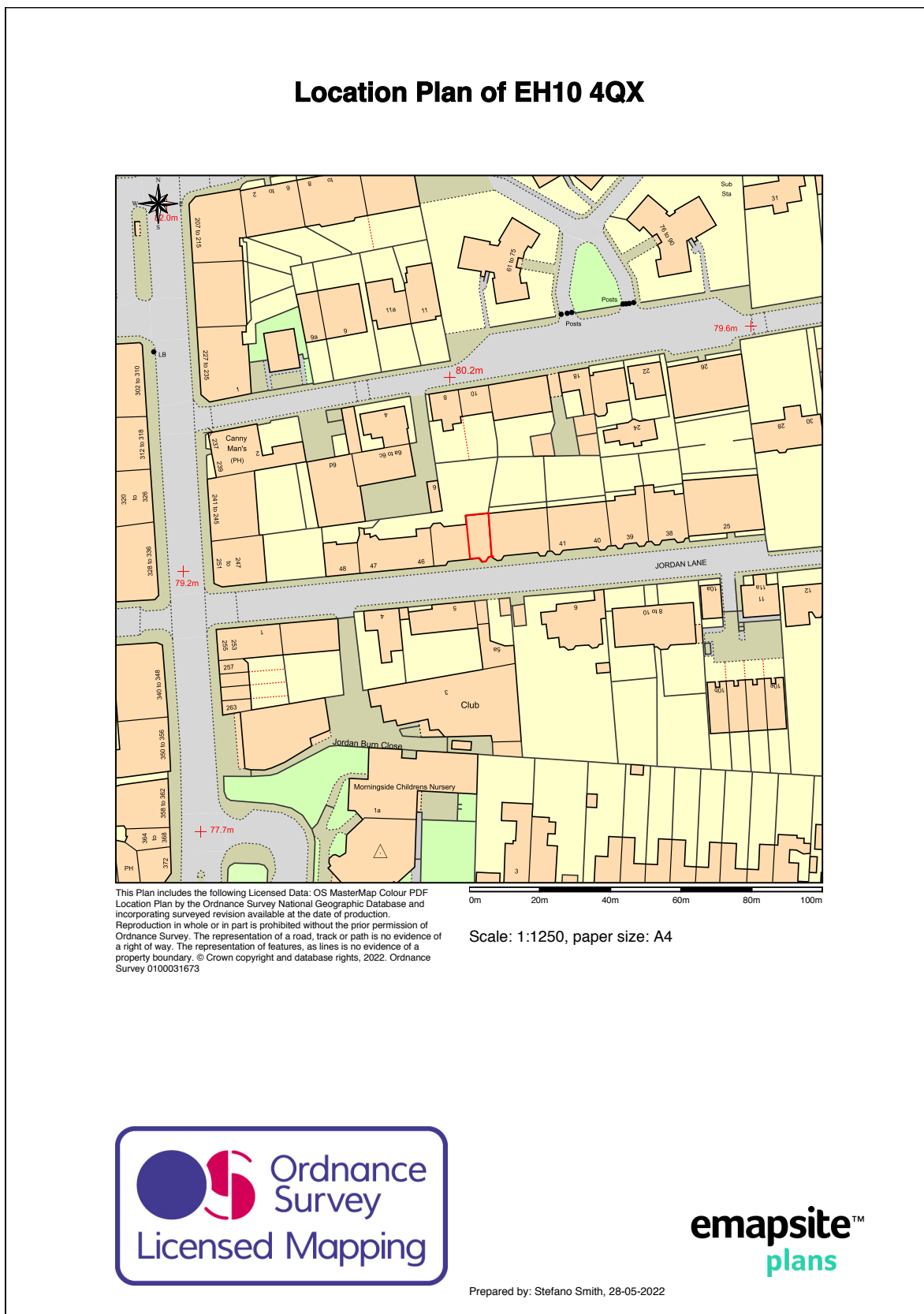
2.1.10 A **photo-study** has been undertaken of the application site and the local area. See Appendix 1. The key issues to note from the photo-study are:

1. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
2. Jordan Lane is essentially a residential street, but the immediate surrounding area is characterised by mixed use.
3. The character of the local area is one of an established mixed use, including residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
4. Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage and The Ball Room Sports Bar in close proximity to the application site.
5. Jordan Lane is accessed to the west from Morningside Road which is the primary north-south route through the area, and acts as the main shopping street for the area.
6. To the east of Jordan Lane is a dead-end leading to residential properties at 20 Jordan Lane (Helen's Place) and Jordan House.
7. Jordan Lane is a controlled parking area with on-street parking.
8. A frequent public transport system offers regular services to most parts of the City.

2.2 Site Description

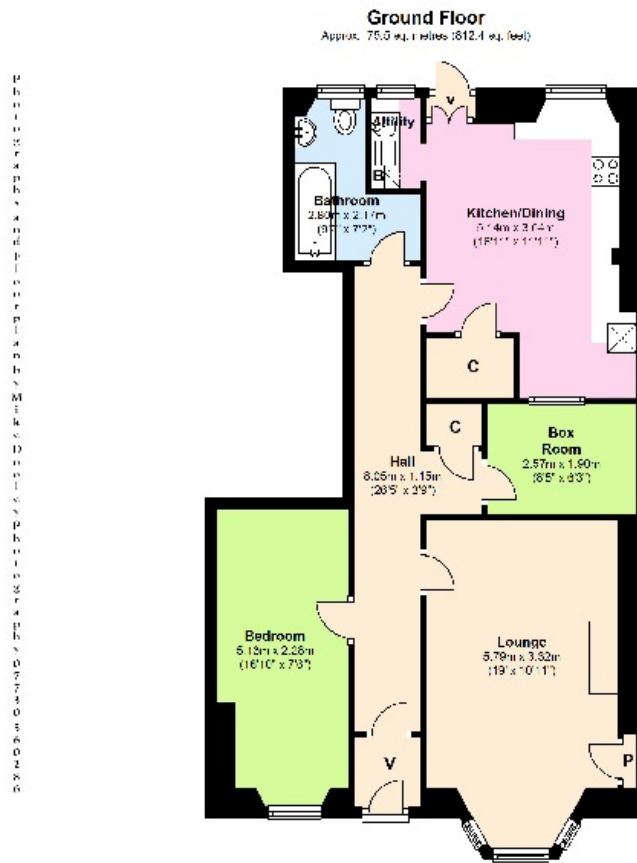
2.2.1 The property is a main-door flat, situated in the prime residential area of Morningside, located approximately 4.5 kms (3 miles) south of Princes Street. See Figure 3.

Figure 3 Location Plan



- 2.2.2 The direct access to the application site from the street means that there would not be direct interaction between the short-term occupants and those longer-term residents in the flats in the main tenement accessed from a common main door at 45 Jordan Lane.
- 2.2.3 The accommodation comprises: an entrance vestibule, hall, bay-windowed sittingroom, dining kitchen with utilityroom off, double bedroom, large boxroom, and bathroom. The property further benefits from access to a well-maintained communal garden to the rear from the kitchen.
- 2.2.4 The approximate gross internal floor area of the flat is 75.5 sqm. See Figure 4.

Figure 4 Floorplan of application site



- 2.2.5 The car parking on Jordan Lane is mainly on-street within a parking controlled zone – permit holders only. However, there are a small number of pay and display spaces in the surrounding streets which are applicable Monday to Friday 8.30am to 5.30pm. It is free outside of these times. The free parking starts about a 5-minute walk away from the application site.

2.3 Site History

- 2.3.1 The application site has no relevant planning application history.

3 Proposed Development

3.1 Introduction

3.1.1 This section outlines the ‘retrospective’ proposed development in terms of the change of use of the flat (sui generis) to a short-term let (sui generis) at the application site.

3.2 Background

3.2.1 The application site was acquired by Ms Lindsay Callander in 2018. Following internal redecoration it was subsequently let as a short-term rental property in February 2018 providing visitor accommodation – ‘secondary letting’ where the host is letting premises which are not their own home.

3.3 Short-term Let

3.3.1 The application site has been let on a short-term commercial basis for approximately four years and is advertised on the Airbnb website – https://www.airbnb.co.uk/rooms/22653201?source_impression_id=p3_1653920258_9ql%2F58fOXkBViq%2Fj

3.3.2 The terms upon which the application site is let on a short-term commercial basis is detailed on the website. The key points to note include the following:

- The apartment is designed as a 1-bedroom plus study/bed 2/3 guest accommodation;
- Check-in at 4pm and check-out at 11am; and
- Smoking is not allowed within the apartment.

3.3.3 The limited number of occupants and the parameters for occupation ensures that large parties and anti-social occupants are excluded. Cleaning and servicing of the apartment is undertaken by a private independent cleaning business arranged by the owner on the change of occupancy.

3.3.4 The pattern of activity in this particular property, with its own private access, letting periods and limiting letting to 2/3 persons at any one time (the majority of guests are couples), results in no greater impact on the residential character of the tenement and mixed use amenity of the area than the original use as a flat.

4 Policy Context

4.1 Development Plan

- 4.1.1 The relevant statutory development plan for the application site is the Edinburgh Local Development Plan 2016 adopted in November 2016. The application site is identified as being within the urban area and the Morningside Conservation Area in the adopted plan.

Relevant policies of the Local Development Plan

- 4.1.2 The relevant development plan is the adopted Edinburgh Local Development Plan (November 2016) (ELDP). The relevant policies of the ELDP are:
- LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area; and
 - LDP Policy Hou 7 Inappropriate Uses in Residential Areas establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Relevant Non-Statutory Guidelines

Non-statutory guidelines

- 4.1.3 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements. Of relevance to this application, this non-statutory guidance states that the Council will not normally grant planning permission in respect of flatted properties where the potential impact on residential amenity is greatest where there is a communal entrance lobby. This is often taken to relate to the impact arising from the intense use of communal entrance halls or from noise generated on upper floors, neither of which circumstance applies to this case.
- 4.1.4 The Morningside Conservation Area Character Appraisal emphasises that the area is characterised by residential uses that predominate throughout the area, producing a Victorian environment of high quality and high amenity, that is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.
- 4.1.5 The external ambient noise in such a mixed use town centre location will mitigate any potential impact on residential amenity of short-term letting.

4.1 Material Considerations

- 4.1.1 Within a conservation area the requirements of Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 apply, namely that there is a statutory duty to give special attention to the preservation and enhancement of the character or appearance of the conservation area.

Relevant Non-Statutory Guidelines

- 4.1.2 Non-statutory guidelines ‘Listed Buildings and Conservation Areas’ provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.
- 4.1.3 Non-statutory guidelines ‘Guidance for Householders’ (April 2017) provides guidance for proposals to alter or extend houses or flats.
- 4.1.4 No physical external or internal works are proposed to the application site as part of this application for the change of use of the flat (sui generis) to short-term let (sui generis).

4.2 Summary

- 4.2.1 Overall, the proposed development must demonstrate that it is consistent with the development plan, and that there are no material considerations that indicate it should nonetheless be refused. By achieving this, the proposed development should be granted permission.
- 4.2.2 The next section assesses the proposed development in terms of the key determining issues and material considerations.

5 Determining Issues and Material Considerations

5.1 Determining Issues

5.1.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

5.1.2 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, are there any compelling reasons for not approving them?
- If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

5.2 Assessment

5.2.1 To address these determining issues, we will need to consider whether:

- a) The proposal is acceptable in principle;
- b) The proposal preserves or enhances the special character or appearance of the conservation area; and
- c) Any impacts on equalities or human rights are acceptable.

a) Principle of development

5.2.2 The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SSCVA) lets is LDP **Policy Hou 7** (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted. There are no policies relating specifically to the control of short stay commercial visitor accommodation (SSCVA) in the current LDP.

5.2.3 The non-statutory **Guidance for Businesses** states that an assessment of a change of use of dwellings to SSCVA 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.
- 5.2.4 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"*.
- 5.2.5 There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:
- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
 - The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
 - The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
 - The nature of the locality and whether the property is located within an area of activity, such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.
- 5.2.6 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SSCVA properties, the economic benefits are a material planning consideration.
- 5.2.7 In this case, the property was a one-bedroom flat (sui generis) and the change to a one-bed short-term let (sui generis) will have no material impact on any nearby residential properties. The property has its own private on-street access.
- 5.2.8 The retention in capacity of occupancy – one bed flat to one bed short-term let - means that there will be little change in how nearby services are used. In addition, there is no car parking so this will not change from the situation when used as a flat.
- 5.2.9 The current parameters for letting the property, and the evidence of the nature of the operation over the past four years, demonstrates that the short-term commercial residential letting does not involve a greater level of noise

generation and potential for increased disturbance to surrounding residents than retaining the property as a flat. Also, to date there have been no complaints specifically about undue noise arising from the use of the application site for short-term let over the last four years.

- 5.2.10 The application site is a self-contained flat with its own main door access with direct street access on to Jordan Lane. Unlike other flats with a communal entrance hall there would be no undue disturbance arising from visitors using the entrance.
- 5.2.11 The impact on the established mixed use character of the area depends on the scale of activity and on the likely impact on the environment. Jordan Lane and the local area is a mixed use area of residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
- 5.2.12 It has a mixed residential population including longer term residents, and a number of pedestrians moving both through and around the local area for work, living and leisure. Whilst Jordan Lane is relatively quiet the immediate surrounding area has a lively town centre hub character with a constant background level of activity. In that context we consider that any potential increased activity associated with short term commercial letting would be negligible, and in this instance would have no noticeable impact on the mixed use character of the area.
- 5.2.13 The proposal complies with **Policy Hou 7**.

b) Conservation Area

- 5.2.14 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."*
- 5.2.15 LDP **Policy Env 6** (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.
- 5.2.16 The Morningside Conservation Area Character Appraisal emphasises that the area is characterised by residential uses that predominate throughout the area, producing a Victorian environment of high quality and high amenity. This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities.

Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.

- 5.2.17 The external ambient noise in such a mixed use town centre location will mitigate any potential impact on residential amenity of short-term letting.
- 5.2.18 The change of use proposed will not result in any physical changes to the interior or exterior of the building. The change of use from a flat (sui generis) to a short-term let (sui generis) 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.
- 5.2.19 The proposal complies with LDP **Policy Env 6**.

c) Impacts on Equalities or Human Rights

- 5.2.20 This application was assessed in terms of equalities and human rights. No impacts were identified.

6 Conclusion

6.1 Conclusion

- 6.1.1 The proposals comply with the Local Development Plan. The proposed change of use to short term letting will not adversely impact on residential amenity; the proposed development would not result in a level of increased noise and disturbance which would be detrimental to the residential amenity of surrounding residents. It will preserve the character and appearance of the conservation area. It is compatible with the mixed-use character of the area. There are no material considerations which outweigh this conclusion.
- 6.1.2 We therefore conclude, for the reasons set out above, that the proposal therefore accords overall with the relevant provisions of the development plan, and there are no other material considerations which would still justify refusing to grant planning permission.
- 6.1.3 The City of Edinburgh Council is therefore respectfully requested to support this application and recommend the granting of permission subject to conditions.

Appendices *(separately attached)*

Appendix 1 Photo-study

Report of Handling

**Application for Planning Permission
44 Jordan Lane, Edinburgh, EH10 4QX**

Proposal: Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).

**Item – Local Delegated Decision
Application Number – 22/02875/FUL
Ward – B10 - Morningside**

Recommendation

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

Summary

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

The proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application property is a self-contained one-bed apartment set within the ground floor of a four-storey Victorian tenement at 44 Jordan Lane, Morningside. The property has its own main access door on to Jordan Lane. It has direct access to a communal garden from the kitchen to the rear.

Jordan Lane is predominantly residential. The immediate surrounding area contains a mix of uses including shops, cafes, restaurants and bars. The property is a two-minute walk from Morningside Road which is a key thoroughfare into the city centre and an important bus route. The property is very close to the town centre of Bruntsfield/Morningside as identified in the Local Development Plan (LDP) 2016..

The application site is located in the Morningside Conservation Area.

Description Of The Proposal

The application seeks planning permission for a change of use from residential to a short term let visitor accommodation. It is a retrospective application because the short term let use has been operating since 2018.

Supporting Information

Planning statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 25 October 2022

Date of Advertisement: 24 June 2022

Date of Site Notice: 24 June 2022

Number of Contributors: 2

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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the character or appearance of the conservation area?

The Morningside Conservation Area Character Appraisal emphasises that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. The proposal will not have a negative impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 6
- 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 policy Env 6.

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering policy Hou 7.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). It was concluded that the change of use would not have any

material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

Proposed Use and Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

The property is a ground floor flat accessed via a main door opening directly on to Jordan Lane. It is a one bedroom property- with a box room - on the ground floor of a four storey flatted block.

The property is in a residential street formed mainly of tenements. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat and in the street at unsociable hours. The proposed one bedroom short stay use would enable two or more 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 also 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect and may impact on community cohesion and neighbours' sense of security.

The location of the flat, on the ground floor, surrounded by a high number of residential units, creates a situation where such a use would instead bring additional noise and disturbance immediately outside the flat in the residential street.

Anti-social behaviour can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

Parking Standards

There is controlled parking on Jordan Lane where residents permits are required.. The site is highly accessible by public transport. There is no cycle parking standards for SCVAs. 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 proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that outweigh this conclusion.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with Paragraph 29 of SPP. It would not protect the amenity of existing development nor contribute to a sustainable community and, therefore, will not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Negative impact on residential amenity. Addressed in b) above.
- Not in accordance with Scottish Planning Policy on 'Socially Sustainable Places'. Addressed in c) above.
- Negative impact on parking. Addressed in b) above.
- Negative impact on community and security. Addressed in b) above.
- Increase in litter. The applicant should agree a waste strategy with CEC Waste Services.

non-material considerations

- Worsens Edinburgh's housing crisis. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Does not accord with Scottish Government Housing Policy on More Homes. The application has to be assessed against the Strategic and Local Development Plans.
- Housing should be for local people. This is not a material consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

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

The proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let

will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 31 May 2022

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.

Stefano Smith Planning.
FAO: Stefano Smith
58 Dean Path
Edinburgh
EH4 3AU

Ms Lindsay Callander.
Blaiket Mains
Crocketford Road
Dumfries
DG2 8QW

Decision date: 25 October 2022

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

Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).
At 44 Jordan Lane Edinburgh EH10 4QX

Application No: 22/02875/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 31 May 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;

Conditions:-

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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:

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.

1A Cambridge Street Edinburgh EH1 2DY
STL COU Applications GRANTED by CEC – 2021 to 2022

APPENDIX 5

Decision Date	Ref.No.	Address	Ward	Description	Principle: Policy Hou 7 (Inappropriate Uses in Residential Areas)
*01/09/2022	22/01193/FUL	34A William Street	City Centre	Change the use from residential to commercial short-term let, (in retrospect)	<p>The supporting statement states that the premises was part of a former Chinese restaurant before it was sold separately in January 2018. The premises has been used as a short-term let since. However, there is no record of planning permission for this and the use requires to be considered as a new proposal under current policies. It should also be noted that the premises does not have planning permission as a flat.</p> <p>The proposed one-bedroom short stay use would enable two related or unrelated 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 also 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 than long standing residents.</p> <p>The property has the benefit of a main door access down from basement steps. While the basement steps have the potential to generate noise from luggage wheels being dragged to-and-fro, the relatively small size of the premises means that the turnover of noise would not be so significant as to impact on residential amenity. With the exception of the small basement area to access the premises, the property has no private outdoor space.</p> <p>Given the predominately commercial uses on the ground floor, daily occurrences of deliveries/vehicles, noise from cobbled road surface and proximation to nearby uses, existing residents would already be accustomed to a degree of ambience noise throughout the day and evening times. As the premises sits below an existing delicatessen and would largely be restricted to two guests staying at any one time, it is unlikely that its use as a short term let would have a materially detrimental impact on the living conditions of nearby residents in terms of noise.</p>

					<p>Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.</p> <p>It is expected that a turnover of two related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.</p> <p>There are no statutory policies on the loss of housing in the current Development Plan. The proposal complies with LDP Policy Hou 7.</p>
*6/07/2022	22/00672/FUL	35A Moray Place	City Centre	<p>Change of use (retrospective) from residential to short-term let apartment (Sui Generis)</p>	<p>Application reference 21/04512/FUL for the change of use of basement tenement flat to a short term let, was refused by the Council as the proposed use was considered contrary to LDP policy Hou 7. The reason referred to the potential for high turnover of visitors causing disturbance to residents on a quiet residential street. In addition, that the basement stair was likely to lead to noisy arrivals and departures and transient visitors may have less regard for neighbours' amenity than long standing residents.</p> <p>The report also referenced the potential for disturbance through use of external amenity space at basement level.</p> <p>The decision was overturned at appeal (ref: PPA-230-2367) with the reporter commenting on matters including the modest size of property and its external stair, the likely degree that the external space would be used and the surrounding ambient noise.</p> <p>Each case is assessed on its own merits however it is noted the characteristics of this property are similar to this basement flat at Fingal Place.</p> <p>The immediate area around the site is mainly residential in character. The property is accessed via a private staircase from street level at Moray Place.</p> <p>Visitors on arrival and departure would be in some proximity to adjacent flatted properties at ground and basement level.</p>

					<p>There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents. Use of the private external staircase may bring some noise from guests transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.</p> <p>However, whilst the area is primarily residential in character the property is located adjacent to a wide, cobbled road which has indirect access to busier city centre streets including Heriot Row and Queen Street. It is considered that current vehicular use along Moray Place would bring a level of existing ambient noise to the area.</p> <p>Furthermore, the size of the unit is relatively modest, containing one bedroom, dining, kitchen and living area. It is therefore likely to be used by smaller groups such as individuals, couples or small families.</p> <p>At basement level, the property has access to a private external space to the front. It is located near to residential property windows and use of this space may bring some noise.</p> <p>However, its size is limited and is tightly enclosed by boundary walls located below street level. In this regard, it is not good quality amenity space and is unlikely to be frequently used by guests in this city centre location; with local access to a range of amenities and large public green space nearby.</p> <p>In light of the above, it is not anticipated that there would be any material increase in noise from potential use of this space from the lawful residential use.</p> <p>In addition, it is noted the submitted planning statement refers to the property being operational as a short term let for over nine years without complaints. Environmental Protection have confirmed they have received no noise complaints in regard to its use.</p>
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					<p>Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity.</p> <p>The proposal complies with LDP policy Hou 7.</p>
06/07/2022	22/01239/FUL	46 Cumberland Street	City Centre	Change of Use from residential to short-term let (Sui Generis) (in retrospect)	<p>In this case the property has its own access and there is no access to semi-private or communal gardens. Any outside noise conflicts will be from the road outside to the front. Cumberland Street is mainly a residential street although there are two key thoroughfares, Dundas Street and St. Stephen Street/St. Vincent Street, at either end. There is, therefore, some low level ambient background noise and activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2015. On the balance of probability, there will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.</p>
15/06/2022	22/00881/FUL	6 Rutland Court Lane	City Centre	Change of use (retrospective) from residential to short- term let apartment (Sui Generis)	<p>The supporting statement indicates that the property has been used as a short-term let since April 2019. However, there is no record of planning permission for this and the use requires be considered as a new proposal under current policies.</p> <p>The proposed two-bedroom short stay use would enable four or more related or unrelated 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 also 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 than long standing residents.</p>

					<p>The property is a self-contained, lower ground floor flat on Rutland Court Lane with the benefit of a main door access from the pavement. The main door is located on the gable elevation of the existing building and its location on the lower ground floor means that the flat is isolated from other parts of the building. The property has no private outdoor space.</p> <p>The surrounding area is mainly in office use. Rutland Court Lane is accessed off Canning Street from the Western Approach Road, a high traffic area. A footbridge between Rutland Square and Conference Square overhangs the property. Directly across from the property is a modern office building. The location of the property means that it has limited interference with nearby residential uses. Therefore, given the character of the area and the size of the property with its own main door access, the frequency of guests coming and going throughout the day and evening is unlikely to result in significant disturbance to nearby residents.</p> <p>It is expected that a turnover of four or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.</p> <p>Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.</p>
15/06/2022	22/00535/FUL	16 Robertson's Close	City Centre	Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>In this case the property has its own access and there is no outdoor amenity area. Due to the location of the property a short distance away from a key thoroughfare and in an area of mixed uses including student accommodation, retail, cafe/restaurants, entertainment and leisure uses, there is already a degree of activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised</p>

					that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
15/06/2022	22/00803/FUL	17 Ashley Terrace	Fountainbridge/Craiglockhart	Change of Use (retrospective) from residential to short- term let	This is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
15/06/2022	22/00884/FUL	78 Spring Gardens	Craigtinny/Duddingston	Change of Use (retrospective) from residential to short- term let	<p>In this case the property has its own front entrance access and no direct access to garden/communal ground. Although the property is in a predominantly residential area, it is approximately 300 metres from a main thoroughfare and an area of mixed uses including commercial and retail uses. Consequently there is already a degree of activity nearby. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.</p>
30/03/2022	21/06792/FUL	46 Patriothall	Inverleith	Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>The applications (reference: 21/03508/FUL and 21/03509/FUL) were refused by the Council as short term accommodation was considered contrary to LDP policy Hou 7 due to potential for high turnover of visitors causing disturbance to residents on a quiet residential street. The access lane being shared and noise from transient visitors may have less regard for neighbours' amenity than long standing residents.</p> <p>The decisions were overturned at appeal (ref: PPA-230-2359 and PPA-230-2359) with the reporter commenting on matters including position of the</p>

				<p>property relative to commercial uses, potential existing ambient noise and the limited number of residential properties passed to access the accommodation.</p> <p>The immediate area around the site is mainly residential in character. The property is accessed from a shared lane which connects to Hamilton Place. Visitors arriving and departing would pass the main door of one residential flatted property at 45 Patriothall.</p> <p>There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents.</p> <p>There are footways along the lane, however, these narrow in part and use of the road's cobbled surface may bring some noise from transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.</p> <p>However, whilst the lane is primarily residential in character it is located near to the Stockbridge town centre on Hamilton Place where commercial uses are nearby. This includes a convenience store with staff parking in a courtyard area of Patriothall. In addition, an Artist Studio and Gallery near to this accessed via the lane which passes the property's main door and adjacent property. It is therefore considered that there is an existing level of ambient noise from the operation of these nearby commercial uses.</p> <p>The size of the unit is relatively small containing two bedrooms and has its own private access. Its location near to Hamilton Place minimises the level of interaction with other residential properties.</p> <p>In light of the above, whilst a level of noise is likely from guests arriving and leaving the property it is not anticipated that this gives rise to a significant disturbance to residents.</p> <p>The submitted planning statement details guests have access to the underground communal car park and rear courtyard on the rooftop above via external gates. Access to the car park is shared with other residential</p>
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					<p>properties and it is not anticipated that the commercial use results in any material increase in noise or disturbance from parking of cars.</p> <p>There is access to the communal rear courtyard, the roof of the underground car park via a staircase. The applicant has stated this area is managed by Scotmid and provides a fire exit for commercial and residential properties on Hamilton Place. There is outside seating evident and appears to be used as recreational space. It is located near to residential property windows and there is potential for its use to be a source of some noise. However, the property is relatively small scale and it does not have direct access to this area. It is therefore not anticipated that there is any material increase in noise from potential use of this space from the lawful residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity.</p> <p>The proposal complies with policy Hou 7.</p>
31/03/2022	21/06615/FUL	10A Blenheim Place	City Centre	Change of use of residential apartment to short-term let visitor accommodation	<p>In this case the property has its own access and there is a small outside area of hardstanding to the front and no garden ground to the rear. The entrance platt for the ground floor property is directly above the entrance door to the application property. Any outside noise conflicts will be from the road outside to the front or the roads and parking areas to the rear of the building. Due to the location of the property near two main thoroughfares and in an area of mixed uses including commercial and entertainment and leisure uses, there is already a degree of activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets and for visiting family members' holidays, as well as for residential use, since 2014. On the balance of</p>

					probability, there will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
31/03/2022	22/00362/FUL	PF1 1 West Park Place		Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>The area immediately to the south of West Park Place is considered as performing an important mixed- use function as recognised in the Adopted Local Development Plan and accordingly supports relatively high-footfall uses such as retail, food and drink, and sui generis uses such as barber shops and public houses. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless has an important residential function.</p> <p>While every application is considered on its own merits and on a case by case basis, when considering whether this use in this location is likely to result in a 'further deterioration of living conditions', it is perhaps instructive to compare these proposals with the application recently approved at 19 King's Stables Lane (21/04825/FUL. Both applications relate to one-bedroom properties, without private outdoor spaces, in similarly mixed-use areas with residential functions, where both properties are close to busy, footfall generating commercial uses.</p> <p>When assessed against policy HOU7 in that instance, when taking into account both the size constraints of the property, and the character of the property's environs, the Planning Officer's Report of Handling noted the following:</p> <p><i>(Noting the mixed-use character of the area)... "The key issue is that this is a one-bedroom property suitable for two persons and the likelihood of disturbance to neighbours is low. Space inside the unit is limited and whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. On the balance of probability there will be no adverse impact on residential amenity and LDP policy Hou 7 is complied with". (KSL)</i></p> <p>When assessed against the tests in policy HOU7, the property at West Park Place is also likely to have a similarly negligible impact on its qualifying interests, given living conditions for nearby residents are already largely dictated by the nearby presence of Dalry Road and the range of uses it supports. Moreover, the stringent management controls already in place for</p>

					<p>this property, coupled with its excellent location for its use, mean that it has already been operated as a short-term let for over 8 years with no reported incidents by either the police or the Council's planning enforcement team. This is considered useful as highlighting how no '<i>materially detrimental effect</i>' is being occasioned on the living conditions of nearby residents. Considering all of this in the round, it is challenging to see how the change of use sought here could be considered contrary to policy HOU7.</p>
23/02/2022	21/06621/FUL	41 Cumberland Street	City Centre	Change of use from residential to short-term let holiday apartment (in retrospect)	<p>Cumberland Street is primarily residential in character however other commercial uses are evident.</p> <p>The property has its own private access and the applicant has confirmed there is no garden ground to the front or rear.</p> <p>In terms of internal noise, the size of the unit is small, containing only one bedroom and potential impact is unlikely to be materially different from a residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity.</p> <p>The proposal complies with policy Hou 7.</p>
17/11/2021	21/04825/FUL	19 King's Stables Lane	City Centre	Retrospective change of use from residential dwelling to short-term let.	<p>In this case the property has its own access and there is no garden ground to the front or rear.</p> <p>Any potential noise conflicts will be from the lane outside or from within the property. As a lane with a mix of uses, there is already a degree of activity and the question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>The key issue is that this is a one-bedroom property suitable for two persons and the likelihood of disturbance to neighbours is low.</p>

					<p>Space inside the unit is limited and whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity.</p> <p>On the balance of probability there will be no adverse impact on residential amenity and LDP policy Hou 7 is complied with.</p>
01/11/2021	21/03890/FUL	13 Dewar Place Lane	City Centre	Change of use to short-term letting	<p>Dewar Place Lane has a mixed character and residential use no longer predominates. In the appeal decision on 4/4A Dewar Place Lane, the Reporter acknowledged that the area surrounding the appeal site, bounded by the main thoroughfares of Morrison Street, Torphichen Place, Dewar Place and Torphichen Street, is now substantially commercial in overall character. However, there are still residential properties in the lane, including adjacent to the application property, and their amenity must be considered.</p> <p>In this case the property has its own access and there is no garden ground to the front or rear. Any potential noise conflicts will be from the lane outside or from within the property. In the appeal decision for 4/4A Dewar Place lane the Reporter stated</p> <p><i>In this case I would observe that any resident of Dewar Place Lane already lives in an area subject to a considerable degree of transient activity associated with the comings and goings of visitors to the city, and other activity. This observation is material to the determination of the current application. A number of traffic movements occur in the lane with servicing of the hotels in Torphichen Street and Police Scotland West End Station with its associated vehicle parking, garaging and storage. The applicant has pointed out that this detrimental effect on the character of the lane is exacerbated by associated low quality urban paraphernalia for the hotels and offices. These include a smoking shelter, bin stores and external sheds, all located on the north side of the lane amongst the parking areas which are opposite the application premises. The conversion of this small mews property to short term lets is unlikely to further impact on residential amenity in terms of external noise and residential amenity. Any anti-social behaviour which may be associated with the use is a matter for the police.</i></p>

					<p>In terms of internal noise, the unit is small and the impact is unlikely to be any different from a residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity.</p> <p>The proposal complies with policies Del 2 and Hou 7.</p>
27/10/2021	21/04319/FUL	30 Castle Street	City Centre	Proposals are for commercially managed short term let studios. Reconfiguration of the internal layout	<p>In this case, the property is currently a guest house with 20 bedrooms and the change to 15 self-catering studios will have no material impact on any nearby residential properties. The property has its own access and there is no garden ground to the front or rear.</p> <p>The reduction in occupancy means there will be little change in how nearby services are used. In addition, there is no car parking so this will not change from the current situation.</p> <p>The proposal complies with policies Del 2 and Hou 7.</p>
10/09/2021	21/03226/FUL	3B Dundas Street	City Centre	Change of use of from flatted dwelling to use for short-term letting	<p>The change of use from a domestic residential flat to a short stay commercial visitor accommodation shown for a maximum of six persons would be no greater than what the existing residential flat could currently accommodate. The property has its own private access to the front. It is located on a busy thoroughfare and local residents will be used to some degree of noise and disturbance from the commercial uses and vehicles/traffic.</p> <p>The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden.</p> <p>It is acknowledged that that the flat is typical of the New Town and the rooms are spacious so more than six people could be accommodated. However, this is not something the planning authority can restrict by condition as it would not be possible to enforce. The location of the property on the street edge and the lack of rear garden means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti- social behaviour are a matter for the</p>

					<p>police and not a planning matter and there are other environmental controls available if necessary. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity.</p> <p>Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts and would support the local economy.</p> <p>Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal. This also applies to any Scottish Government research which may show the links between short stay lets and reduced quality of life.</p> <p>Based on the criteria established above, the proposal complies with LDP Policy Hou 7 and is acceptable in principle.</p>
10/09/2021	21/02664/FUL	Drylaw House 32 Groathill Road North	Inverleith	Change of use of Drylaw House to short-term let visitor accommodation (Sui Generis)	<p>The property is located on a residential street. The property is detached, has large garden grounds and its own private access. The dwelling is substantial in size currently with 15 bedrooms.</p> <p>Environmental Protection was consulted on the application and it stated that it had no objections to the proposal. It stated that "<i>Short-term letting noise issues regularly comes down to how well the premises are being managed. The Applicant has advised that they would maintain a guest handbook containing robust terms and conditions, with all potential guests being vetted, and large deposits taken. They also have CCTV in the grounds to monitor for any antisocial behaviour</i>". Environmental Protection also noted that the property sits within extensive walled grounds.</p> <p>Police Scotland were also consulted as part of the assessment of the application. It stated that they would welcome the opportunity for one of their Police Architectural Liaison Officers to meet with the architect to discuss</p>

					<p>Secured by Design principles and crime prevention through environmental design in relation to the development.</p> <p>It is further acknowledged that planning permission has recently been granted for the change of use of the property from class 9 (Domestic) to class 7 (Hotel). Under this agreed use, a large number of new individuals would already be permitted 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.</p> <p>Given the above, on the balance of probability, it is unlikely that the SCVA would result in an unacceptable impact upon existing levels of residential amenity.</p> <p>Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits, including that of tourism, are a material planning consideration.</p> <p>The proposal is acceptable in principle and it complies with LDP policy Hou 7.</p>
11/08/2021	21/02615/FUL	41 Barony Street Edinburgh	CityCentre	Change of use from a residential property to short term commercial visitor accommodation	<p>The change of use from a domestic residential flat to a short stay commercial visitor accommodation with a maximum of four persons would be no greater than what the existing residential flat could currently accommodate.</p> <p>The property has its own private access to the front. Although located in a mainly residential street, the property is next to a small concentration of commercial and business uses at Broughton Market and local residents will be used to some degree of noise and disturbance from the uses such as vehicles/traffic.</p> <p>In addition, there are no policies which limit the number of short stay lets in a particular area so the assessment can only be based on the potential impact on</p>

					<p>residential amenity. The cumulative impact may be significant but there have been no other applications for short terms lets in Barony Street.</p> <p>The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden. As a two bedroom flat, the application property can accommodate four residents and the proposed change of use to a SSCVA will also accommodate four visitors/guests. Therefore, there will be no increase in the numbers of people who can be accommodated in the flat.</p> <p>The small size of the flat (two- bedroom) and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity.</p> <p>Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available and any differences would be unlikely to have any adverse impacts.</p> <p>Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal.</p> <p>Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.</p>
22/06/2021	21/01591/FUL	48 Howe Street	City Centre	Proposed change of use of flat to a short term let	The use is relatively small-scale and the flat is located on a busy road in a prominent location. It has its own private access. Although it has been developed as a flat, according to the supporting statement it has not been used as such. The surrounding uses are a mixture of business, residential and

					<p>commercial. The proposed introduction of this use would not detract from the aforementioned characteristics, in this instance.</p> <p>Based on the criteria established above, the proposal is acceptable in principle.</p>
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Decision Date	App.Ref.	Address	Description	Principle: Policy Hou 7 (Inappropriate Uses in Residential Areas)
13/04/2022	PPA-230-2367	1B Fingal Place, Sciennes	Change of use from a residential property to a commercial short term visitor self-catering accommodation	<p>Policy Hou 7 safeguards against developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents. The accompanying explanatory text makes clear that the policy applies to mixed use areas with an important residential function, as well as predominantly residential areas.</p> <p>The first issue before me is whether changing the flat’s primary and lawful use from residential to commercial short term visitor self-catering accommodation would be acceptable in principle. Policy Hou 7 does not preclude such a use outright. The policy test for the acceptability or otherwise of the proposal should therefore principally be based on whether the use would be materially detrimental to the amenity of other residents as set out in the council's report of handling.</p> <p>According to the council, the proposed use would entail large numbers of visitors staying at the premises for a short period of time on a regular basis throughout the year. This, the council argues, would be in a manner which is dissimilar to that of permanent residents. I consider below whether any such differences would indicate that the proposed use would be incompatible with neighbouring residential uses.</p> <p>The Meadows is an area which has large pedestrian footfall comprising primarily of the students who reside in the Newington Pollock Halls, Argyle Place, Chalmers Crescent, Sciennes Road and surrounding roads. I noted that there were a mix of uses in the vicinity of the appeal site especially on Argyle Place with a variety of commercial uses on the ground floor, including bars and a yoga studio with residential uses on the upper floors. Running parallel</p>

				<p>to Fingal Place is a relatively busy A road, A700/Melville Drive which is separated from Fingal place by a road verge and pedestrian footpaths. To the north of the A700/Melville Drive is the Meadows Park which at the time of my visit was well patronised.</p> <p>I consider that given the nature of this location, the occupiers of the residential flats on Fingal Place would be accustomed to some degree of ambient noise or disturbance. On my site visit I observed that there was high background noise from the traffic and the park. I accept that the latter noise could have been as a result of the relatively warmer and sunny weather and therefore inviting to outdoors pursuits in the park opposite the appeal site. In addition, there was construction works going on a couple of doors away from the appeal property and a major demolition further down the road. Notwithstanding these unique set of circumstances, I consider that the normal background noise would be midway between what one would experience in an inner-city environment and a suburban environment. I would not characterise the area as a quiet residential area as the council has done in the report of handling.</p> <p>The building is set in the basement level and benefits from a direct access from the road. The access is obtained from an original or historic staircase formed of ten stone slab steps, leading to a small landing area on the front of the only external door. There does not appear to be concerns that noise generated from within the property causes disturbance to neighbours. The external staircase which is the only means of access to and egress from the flat is for the sole use of the occupants and is not shared with any of the adjoining flats. The area to the front is small but can be used as private amenity space.</p> <p>The council is concerned that the external area at the bottom of the stairs could be used as private amenity space as it provides sufficient space to accommodate a table and chairs. However, in</p>
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				<p>my opinion it is unlikely that, when presented with such an array of activities that are in the vicinity of the appeal site and more appealing outdoor amenity facilities in the form of surrounding parks which are a stone's throw away, the visitors who are only staying for a limited time would prefer to sit underneath a set of stairs, below a pavement with no views.</p> <p>Usually in considering material change of use proposals, an assessment has to be made as to the likely impact of a proposal, against the baseline of the lawful use. The appeal flat has one bedroom, one lounge, one bathroom, and is relatively modest in size. It would therefore be incapable of satisfactorily accommodating large groups of individuals and would be more suited to use by single occupants, couples or small families at the most. It is highly unlikely that for a property of this size, there would be a noticeable difference in the average daily number of occupants' movements in and out of the property between the lawful use and the proposed use. These factors in my view significantly reduce the likelihood of disturbance arising from guests whether inside, or outside the flat.</p> <p>As set out above, the flat benefits from its own external door which is accessed by a set of ten stone slab steps. Concerns have been raised in representations regarding noise of suitcases being pulled up and down the steps. There are only 10 steps, so in a worst case this would be audible for only a few seconds. General ambient noise in this area is of a level where this would not give rise to any significant disturbance affecting residential amenity.</p> <p>The council's non-statutory 'Guidance for Business' though not a development plan policy is a material consideration. The guidance states that, amongst other criteria, an assessment of a change of use to short-term letting should consider the character of the proposed use within its spatial context; pattern of use including the number of occupants; periods of use; noise and disturbance; and parking demand. With respect to flatted properties, the</p>
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				<p>guidance says that, change of use will generally only be acceptable where there is a private access from the street. The proposal satisfies this criterion. Other than the parking demand, I have addressed all these criteria in my assessment above. The council has no concerns about the parking demand arising from the proposal. Based on the relatively central location of the appeal site within easy reach of the historical and city centre of Edinburgh and its proximity to the central universities, I have no reason to take a different view.</p> <p>Given also the nature of this location, type of access arrangements, size of the property as outlined in preceding paragraphs, I am satisfied that the flat could be used for short-term holiday letting without any materially detrimental effects on the living conditions of nearby residents. I therefore find the proposal accords with LDP policy Hou 7.</p>
26/01/2022	PPA-230-2358	7A Jamaica Street South Lane	Change of use of dwelling to commercial short-term holiday let	<p>The appeal property occupies the lower ground floor of what is apparently a converted town house fronting onto Heriot Row. The property is accessed down a short lane passing between some garages and a residential property at 7C Jamaica Street South Lane. This lane joins onto Jamaica Street South Lane at its eastern end, close to its junction with Jamaica Street.</p> <p>Jamaica Street South Lane has a largely quiet residential character, whereas Jamaica Street contains mostly commercial uses, including a public house on the corner of Jamaica Street South Lane, studios and offices. Nearby is Howe Street, which is one of the major thoroughfares of Edinburgh's New Town. The entrance to the lane leading to the appeal property is located at the transition point between these commercial and residential areas.</p> <p>It seems most likely to me that visitors staying at 7A Jamaica Street South Lane would mainly arrive and leave the property via Jamaica Street, as this would be the quickest route to the city centre and commercial attractions of Howe Street. I would not therefore</p>

				<p>expect any noticeable increase in disturbance to the residents of Jamaica Street South Lane as a whole.</p> <p>Of some possible concern is the individual property at 7C Jamaica Street South Lane. Visitors to the appeal property must walk alongside number 7C, and directly pass its front door. The access lane is at this point paved with setts, and I note the council's concerns regarding the potential for noise disturbance from wheeled suitcases on this surface. While I accept such noise could arise at the start and end of visitors' stays, it would cause only a brief and occasional disturbance.</p> <p>I accept that the pattern of use of a commercial short term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. I note the objection from the flat above the appeal property, but overall there does not appear to have been a history of numerous complaints over the years this use has been operating. For these reasons I conclude that the proposal would be unlikely to give rise to any significant disturbance to local residents.</p> <p>I note the statement in the council's guidance that permission will not normally be granted in respect of flatted properties, but in this case, the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of</p>
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				<p>use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal.</p> <p>For the above reasons, I therefore conclude that there would be no materially detrimental effect on the amenity of nearby residents, and that the proposal complies with Policy Hou7 of the local development plan, and with the plan as a whole.</p>
26/01/2022	PPA-230-2359	7B Jamaica Street South Lane	Change of use of dwelling to commercial short-term holiday let	<p>Policy Hou7 of the plan resists changes of use that would have a materially detrimental effect on the amenity of nearby residents. The council has also issued a guidance document for businesses, which includes advice around changing residential property to short term commercial visitor accommodation. Although non-statutory, and therefore not part of the development plan, the guidance assists in the interpretation of Policy Hou7. It states that proposals will be assessed in terms of their likely impact on neighbouring residential properties, with considerations to include background noise in the area and proximity to nearby residents. The guidance goes on to resist proposals in flatted properties, which are characterised as having the greatest potential adverse impact on residential amenity. A separate section on flatted properties states that changes in the use of such properties will generally only be acceptable where there is a private access from the street.</p> <p>7. The appeal property occupies the lower ground floor of what is apparently a converted town house fronting onto Heriot Row. The property is accessed down a short lane passing between some garages and a residential property at 7C Jamaica Street South Lane. This lane joins onto Jamaica Street South Lane at its eastern end, close to its junction with Jamaica Street.</p> <p>8. Jamaica Street South Lane has a largely quiet residential character, whereas Jamaica Street contains mostly commercial uses, including a public house on the corner of Jamaica Street South Lane, studios and offices. Nearby is Howe Street, which is one of the major thoroughfares of Edinburgh's New Town. The</p>

				<p>entrance to the lane leading to the appeal property is located at the transition point between these commercial and residential areas.</p> <p>9. It seems most likely to me that visitors staying at 7B Jamaica Street South Lane would mainly arrive and leave the property via Jamaica Street, as this would be the quickest route to the city centre and commercial attractions of Howe Street. I would not therefore expect any noticeable increase in disturbance to the residents of Jamaica Street South Lane as a whole.</p> <p>10. Of some possible concern is the individual property at 7C Jamaica Street South Lane. Visitors to the appeal property must walk alongside number 7C, and directly pass its front door. The access lane is at this point paved with setts, and I note the council's concerns regarding the potential for noise disturbance from wheeled suitcases on this surface. While I accept such noise could arise at the start and end of visitors' stays, it would cause only a brief and occasional disturbance.</p> <p>I accept that the pattern of use of a commercial short term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. Furthermore I have not been made aware that there have been any complaints of noise or disturbance relating to this property over the years this use has been operating. For these reasons I conclude that the proposal would be</p>
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				<p>unlikely to give rise to any significant disturbance to local residents.</p> <p>12. I note the statement in the council's guidance that permission will not normally be granted in respect of flatted properties, but in this case, the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal.</p> <p>For the above reasons, I therefore conclude that there would be no materially detrimental effect on the amenity of nearby residents, and that the proposal complies with Policy Hou7 of the local development plan, and with the plan as a whole.</p>
24/04/2021	PPA-230-2325; PPA-230-2326; PPA-230-2327; PPA-230-2328	Flats 1, 2, and 3, no 4 Dewar Place Lane, and flat 4A Dewar Place Lane	Change of use from residential to holiday flat	<p>The appellant has offered to enter into a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997. He suggests that in order to address the possibility of potential conflict between short stay lets and residential uses within the building, he would be willing to enter into a Section 75 Agreement which firstly, would restrict the use of each of the flats in the building so that no single flat can be used for residential purposes while there are short-term letting uses within the building. Secondly, the appellant would also be willing to provide a restriction on the number of individuals which may occupy each flat at any one time, to address the council's concern that planning cannot readily control limits on occupancy. For flat 1 he suggests a restriction to 4 maximum occupants; for flat 2, which has 3 bedrooms, a maximum of 6; for flat 3, with one bedroom and a lounge bed, a maximum of 4; and for flat 4A with two bedrooms and a lounge bed, a maximum of 6 occupants. The planning obligations would be registered as a title restriction against each of the properties.</p> <p>Any such proposed agreement must meet the legal and policy tests explained in Scottish Government Planning Circular 3/2012:</p>

				<p>Planning Obligations and Good Neighbour Agreements (revised 2020) Any obligation which should more properly be contained in a condition should not be imposed via a planning obligation. Here I consider that the level of detailed control of the use of the premises is better monitored and delivered by a positive management undertaking by the owner, rather than left with the council as a planning condition which they would require to actively monitor. Further, it will give the council some assurance and influence over matters which are indeed usually difficult for the planning authority to monitor and enforce. The obligation would allow them to require the owner to comply with the terms of the agreement should any problems arise and come to the council's attention through complaints.</p> <p>In my view, both strands of the planning obligation suggested would meet the circular tests, albeit with the exclusion of the need to retain flat 4A in short-term letting use from the agreement. I regard the other suggested restrictions as necessary, because they would render the appeal proposals for flats 1-3 acceptable in planning terms, in that they would minimise conflict of uses, and prevent the use of the premises by excessive numbers of short-term tenants in anyone let. I do not consider the restriction to short term use necessary for flat 4A, because it has a separate entrance, and so if it were ever to revert to residential use, there would be much less conflict with the short-term tenants. However, the proposals to restrict the numbers using this flat should be taken up, as a measure against excessive use. In protecting residential amenity, the obligations would serve a proper planning purpose. The obligations proposed are directly related to the proposed development, and the consequences of the development. I consider the obligations tendered to be fair and reasonable in all the circumstances.</p> <p>27. I do not consider that the council would require to monitor compliance, so long as the development operated in a satisfactory manner. It would, however, give them a means of enforcement if</p>
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				<p>there were complaints or problems, and the development was found to be operating in a manner which did not comply with the obligation. In my view the planning obligation offered should be favourably considered and would result in an acceptable proposal.</p> <p>28. I therefore conclude that the proposals would not accord with the development plan, in that they would be contrary to policy HOU 7, as regards any persons who might use any of flats 1-3 in the appeal building as their main residence, when it is also used for short term lets. However, the proposals can be made acceptable if the suggested planning obligation described above was entered into. This would avoid the possibility of conflict of uses and residential disamenity through the potential use of the premises by excessive numbers of short-term tenants.</p> <p>29. I conclude that a planning obligation restricting or regulating the development or use of the land should be completed in order to protect the amenity of any persons who may otherwise come to use the building for residential use. I will accordingly defer determination of this appeal for a period of up to 8 weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 8-week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office.</p>
30/01/2020	PPA-230-2290	9 Briery Bauks, Edinburgh	Change of use from residential to commercial short term residential let	It is the contention of the appellant that the pattern of activity in this particular property, with its own private access and garden, three day letting periods, and limiting letting to 5 persons at any one time has no greater impact on the residential character and amenity of the area than the previous use of the property for student accommodation. He asserts that such is the negligible degree of change with respect to the use of the property and any potential impact on the residential character of the area or

				<p>amenity of nearby residents that a material change of use has not occurred. The proposal is not therefore, in his view, contrary to the criteria set out in Policy HOU7 of the local development plan.</p> <p>The council accept that the appeal property has direct access from the street and that there would not be direct interaction between the short-term occupants and those longer- term residents of the surrounding residential properties. They consider however, that short term lets, by their very nature, result in a turnover of occupants, frequent comings and goings during the day, which together with the meet and greet, servicing and cleaning of the property all create a level of disturbance in excess of what may be regarded as normal in a residential street. This, in their view, would be detrimental to the established residential character of the area and to residential amenity, contrary to policy HOU7 of the ELDP.</p> <p>There are two separate considerations here. The first is the appellant's assertion that the use does not require planning permission and the second whether the permission sought would be contrary to the local development plan. Regarding the first of these, whether planning permission is needed, is not a matter before me. There are other procedures to establish existing use. What is before me is an application to establish such use by way of a planning permission.</p> <p>The current residential classification for the appeal property is a single use (sui generis). There are not therefore a range of different uses encompassed within that definition. Whether short-term letting represents a material change of use has been determined by the courts to be a matter of fact and the degree of impact on residential amenity. The applicable planning policy is ELDP Policy HOU7. The only further guidance regarding the implementation of this development plan policy comes from the council's non- statutory Guidance for Business which states that the Council will not normally grant planning permission in respect</p>
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				<p>of flatted properties where the potential impact on residential amenity is greatest or where there is a communal entrance lobby. This is often taken to relate to the impact arising from the intense use of communal entrance halls or from noise generated on upper floors neither of which circumstance applies in this case. The council also notes recent appeal decisions where decisions to grant permission for short-term letting have taken into consideration the external ambient noise in busy city centre locations when reaching a conclusion on the impact on residential amenity of short-term letting.</p> <p>There is no doubt in my mind that short term commercial residential letting inherently involves a greater level of noise generation and the potential for increased disturbance to surrounding residents than long-term letting or other forms of residential tenure. As the council notes the minimum three-night stay could result in a turnover of occupants 120 times a year with a constant supply of new residents with no inherent reason to respect the character of their locality. Whilst I accept that in the current letting pattern this is very much a maximum it would in all probability result in a level of noise and disturbance above the more usual residential six-month tenure for rented properties.</p> <p>Secondly the dwelling concerned is a terrace property with its own entrance directly onto the street, parking provision and a secluded rear garden area well screened from surrounding properties. Unlike a flat with a communal entrance hall there would be no undue disturbance arising from a stream of strangers using the entrance. The occupation of a three-bedroom house by a maximum of five people would not be an abnormal occupation. I am also mindful however that there are presently no controls or reasonable planning conditions which could limit the rate of turnover or the maximum number of occupants to that currently applied by the appellant. I note from the council's submitted reports that there have to date been no complaints specifically about undue noise arising from the use over the last year. The</p>
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				<p>complaint which initiated the planning investigation and pending enforcement action related solely to the lack of planning permission.</p> <p>I therefore conclude that the increased activity currently associated with short-term letting is not likely to result in undue noise and disturbance detrimental to the surrounding residents. Any increase in the number of occupants beyond what may be regarded as normal for this property, or undue increase in the frequency of changeover could however result in undue disturbance. The council have not suggested planning conditions to control the occupation level or frequency of changeover, but I consider these necessary to make the proposal acceptable. Excessive noise generated by occupant's anti-social behaviour would be controlled under other legislation.</p> <p>Finally, the impact on the residential character of the area depends on the scale of activity and on the likely impact on the environment. Briery Bauks is a residential street, a mixture of terraced houses and apartment buildings. It has a mixed residential population including longer term residents, student accommodation and quite a number of pedestrians moving both through and around the development to reach the main road, Pleasance (approximately 100 metres), with its mix of cafes and bars. Whilst it is relatively quiet compared to the city centre it has a lively inner-city character with a constant background level of activity. In that context I consider that the increased activity associated with short term commercial letting would not in this instance have a noticeable impact on the residential character of the area.</p> <p>I therefore conclude, for the reasons set out above, that the proposed development would not result in a level of increased noise and disturbance which would be detrimental to the residential amenity of surrounding residents. The proposal therefore accords overall with the relevant provisions of the</p>
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				development plan and there are no other material considerations which would still justify refusing to grant planning permission. I therefore grant consent.
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Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

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Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Contour Town Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Angus	Building Name:	Flat 1
Last Name: *	Dodds	Building Number:	
Telephone Number: *	0772 987 3829	Address 1 (Street): *	16 St Johns Hill
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH8 9UQ
Email Address: *	angus@contourtownplanning.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="26"/>
First Name: *	<input type="text" value="Pete"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Maitland-Carewe"/>	Address 1 (Street): *	<input type="text" value="Barony Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH3 6NY"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="petermc@arklerecruitment.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="26 BARONY STREET"/>
Address 2:	<input type="text" value="BROUGHTON"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH3 6NY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="674542"/>	Easting	<input type="text" value="325711"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Retrospective change of use from residential to short-term let apartment (sui generis)

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to Appeal Statement with associated appendices and Location/Floor Plan.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Location and Floor Plan Appeal Statement Appendix 1: Officer Report of Handling Appendix 2: Email from Scottish Fire and Rescue Appendix 3: Planning Statement Appendix 4: Saunders Street Appeal Decision

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/01089/FUL

What date was the application submitted to the planning authority? *

07/03/2022

What date was the decision issued by the planning authority? *

20/05/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The back garden area, which was a matter of great importance in the decision cannot be accessed without entering the property

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Angus Dodds

Declaration Date: 04/07/2022

Proposal Details

Proposal Name	100581278
Proposal Description	Notice of Review for refusal of planning application 22/01089/FUL
Address	26 BARONY STREET, BROUGHTON, EDINBURGH, EH3 6NY
Local Authority	City of Edinburgh Council
Application Online Reference	100581278-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
Location and Floor Plan	Attached	A4
Appeal Statement	Attached	A4
Appendix 1_ Officer Report of Handling	Attached	A4
Appendix 2_ email from Scottish Fire and Rescue	Attached	A4
Appendix 3_ Supporting Planning Statement 22 01089 FUL	Attached	A4
Appendix 4_ Appeal Decision Saunders Street PPA 230 2315	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0



Decision by Stuart West, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-230-2315
- Site address: Flat 1, 1 Saunders Street, Edinburgh, EH3 6TQ
- Appeal by Susan Young against the decision by City of Edinburgh Council
- Application for planning permission 20/00724/FUL dated 17 April 2020 refused by notice dated 31 July 2020
- The development proposed: Change of property use from residential to short term let.
- Application drawings 01-03
- Date of site visit by Reporter: 1 October 2020

Date of appeal decision: 19 October 2020

Decision

I allow the appeal and grant planning permission. Attention is drawn to the three advisory notes at the end of the notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan comprises the Edinburgh Local Development Plan 2016 (LDP) and the SESplan Strategic Development Plan 2013 (SDP). No specific SDP policies have been drawn to my attention in relation to this appeal.
2. Because the appeal site is situated within the New Town Conservation Area I am required by Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
3. The appeal site is currently a one-bedroom, ground floor residential flat within an area defined as urban in the LDP. Although concerns have been raised by third parties that short-term holiday accommodation places a burden on local housing supplies, I have been provided with only limited anecdotal evidence of any such effect. In the absence of planning policy that would systematically address any such issue, should it exist, or more rigorous data, it is not a point to which I can give any significant weight.
4. Having regard to the provisions of the development plan the main issues in this appeal are amenity, impacts on the conservation area, and road safety/parking. I consider each of these factors in turn below.



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Amenity

5. With regards to establishing whether the principle of development is appropriate in this instance, the most relevant LDP policies are Des 5 (Development Design – Amenity) and Hou 7 (Inappropriate Uses in Residential Areas).
6. Policy Des 5 states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected. Similarly, Policy Hou 7 states that Developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.
7. Paragraph 234 of the LDP states that it is the intention of the policy to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas.
8. Although non-statutory in nature, Edinburgh City Council's adopted 'Guidance for Businesses' seeks to interpret LDP policies. Pages 6 and 7 of the document provide specific information for applicants who wish to change a residential property to a commercial use.
9. The guidance advises that in the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest. The document goes on to say that the change of use in flatted properties will generally only be acceptable where there is a private access from the street.
10. Despite not forming part of the development plan, the Guidance for Businesses is a material consideration in the assessment of the proposal. Whilst the document indicates that it will prove more challenging to obtain planning permission for the change of use of a flatted development, the advice does not categorically rule it out.
11. Although the flat can be accessed via a communal external doorway and internal corridor, it does have its own dedicated access to the street via a private garden. Concerns were raised by the council that the manner by which the flat would be accessed cannot be controlled and that noise nuisance or disturbance to the existing residential properties would be possible.
12. I note from the appeal statements and submitted information that the appellant does not intend to provide an access fob to visitors and that they will need to use the dedicated private access.
13. During my site inspection I observed that the access to the private garden is immediately adjacent to the closest communal doorway. I am satisfied that it is clear how access to the flat should be taken as a visitor arriving at the property for the first time.
14. The appellant has advised that clear flat numbering is planned for the private garden gate and that a map would be supplied to visitors showing them how to access the flat using a key safe, which would be mounted beside the private entrance door. I am satisfied

that these measures, if implemented, would result in the dedicated private access being used by guests. However, given that the internal doorway to the communal hallway from the flat would remain, I must consider the potential impacts of visitors utilising all access points to the property.

15. In order to fully understand the situation, I observed all access points to the building during my inspection. In addition, the appellant provided video footage of the route into the flat from all communal doorways in order that consideration could be given to the potential impacts on the amenity of neighbouring residents.

16. The council has stated that visitors would behave differently to permanent residents, likely arriving at different times of the day, possibly later into the evening with luggage and being unfamiliar with the property. The council further stated that visitors would not have the same financial or emotional investment in the property or neighbourhood and this could lead to disturbance for neighbours through possible noise and late night activities.

17. I do not agree with the council that the internal access would be disruptive and would have an unacceptable effect on the living conditions of nearby residents. I am satisfied that there would be no material difference in terms of frequency of movement, or other disturbance for neighbours, than is currently possible from a full-time tenant occupying the flat.

18. Owing to the nature of the property as a one-bedroomed, ground-floor flat with its own dedicated private entrance, I find that the proposal is compatible with the surrounding residential area and thereby accords with LDP policies Des 5 and Hou 7.

Impact on the conservation area

19. LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area.

20. The proposed change of use will have no visual impact on the conservation area as there would be no physical changes to the property. I am satisfied that the proposed development will have no adverse impact on the appearance of the area and that the appearance of the area will be effectively preserved.

21. There have been concerns raised by third parties that the proposed change of use would have a detrimental impact on the surrounding shops and services, which characterise this part of the conservation area. I do not find this to be the case. It is likely that visitors, staying in a self-catering flat, would shop for supplies and visit local takeaways or bars at least to the same extent as any local resident. I am therefore satisfied that the viability of the shops and services in the conservation area would be effectively preserved.

22. The Architectural Heritage Society for Scotland (AHSS) raised concerns that there exists a clear over proliferation of holiday lets in what it describes as this important part of Edinburgh's heritage architecture. The AHSS objected to the proposal in order to avoid the loss of residential accommodation and a shift toward a more tourist-centric town centre.

23. I have considered the concerns raised by the AHSS, and the potential impacts that the proposal before me could have on the special character of the conservation area. From visiting the site and walking around the surrounding area, I am satisfied that the change of use of this specific one-bedroomed flat will not have any adverse impact.

24. I have been provided with no substantial evidence to show that there are any cumulative impacts on the special character of the conservation area that I should take into consideration. I am therefore satisfied that the special character of the conservation area will be preserved and that the proposal would accord with LDP policy Env 6.

25. The Edinburgh New Town Conservation Area forms part of the Old and New Towns of Edinburgh World Heritage Site (WHS). LDP policy Env 1 (World Heritage Sites) states that developments which would harm the qualities which justified inscription, or would have a detrimental impact on its setting will not be permitted.

26. Owing to the scale of the proposal, and to the fact that there will be no physical changes to the flat's external appearance, I am satisfied that there will be no adverse impact on the Outstanding Universal Value of the WHS or its setting. I therefore find that the proposal accords with policy Env 1.

Road safety and parking

27. Concerns have been raised within third party representations that the change of use to a short term let would have a negative impact on residential parking. It has been suggested by one neighbour that the proposal would give additional persons parking permissions in an area where residential parking is limited.

28. As the application site is a one-bedroom flat, the number of occupants will be limited to one or two. I am satisfied that the proposal would not lead to any increase in demand for parking beyond what already exists. The application site is in a controlled parking zone and the council has advised that parking attendants will continue to enforce parking regulations.

29. I am satisfied that there are no road safety or parking issues relating to the proposal.

30. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.


Reporter

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

26 Barony Street, Edinburgh

Retrospective Change of use from Residential to short-term visitor accommodation (sui generis):
Planning Statement



CONTOUR
Town Planning



26 Barony Street, Edinburgh

Change of use: Residential to short-term let visitor accommodation (sui generis): Planning Statement



1. Introduction

- 1.1.1. Contour Town Planning has been asked to provide a planning statement in support of this planning application. The proposal is to change the use retrospectively of the property known as Barony Street Edinburgh, from a residential use to a short-term rental property providing visitor accommodation.
- 1.1.2. The proposed visitor accommodation is considered a sui generis use. The recent Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 confirms that in certain areas, planning permission will be required for such a change. Given all of Edinburgh is currently anticipated as being such an area, the current application is being made to formalise this change and secure the benefit of planning permission.
- 1.1.3. For the avoidance of doubt, the change of use proposed under this application will result in no physical changes to the interior or exterior of this building necessitating planning permission or listed building consent in their own right.
- 1.1.4. The purpose of this report is firstly to set out the context for this planning application by describing the property, its history and setting, and then undertaking a review of all relevant planning policies, guidance and recent appeal decisions with an assessment made as to how these can all be addressed satisfactorily.
- 1.1.5. It is our contention that the proposed change of use of this property will provide it with a sustainable function going forward that can contribute to Edinburgh's important tourist economy and reputation as a business destination. Such a change is considered appropriate today both to the character of the building and the character of the neighbouring area.

2. Property Description and Surroundings

26 Barony Street

- 2.1.1. The subject of this planning application is an entirely self-contained 1-bedroom apartment set over 2 floors and with its own main door access to the street in the New Town district of Edinburgh in the City Centre Council Ward. For the avoidance of doubt, the property has no private or shared outdoor space. While there is a back door that in theory offers access to the garden, this door is locked to guests.
- 2.1.2. The building that plays host to the apartment dates back to the 1860's (it is shown on Johnston's 1862 Post Office Survey Plan of Edinburgh) and takes the form of a 4-storey sandstone considered typical of this part of Edinburgh. The property is unlisted but lies within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage site. It is also within the New Town Gardens Inventory Gardens and Designed Landscape.
- 2.1.3. The majority of buildings in the blocks immediately surrounding the property are for a residential use, although there is a mixed character to the street with a lawyer's practice and an art gallery directly opposite the property, and many shops, restaurants and bars on Broughton Street which is less than 100 metres away. Broughton market which can be accessed directly from Barony Street plays host to a range of small businesses as well as City of Edinburgh Council's Museums Collection Centre depot. In addition it is understood that there are numerous other properties operated as short-term let visitor accommodation both on Barony Street and in the surrounding area.
- 2.1.4. The property does not have its own private outdoor space, nor does it enjoy its own car-parking space. However given the central location of the property it is situated only around half a mile from Waverley station. In addition the terminus of Edinburgh's tram service is only a 3 minute walk from the front door of the property, as are the many bus services that can also be accessed from York Place.

Barony Street Today

- 2.1.5. Barony Street today is a predominantly residential street albeit with a significant mix of non-residential uses set just to the west of the dynamic, and mixed-use area of Broughton Street. In the Adopted Local Development Plan 2016, Broughton Street is recognised as one of 61 'Local Centres' across the city. Through policy Ret 5 the Local Development Plan supports the continued existence of retail uses in such areas in order to protect their important function for local communities. The front door of the property at 26 Barony Street is approximately 95 metres from the junction of Barony Street and Broughton Street where such a zone is found.
- 2.1.6. In addition to its protected retail function as recognised through the local Development Plan, Broughton Street also plays host to a wide variety of other high-footfall generating services including bars, restaurants, beauty services and some of the most interesting non-convenience retailing in the city. In the circumstances, the important food and drink function that it serves means that this is a street that is lively both during the day and at night. Creating a decidedly livelier ambience than many areas even within the central part of the city.

3. Policy Context

- 3.1.1. While the property has been operated as a permanent short-term let since Autumn 2021, at the time of writing its planning status is as a residential property. Commentary on the policy context for the Change of Use of residential accommodation to short-term let visitor accommodation is presented below.
- 3.1.2. National and local planning policies for Edinburgh typically deal with tourism as a whole rather than focussing on such changes of use in particular. Separate non-statutory guidance on change of use for business has also been produced. Both policies and guidance are therefore examined in this section of the planning statement.

3.2. Development Plan Context

- 3.2.1. Under Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended), the determination of planning applications is to be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan does not include either the National Planning Framework for Scotland 3 (NPF3 (2014)), or the current Scottish Planning Policy (SPP (2014)), which do not have the status of Development Plan for planning purposes.
- 3.2.2. The City of Edinburgh sits within the SESplan strategic development plan area. Accordingly the Development Plan for this area currently comprises SESplan (SESplan (2013)) and the Adopted Edinburgh Local Development Plan (LDP (2016)).

3.3. SESplan Strategic Development Plan (Adopted June 2013)

- 3.3.1. Within its Vision, SESplan notes (paragraph 13) that “the key sectors of financial and business services, higher education and the commercialisation of research, energy, tourism, life sciences, creative industries, food and drink and enabling (digital) technologies are central to the regional economy.”
- 3.3.2. The SESplan chapter on economic growth follows up on this statement (paragraph 96) where it states that “The following sectors are considered to be of strategic importance to the economy of the SESplan area: financial and business services, higher education and the commercialisation of research, energy, tourism, life sciences, creative industries, food and drink and enabling (digital) technologies
- 3.3.3. Paragraph 98 of SESplan examines the hierarchy of the network of centres across the SESplan region. In this regard it recognises the important role that Edinburgh plays as a service centre within Scotland and beyond. It notes that “Edinburgh City Centre is the largest centre and is positioned at the top of the network of centres. It performs a broad range of regional and national functions including shopping, office, leisure, culture, tourism and government and competes with other regional centres in Scotland and the North of England”.

3.4. Edinburgh Local Development Plan (LDP) (Adopted November 2016)

- 3.4.1. Part 1 of the written statement of the Adopted LDP does not contain any planning policies and deals instead with site specific proposals providing an overarching narrative to explain the spatial strategy. As part of this narrative, paragraph 56 states that “*the strength of Edinburgh’s economy is based on a range of key sectors, for example tourism, financial services, life sciences and higher education*”.
- 3.4.2. Part 2 of the LDP contains planning policies, although none that deal specifically with proposed changes of use of residential properties to visitor accommodation. Indeed overall, part 2 of the Adopted LDP makes relatively few references to tourism within any of its policies.
- 3.4.3. While not directly relevant to the determination of this planning application, the supporting text for Policy Emp10 ‘Hotel Development’ provides some useful narrative setting out the need for visitor accommodation in the city:

“Tourism is the third biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Maintaining and developing this key sector in the city’s economy relies upon sufficient provision of high-quality tourist accommodation. In 2006 a study looking at tourist accommodation demand and supply was commissioned by the Council and others. The study identified the particular importance of hotels to generating economic benefit from growth in tourism and satisfying the main sources of demand for accommodation. The study identified a theoretical requirement for 4,000 new hotel rooms in Edinburgh by 2015 to help meet predicted growth in demand. The city centre is the preferred location for most visitors, but accessible locations with good public transport accessibility within the urban area also offer opportunities for new hotel development”.

- 3.4.4. The policy in the Adopted LDP which is considered most relevant to this application at this time is policy HOU7 ‘Inappropriate uses in residential areas’. This notes:

“developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted”

- 3.4.5. The policy goes on to explain that its intention is to:

“preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation (i.e. for five or more people). Further advice is set out in Council Guidance”

- 3.4.6. The area immediately to the east of Barony Street is considered as performing an important mixed-use function particularly as part of the night-time economy of which it is considered to play a city-wide role of importance. The street plays host to relatively high-footfall uses such as retail, food and drink, and sui generis uses such as hot food takeaways and bars. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless has an important residential function.

- 3.4.7. While every application is considered on its own merits and on a case by case basis, when considering whether this use in this location is likely to result in a ‘further deterioration of living conditions’, it is perhaps instructive to compare these proposals with the application recently approved across the street and several doors along at 41 Barony Street (21/02615/FUL) Both it and the current proposals relate to small properties (the property at 26 is smaller than the consented property at 41), without private outdoor spaces, on the same street near the mix of uses described above, where busy, footfall generating commercial uses during daytime and night-time are long-established.

- 3.4.8. When application 21/02615/FUL was assessed against policy HOU7, in that instance, when taking into account both the size constraints of the property, and the character of the property’s environs, the Planning Officer’s Report of Handling noted the following:

“Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity”. (BS)

- 3.4.9. When assessed against the tests in policy HOU7, the property at 26 Barony Street is also likely to have a similarly negligible impact on its qualifying interests, given living conditions for nearby residents are already largely dictated by the street’s proximity to the Broughton Street. Moreover, in this case the stringent management controls already in place for this property, coupled with its excellent location for its use, mean that it has already been operated as a short-term let with no reported incidents by either the police or the Council’s planning enforcement team. This is considered useful as highlighting how no ‘*materially detrimental effect*’ is being occasioned on the living conditions of nearby residents. Considering all of this in the round, it is challenging to see how the change of use sought here could be considered contrary to policy HOU7.

3.5. Council Guidance

- 3.5.1. The City of Edinburgh Council does not have any statutory Planning Guidance considered to be relevant to this application. However as noted in policy HOU7 it has published non-statutory guidance to support its LDP policies.
- 3.5.2. Among the suite of such guidance, the most relevant appears to be the Guidance for Householders. The earliest iteration of this Guidance was produced in 2012, but it has been updated periodically ever since. The latest version of the Guidance has just been republished and dates from November 2021.
- 3.5.3. The Guidance for Business contains some detailed discussion on changes of use from residential to short-term commercial visitor accommodation, as well as on changes of use in flatted properties. This guidance has been referenced both in recent planning applications and in recent appeal decisions. At present the content of this guidance would constitute a material planning consideration.
- 3.5.4. The guidance notes the following in terms of short-term commercial visitor accommodation: *“The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had 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.*
- 3.5.5. The same section then goes on to examine amenity as an issue that will need to be considered for such applications. It states that
- “proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents...In the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest”*
- 3.5.6. A further statement specifically on flatted properties is made on page 7 of the document where it notes:
- “Change of use in flatted properties will generally only be acceptable where there is a private access from the street”*
- 3.5.7. As regards the property at 26 Barony Street which enjoys its own private main-door street access, it is considered that the change of use proposed here is in accordance with the non-statutory Guidance. For the reasons already rehearsed in relation to policy HOU7, it is not considered that there are any potential adverse impacts on residential amenity that would warrant an overall assessment that such a use in this location was unacceptable.

3.6. National Planning Policy Context

- 3.6.1. As noted above, NPF3 (2014) and SPP (2014) do not have the status of forming part of the Development Plan but are relevant material considerations for all planning applications. National planning policy and advice currently comprises: the National Planning Framework for Scotland 3 (2014); Scottish Planning Policy (2014 (Revised December 2020)).

3.7. The National Planning Framework for Scotland 3 (NPF3)

- 3.7.1. NPF3 represents a spatial expression of the Scottish Government's aspirations for sustainable economic growth in Scotland over the next 20-30 years. It sets out at the national level, the Scottish Government's strategy for the country's development, in terms of how we are to develop our environment and includes development proposals identified as schemes of national importance. Whilst it is not prescriptive, NPF3 will form a material consideration when determining applications and, as such, will be a consideration in determining the application for any proposed development.
- 3.7.2. Of particular relevance to this proposal therefore is paragraph 1.7 of the document which recognises tourism as one of Scotland's key economic sectors, as well as page 12 of the document which states *that "Edinburgh is one of Europe's most important centres for financial services and tourism, and the world's foremost festival city"*. Further, page 13 of the document goes on to note that *"Within Edinburgh, the city centre, the waterfront, West Edinburgh and South-East Edinburgh will be a focus for growth. The city centre is the civic, cultural, tourism and commercial hub, with its world-renowned built heritage as a key asset"*. Finally, in the section 'Further key actions', the document notes that *"Planning authorities will support VisitScotland's Tourism Development Framework in their development plans"*.

3.8. Scottish Planning Policy (SPP)

- 3.8.1. Scottish Planning Policy (SPP) (2014) is a statement of Scottish Government policy on land use planning.
- 3.8.2. Where relevant to the current proposals, SPP recognises tourism as one of the "key sectors for Scotland with particular opportunities for growth".

4. Recent Appeals

- 4.1.1. There have been a number of recent planning decisions taken by the Planning Authority where the impact of recent planning appeals was taken into account as a material consideration. The respective Reports of Handling have all noted that the reasoning set out in the appeals are germane in helping to assess whether short stay letting is acceptable or not. The Reports of Handling in each case have referred to the main determining issues as comprising the following matters which are considered individually below in paragraphs 5.1.2 to 5.1.6:

The location of the property and in particular whether it is part of a common stair shared by residents. Typically appeals are successful where the property has its own access;

The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally the smaller the flat the less likelihood of disturbance to neighbours;

The impact on the character of the neighbourhood. Again this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;

The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/disturbance;

These appeals have also found that short-stay visitor accommodation units can be acceptable in predominantly residential areas.

- 4.1.2. The property at 26 Barony Street enjoys its own private access and does not rely on any communal areas.
- 4.1.3. The property at is of a small scale and will only ever be let as a maximum to 2 adults with children if staying as a family group. This is not considered an unusual overall quantum of people to be using a property of this type. The specific movements of a small group renting the property for tourism purposes are difficult to anticipate but would be expected to be mostly characterised by more frequent movements during office hours when shops, services and attractions are open, with perhaps single movements both from and to the property as guests go out for the evening.
- 4.1.4. In terms of shopping and using local services, the domestic scale of the property makes it likely that guests will use this largely in the same way as long-term residents. There is a well-provisioned medium format supermarket on Picardy Place that the applicant suggests from experience is the main destination for guests undertaking convenience food shopping. There are in addition a number of smaller convenience shops and local specialist food retailers on Broughton Street. Overall it is considered unlikely that guests would order a large online food delivery to the property. The presence of so many good restaurants nearby also means that the likelihood of hot food delivery to the property must be considered as being no greater than to neighbouring residential properties, with the proximity of the property to hot-food takeaways making collection from such establishments perhaps more likely. Over-arching all of these speculations, for practical reasons the diminutive size of the property means that food-delivery and extraordinary food and shopping activity seems highly unlikely.
- 4.1.5. The property is located less than 100 metres from Broughton Street, a key shopping street recognised in the Adopted Local Development Plan as providing a 'Local Centre' retail function and considered to perform a function of city-wide importance in terms of its functioning night-time economy.
- 4.1.6. The acceptability of short-term lets in predominantly residential areas is noted. However, in this case, and as was the case under planning application reference 21/02615/FUL, it is considered that the immediate area would be characterised as a mixed use area that retains an important residential function. Given the

above analysis of the property in the context of the determining factors for an application such as this, it is contended that this is exactly the type of property where such a use can be assimilated with minimal potential for adverse impacts on neighbouring residential uses.

- 4.1.7. Overall, when assessed against the main determining issues identified by the Directorate of Planning and Environmental Appeals, and recognised by City of Edinburgh Council Planning Officers, the continued use of this property for short-term letting is considered to be acceptable.

DRAFT

Conclusion

The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated.

The forthcoming licensing regime looks set to confirm that planning permission for change of use will be a necessary pre-condition to securing a licence. The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that in reality, very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence.

The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. Such properties if located in appropriate locations and settings and managed according to best practice, can play an important role in diversifying the visitor accommodation offer across the city. These can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is not appropriate.

It is the applicants' contention that the property at 26 Barony Street is one such property that can make a valuable contribution in this way. This is a small and self-contained property in an area that is home to a dynamic mixture of uses including retail, commercial, and residential, where occasional uses such as this can be successfully assimilated into the urban environment with minimal adverse impact on other uses.

Most importantly in the context of policy HOU7 therefore, should this application be approved, it is considered that there will be no adverse impact on the amenity of existing residential neighbouring properties, or indeed on the overall vibrancy of the area. Throughout the time that a short-term let use here has successfully operated it has shown itself as being capable of assimilating easily with its surrounding uses with no deterioration of living conditions for any neighbours. In contrast to any likely adverse impact, it is considered that if this application is approved, 26 Barony Street will be a continuing asset to the local area and the city's wider tourism landscape, especially in the context of a far smaller quantum of short-term letting accommodation being available elsewhere in the city in the coming years.

Taking all of the foregoing into account, it is hoped that Officers will be able to support this application, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. There are not considered to be any policy matters that would warrant refusal of this application, and accordingly it is respectfully requested that this application be recommended for approval.

Angus Dodds MRTPI
Director

angus@contourtownplanning.com



CONTOUR
Town Planning

26 Barony Street, Edinburgh

Local Review Board Appeal Statement

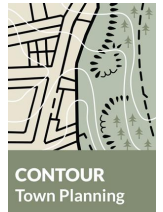


CONTOUR
Town Planning



26 Barony Street, Edinburgh

Local Review Board appeal statement



1. Introduction

- 1.1.1. This supporting paper is presented on behalf of the appellant to this local review of the decision to refuse application 21/01089/FUL at 26 Barony Street. The decision notice for this application seeking “Change of Use from Residential to Short Term Let Visitor Accommodation” is dated 20 May 2022.
- 1.1.2. The originally submitted supporting Planning Statement, the Officer Report of Handling, one recently successful appeal decision, and an email from Scottish Fire and Rescue Service are all cited within this paper. Full copies of these documents are provided as appendices 1 - 4.

2. Matters for Local Review Body consideration

- 2.1.1. The Officer Report of Handling (**appendix 1**) for the application acknowledges that the proposals would not result in any adverse impact on the Conservation area status of the area surrounding the proposals site. The main matter to be assessed is therefore the proposed use itself.
- 2.1.2. In considering this component of the proposal, the Officer's Report of Handling recognises in pages 5 and 6 that the key material considerations are Adopted Local Development Plan policy HOU7, the Council's non-Statutory Guidance for Businesses, and appeal decisions.
- 2.1.3. Accordingly, the appellant considers that the key paragraphs in the Officer's Report of Handling which directly lead to the only reason for refusal, are found toward the bottom of page 4. These paragraphs read:

"The proposed one-bedroom short stay use would enable two or more related or unrelated 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 also 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 than long standing residents.

The property has the benefit of own main door access from the pavement. However, the property on the lower ground floor has a rear access door to communal garden and this has potential to interfere with the amenity of other occupiers of the building. The Supporting Statement states that the rear door would be locked. This does not provide sufficient reassurance that access to the rear garden would be prohibited. Controlling rear access to the garden would not meet all the six tests of an effective planning condition under Circular 4/1998 in terms of monitoring and enforcing. In addition, controlling rear access to the garden is a fire safety issue.

Barony Street is overwhelmingly in residential use and character. The supporting statement states that a number of properties on Barony Street are in short stay let use. However, each application for a short stay let is assessed on own merits. The site is a short walking distance from Broughton Street which has a mix of uses, including pubs, restaurants, shops and hairdressers. The application site is relatively sheltered from a degree of ambience noise. It is therefore expected that existing residents would be accustomed to low background noise during day and evening times. The potential access to the rear garden means that a frequent turnover of two or more related or unrelated visitors has the potential to disturb nearby residents.

The Supporting Statement states that the property would be used by two adults with children. It is expected that a turnover of two or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy".

- 2.1.4. Firstly, it seems important to address a number of small matters which are mentioned in the Officer's assessment above that are considered by the appellant to be relevant to the Review. The first is to stress the appellant's statement at paragraph 2.1.1 that the rear door remains locked to guests. It is noted that the Officer's Report of Handling considers both that locking the rear door does not '*provide sufficient reassurance that access to the rear garden would be prohibited*' but also that '*controlling rear access to the garden would not meet all 6 tests of Circular 4/1998 in terms of monitoring and enforcing*'. One obvious route from this seeming impasse that would meet the tests of Circular 4/1998 and could be implemented under permitted development rights at this property, would be to require by condition that the rear door be stopped up and turned into a window. Nevertheless, while this is an option available to the Council, for reasons that will be set out later in this statement, the appellant considers that there are less onerous ways that have been accepted by the DPEA in the past as being effective at achieving the same outcome of preventing guests from taking access to the rear garden.

- 2.1.5. Secondly, it also seems important to address concerns in the Officer Report of Handling that controlling access to the rear garden will be a fire safety issue. **Appendix 2** to this appeal statement is an email received from a Watch Commander at Scottish Fire and Rescue. In her view “*although use of the door would be an advantage, the fact that there is an escape window next to it would allow escape from the kitchen and therefore, we do not consider this to be a fire safety issue*”. Should it be considered necessary following the Review to stop up the door as suggested in the paragraph above as a means of making this proposed change of use acceptable, the requisite planning condition can stipulate any fire safety requirements if considered appropriate and necessary.
- 2.1.6. Finally, the appellant considers it important to address a statement made repeatedly within the Officer Report of Handling that seems slightly misrepresentative of the manner in which the property is managed. At several points within the Report it describes the guest capacity of the property as “*two or more related or unrelated visitors*”. It seems important to emphasise that this is a small one-bedroom property, and within the originally submitted Planning Statement (**appendix 3**) only once, at paragraph 4.1.3, does it mention the flat’s capacity. Here it states that the property can accommodate “*2 adults with children if staying as a family group*”. In practice therefore, this property will be used by either: a single person; a couple; or a very small family group. There is justifiable concern that the phraseology used repeatedly in the Officer Report of Handling suggests a rather more disordered and chaotic arrangement than is the case. This is simply a small, one-bedroom property, and the numbers and types of guests that will be accepted here are entirely reflective of what would be expected in such a small property.
- 2.1.7. Turning now to perhaps the most important part of the appellant’s representation to the Local Review Body, it is noted that in the Officer’s Report of Handling on page 4, it is acknowledged that appeal decisions are material considerations when determining applications of this kind. One recent successful appeal to the DPEA for a short term let property, is considered to be particularly relevant to this Local Review as it deals with access to shared spaces that can be taken from a one-bedroom property.
- 2.1.8. Planning appeal reference PPA-230-2315 overturned the refusal of planning application 20/00724/FUL at Flat 1, 1 Saunder Street, Edinburgh for the Change of Use of a residential property to a short-term let. A copy of the full decision letter is attached as **appendix 4**
- 2.1.9. Of particular interest within the Reporter’s decision letter is the section (in paragraphs 11-18) where the Reporter considers concerns that had been expressed by the Council that visitors could in theory access the property through a shared door rather than the preferred private access.
- 2.1.10. The Reporter here notes at paragraph 12 that as part of the appellant’s submission documents (and just as spelled out at paragraph 2.1.1 of the originally submitted Planning Statement for the property on Barony Street), the appellant “*did not intend to provide an access for visitors and that they will need to use the dedicated private access*”. At Barony Street, the situation is even clearer in terms of initial access to the property, as this can only be taken from Barony Street and therefore not from the rear garden area itself.
- 2.1.11. Following the Reporter’s site visit on Saunder Street, he further records at paragraph 14 that he feels reassured that general on-site management practices on the part of the appellant will mean that in practice, guests would be in no doubt as to which entrance they were able to use, and which to avoid. In a similar way it is considered that simple and clear instructions to guests would suffice to ensure that they do not try and use the rear garden area; to which the access door is now and will continue to be locked.
- 2.1.12. The Reporter’s decision goes further, by questioning the extent to which the potential occasional use of a communal area might have a real or material impact on the living conditions of local full-time residents. In this regard he queries the concerns of the Council about such impacts. As detailed above at paragraph 2.1.3 such concerns are also expressed in the Officer Report of Handling on Barony Street with regard to the potential use of a shared rear garden space. The Reporter sets out his analysis of this at paragraph 17:

“I do not agree with the council that the internal access would be disruptive and would have an unacceptable effect on the living conditions of nearby residents. I am satisfied that there would be no material difference in terms of frequency of movement, or other disturbance for neighbours, than is currently possible from a full-time tenant occupying the flat”.

- 2.1.13. As already noted at paragraph 2.1.4 of this appeal statement, paragraph 2.1.1 of the originally submitted planning statement is quite clear that the back door to the property at 26 Barony Street will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunder Street, where as detailed above, the Reporter did not agree with the Council's general view that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application.
- 2.1.14. It is the appellants view here that the Saunder Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 26 Barony Street as delivering a simple and workable way to safeguard living conditions.
- 2.1.15. Taking such a view would of course also save the expense and disruption of having to stop-up the door using a planning condition and permitted development rights. This option, which could be delivered through a planning condition, would not be the appellant's preferred way of addressing concerns around use of the rear garden area. Nonetheless, it would deliver an outcome that clearly addresses the only reason for refusal of this planning application. Accordingly such a condition could be added if the Local Review Body considered that the Officer decision should be overturned but felt that the ongoing management practices were not sufficient to safeguard living conditions for other residents using the rear garden space.

3. Conclusion

- 3.1.1. This is a small 1-bedroom property, that in practice will only ever be let to single people, couples and very small families. Unlike the appeal example on Saunder Street, there is no dubiety at 26 Barony Street about how initial access might be taken to the flat that could lead to 'user conflict' with the residents of other flats within the block. The only matter of contention on 26 Barony Street therefore seems to be how access to a shared garden area can be controlled.
- 3.1.2. In reality once inside the property with the rear door locked and fire escape available through rear windows, guests will not be able to access the rear garden but will be able to escape the property in the event of a fire. In this way, the concerns articulated in the Officer report to provide support for the reason for refusal are not considered in practice to be likely to materialise.
- 3.1.3. Accordingly, it is respectfully requested that the Local Review Board re-considers this application and accepts either the existing management arrangements, or the more onerous and in the appellant's view, somewhat unnecessary step of stopping up the door as a means to address concerns set out in the Officer Report of Handling.

Angus Dodds MRTPI
Director

angus@contourtownplanning.com



CONTOUR
Town Planning

Report of Handling

**Application for Planning Permission
26 Barony Street, Edinburgh, EH3 6NY**

Proposal: Retrospective change of use from residential to short-term let apartment (sui generis).

**Item – Local Delegated Decision
Application Number – 22/01089/FUL
Ward – B11 - City Centre**

Recommendation

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

Summary

The proposal does not comply with policy Hou 7 in the Edinburgh Local Development Plan. The existing rear access door to communal garden has the potential interfere with the amenity of other occupiers of the building. The change of use to a short stay let is therefore unacceptable and there are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a one-bedroom ground floor flat set over two floors and is located on Barony Street with its own main door access from the pavement. The property forms part of a four-storey tenement and has lower ground floor access to the rear communal garden. The property was previously a ground floor commercial unit before its conversion to residential.

Barony Street is mainly in residential use. The property is within walking distance to Broughton Street, a local centre as defined in the Edinburgh Local Development Plan map.

The site lies within the New Town Conservation Area.

Description Of The Proposal

The proposal is for retrospective planning permission for a change of use from residential to short stay let (STL).

No external or internal physical alterations are proposed.

Supporting Information

- Supporting Statement

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history.

Consultation Engagement

No Consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 16 March 2022

Date of Advertisement: 25 March 2022

Date of Site Notice: 25 March 2022

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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the character or appearance of the conservation area?

The New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves.

Conclusion in relation to the conservation area

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a one-bedroom domestic flat 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.

The proposal does not harm the conservation area. Therefore, it is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 6
- LDP Housing policies Hou 7

Principle

The main policy that is applicable to the assessment of short-stay lets (STL) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted. There are no policies relating specifically to the control of short stay commercial visitor accommodation (STL) in the current Local Development Plan (LDP).

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STL 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.

The guidance states that a change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

In connection to short stay 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".

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The supporting statement does not indicate how long the property has been used as a short-term let. However, there is no record of planning permission for this and the use requires be considered as a new proposal under current policies.

The proposed one-bedroom short stay use would enable two or more related or unrelated 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 also 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 than long standing residents.

The property has the benefit of own main door access from the pavement. However, the property on the lower ground floor has a rear access door to communal garden and this has potential to interfere with the amenity of other occupiers of the building. The Supporting Statement states that the rear door would be locked. This does not provide sufficient reassurance that access to the rear garden would be prohibited. Controlling rear access to the garden would not meet all the six tests of an effective planning condition under Circular 4/1998 in terms of monitoring and enforcing. In addition, controlling rear access to the garden is a fire safety issue.

Barony Street is overwhelmingly in residential use and character. The supporting statement states that a number of properties on Barony Street are in short stay let use. However, each application for a short stay let is assessed on own merits. The site is a short walking distance from Broughton Street which has a mix of uses, including pubs, restaurants, shops and hairdressers. The application site is relatively sheltered from a degree of ambience noise. It is therefore expected that existing residents would be accustomed to low background noise during day and evening times. The potential access to the rear garden means that a frequent turnover of two or more related or unrelated visitors has the potential to disturb nearby residents.

The Supporting Statement states that the property would be used by two adults with children. It is expected that a turnover of two or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.

Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.

Conservation Area

There are no external alterations and the development preserves both the character and appearance of the conservation area. The proposal complies with LDP policy Env 6.

Conclusion in relation to the Development Plan

Despite the small size of the property and befitting from its own main door access, the rear access door to communal garden has the potential to interfere with the amenity of other occupiers of the building in terms of noise. The principle of a change of use to a short stay let is therefore unacceptable as it will have a materially detrimental effect on the living conditions of nearby residents. The proposal does not comply with LDP policy Hou 7.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with Paragraph 29 of SPP in terms of protecting the amenity of existing residents.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little 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

No comments were received.

Conclusion in relation to identified material considerations

The other material considerations have been addressed and there are no new material issues to resolve.

Overall conclusion

The proposal does not comply with policy Hou 7 in the Edinburgh Local Development Plan. The existing rear access door to communal garden has the potential interfere with the amenity of other occupiers of the building. The change of use to a short stay let is therefore unacceptable and there are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the existing rear access to communal garden has the potential to interfere with the amenity of other occupiers.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 7 March 2022

Drawing Numbers/Scheme

01.

Scheme 1

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

Contact: Laura Marshall, Planning Officer
E-mail:laura.marshall@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

From Scott, Alison <Alison.Scott@firescotland.gov.uk> ★

Subject **RE: planning appeal assistance**

To Me ★

Reply Reply All Forward More

06/06/2022, 12:12

Hi Angus

It would be the opinion of the Scottish Fire and Rescue Service, that although use of the door would be an advantage, the fact that there is an escape window next to it would allow escape from the kitchen and therefore, we do not consider this to be a fire safety issue.

The door from the kitchen should be a self-closing fire door, allowing people on the upper floor to escape safely if a fire started in the kitchen.

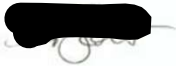
If there is a change of use (i.e. domestic to non-domestic), there may be the requirement for suppression to be installed, under the Scottish Technical Handbook. That is something that would be looked at by the building standards officer at the time.

Kind regards

Alison

(working from home)

Page 541



SCOTTISH
FIRE AND RESCUE SERVICE
Working together for a safer Scotland

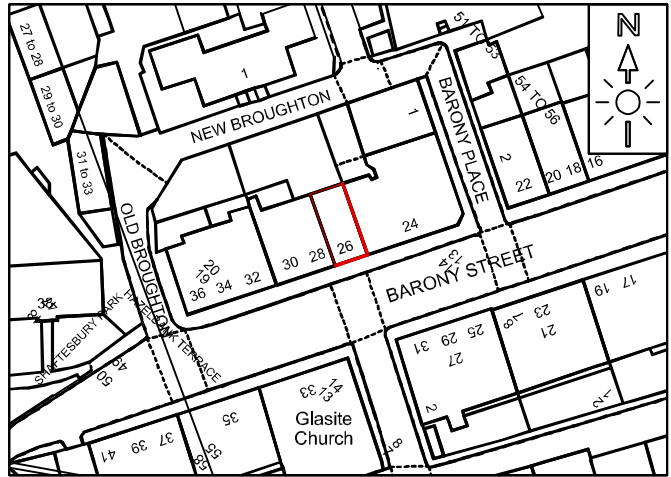
Alison Scott BEng (Hons) IEng MIFireE | Watch Commander | Scottish Fire and Rescue Service

Fire Engineer/Fire Safety Enforcement Officer

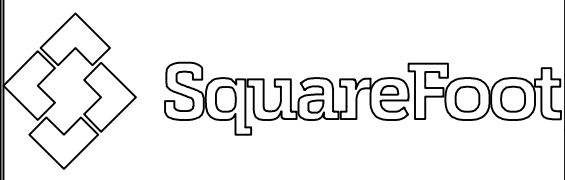
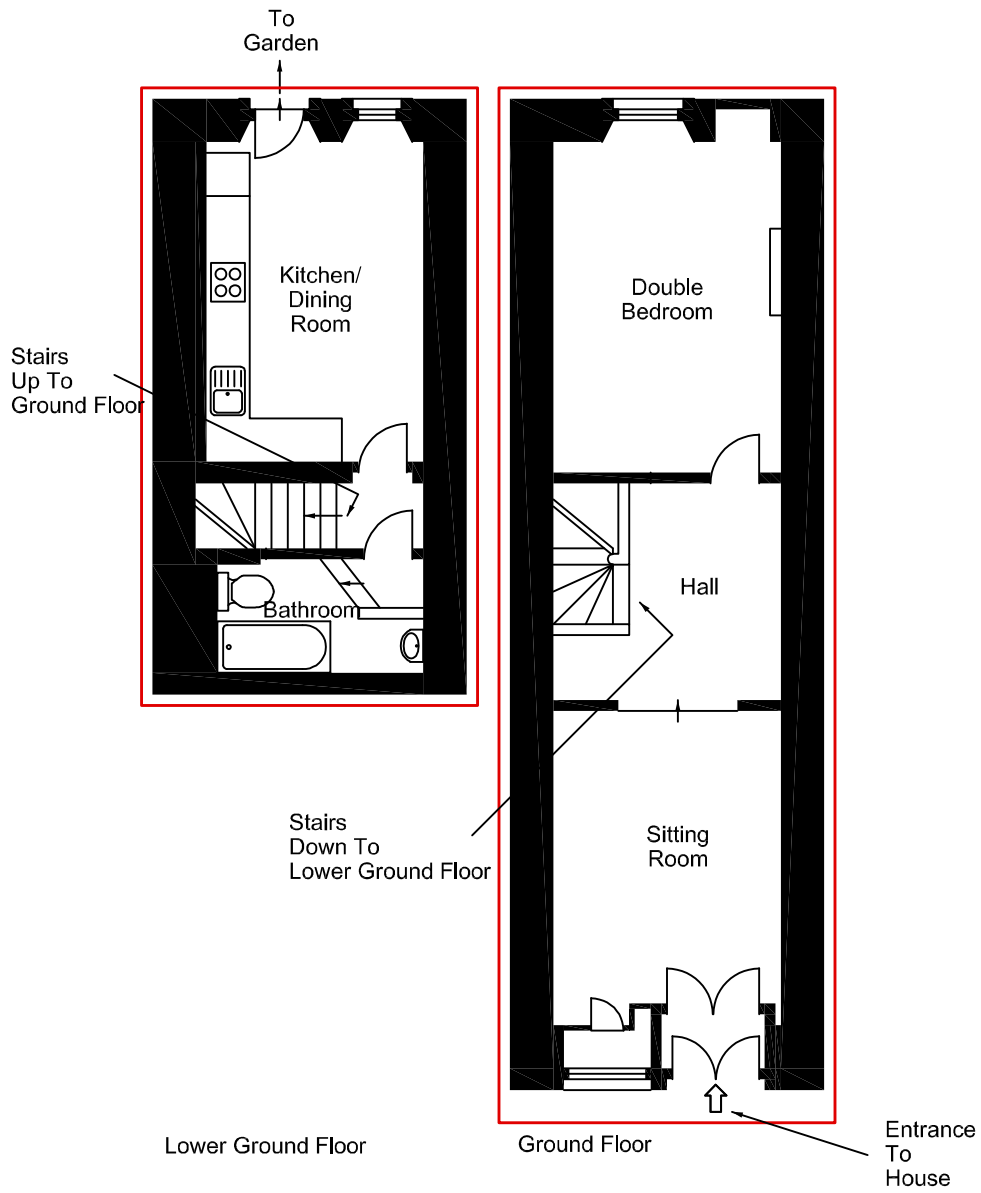
Fire Engineering, 21 Claylands Road, Newbridge, EH28 8LF

W:0131 344 5037 | M: 07787266399 | e: alison.scott@firescotland.gov.uk

Working together for a safer Scotland



SCALE 1:1250



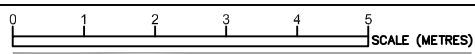
SquareFoot

26 Barony Street,
Edinburgh,
Midlothian, EH3 6NY

EXISTING/
PROPOSED
FLOOR PLAN

SCALE 1:100
PRINT AT A4

PLANS DRAWN:
MAR 2022



CHANGE OF USE FROM RESIDENTIAL TO
SHORT-TERM LET

Contour Town Planning.
FAO: Angus Dodds
Flat 1
16 St Johns Hill
Edinburgh
EH8 9UQ

Date: 20 September 2022

Our Ref: LRB6.1/BR

Dear Mr Dodds,

**THE CITY OF EDINBURGH PLANNING LOCAL REVIEW BODY
REQUEST FOR REVIEW – APPLICATION NO 22/01089/FUL
REQUEST FOR REVIEW – 26 BARONY STREET, EDINBURGH
TOWN AND PLANNING (SCOTLAND) ACT 1997 AS AMENDED BY THE PLANNING
ETC (SCOTLAND) ACT 2006**

I refer to your request for a review on behalf of Mr Maitland-Carewe for retrospective change of use from residential to short-term let apartment (sui generis) at 26 Barony Street, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 14 September 2022.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of inappropriate Uses in Residential Areas, as the existing rear access to communal garden has the potential to interfere with the amenity of other occupiers.

Assessment

At the meeting on 14 September 2022, the LRB had been provided with copies of the notice of review submitted by you including a request that the review proceed on the

basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01, Scheme 1 being the drawings shown under the application reference number 22/01089/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it to determine the review.

The LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan, principally:

Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
Local Development Plan Policy Env 1 (World Heritage Sites)
Local Development Plan Policy Env 3 (Listed Buildings – Setting)
Local Development Plan Policy – Env 4 (Listed Buildings - Alterations and Extensions)
Local Development Plan Policy -Env 6 (Conservation Areas – Development)
Local Development Plan Policy Tra 2 (Private Car Parking)
Local Development Plan Policy Tra 3 (Private Cycle Parking)

- 2) Relevant Non-Statutory Guidelines.

Paragraph 29 of Scottish Planning Policy in terms of protecting the amenity of existing residents.
Guidance for Businesses
Guidance for Listed Building and Conservation Area
New Town Conservation Area Character Appraisal

- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether the impact on amenity on neighbours was of an excessively detrimental nature. The proposals for retrospective change of use from residential to short-term let apartment were in relation to the back door and access to the garden of a one-bedroom property. As there were no physical alterations to the property, LDP Policy Hou 7 and the potential impact on neighbouring amenity were the main concerns.

- Consideration should be given to amenity and access to the communal garden. As this was a short term let it would allow people to use that garden space alongside residents in the block.
- The new information indicated that the applicant could brick up the door, but this did not form part of the original proposal. The applicant had not yet applied to block up the door, but that was a possibility for the future.
- The Panel confirmed that they were happy to accept the new information.
- Clarification was requested on the two levels of the property and how access would take place.
- Regarding the two levels, there would be access from the pavement into the ground floor, there was a staircase that went to the lower basement level. There was a back door that went out onto the garden. The garden at the rear was on a lower level. There would be direct access to the garden from the kitchen.
- There was sympathy for the applicant as they had acted correctly by applying for a change of use and indicated that they were mindful of the impact. However, the policies should be applied and the officer's recommendations should be upheld.
- The applicant could bring back an application that included proposals to prevent access to the back garden.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB was of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Contact

Please contact Blair Ritchie on 0131 529 4085 or e-mail blair.ritchie@edinburgh.gov.uk if you have any queries about this letter.

Yours sincerely

Blair Ritchie

for the Clerk to the Review Body

Notes:

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to

the Court of Session. An application to the Court of Session must be made within six weeks of the date of the decision.

- 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 the 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 in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Ms Eve Worden.
Sciennes House Place
9 23 Craiglockhart Grove
Edinburgh
EH141ET

Decision date: 7 November 2022

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

Change residential one bedroom property into a self catering outlet (in retrospect).
At 1F1 9 Sciennes House Place Edinburgh EH9 1NN

Application No: 22/03018/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 21 July 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;

Conditions:-

Reasons:-

1. The proposal is contrary to LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

Drawings 01-03, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the character or appearance of the conservation area.

However, the proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP Policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

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 Stephanie Fraser directly at stephanie.fraser@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.

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Report of Handling

Application for Planning Permission
1F1 9 Sciennes House Place, Edinburgh, EH9 1NN

Proposal: Change residential one bedroom property into a self catering outlet (in retrospect).

Item – Local Delegated Decision
Application Number – 22/03018/FUL
Ward – B15 - Southside/Newington

Recommendation

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

Summary

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the character or appearance of the conservation area.

However, the proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP Policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application refers to a first floor flat within a 4-storey tenement, accessed through a shared communal stair. The property comprises one bedroom, a living room/dining room, kitchen and shower room. There is also a shared communal courtyard garden to the rear.

The property is located in the mixed use area of Newington on a predominantly residential street. To the East, the property is in close proximity to the amenities on Casewayside including a range of shops, restaurants and cafes. The site is in close proximity to the city centre and is easily accessible by public transport links.

The site is located within the Southside Conservation Area.

Description Of The Proposal

The application is for the change of use (in retrospect) from a residential one bedroom property into a short term let (STL) (sui generis).

Relevant Site History

No relevant site history.

Other Relevant Site History

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 7 November 2022

Date of Advertisement: 29 July 2022

Date of Site Notice: 29 July 2022

Number of Contributors: 5

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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the character or appearance of the conservation area?

The following HES guidance is relevant in the determination of this application:

- *Managing Change - Conservation Areas*

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

There are no external changes proposed. Therefore, there will be no adverse impact on the character or appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal has regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is 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?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment Policy Env 6
- 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 Policy Env 6.

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering Policy Hou 7.

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal complies with LDP Policy Env 6.

Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP).

The main policy that is applicable to the assessment of STLs is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a STL:

- 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.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of SVCA properties, the economic benefits are a material planning consideration.

The property is accessed through a communal stair and is located on Sciennes House Place which is a predominantly residential street. The use of the property as a short term let would likely introduce an increased frequency of movement to the street and stairwell at unsociable hours. This will result in direct interaction between users of the short term letting accommodation and long term residents of the neighbouring residential properties. There is also a communal garden associated with the property which creates further opportunities for disturbance. The proposed one bedroom short stay use would enable two related or unrelated 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 also 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 than long standing residents. This would be significantly different from the ambient background noise that residents might reasonably expect. The location of the property being within an enclosed stairwell creates a situation where such a use would instead bring additional noise and disturbance immediately outside the other properties in the stair as well as in the residential street and the communal garden. This could also pose a risk to security for other residents.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

Anti-social behaviour such as noise disturbance can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP Policy Hou 7.

Parking standards

There is no vehicle parking and no cycle parking associated with the property. This is acceptable in this location and there is no requirement for cycle parking for short term lets. Bicycles could be stored within the property if required.

The proposals comply with Policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that outweigh this conclusion.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little 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

Five objections have been received.

A summary of the representations is provided below:

material considerations

- Negative impact on residential amenity (noise, disturbance, security). Addressed in b) above.
- Not in accordance with policy Hou 7. Addressed in b) above.
- Not in accordance with SPP policies on Socially Sustainable Places and Supporting Delivery of Accessible Housing. Addressed in c) above.
- Does not respect the special characteristics of the listed building and conservation area. The property to which the application refers is not listed and the impact on conservation area has been addressed in a) above.
- Shared stair tenement flats not suitable accommodation for tourists. Addressed in b) above.
- Contributes to congestion. Parking standards have been addressed in b) above.

non-material considerations

- Negative impact on core maintenance of communal areas. This is not a material planning consideration.
- STLs drive up city centre property prices. This is a commercial consideration not covered by planning policy.
- Proposals contradict with policies Des 1, Des 5 and Env 4. These are not relevant LDP policies in the consideration of this application.
- Not in accordance with SG Housing policy on More Homes. The application has to be assessed against the Strategic and Local Development Plans.
- Negative impact on general housing supply. This is not a material consideration under the current LDP. While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.
- Water ingress from the property. This is not a material planning consideration and is controlled by building standards.
- Unsightly key boxes at entrance. This is not a material planning consideration.

Conclusion in relation to identified material considerations

These have been addressed.

Overall conclusion

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the character or appearance of the conservation area.

However, the proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with LDP Policy Hou 7 or with the objectives of SPP, as it will not contribute towards sustainable development. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 21 July 2022

Drawing Numbers/Scheme

01-03

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Stephanie Fraser, Assistant Planning Officer
E-mail: stephanie.fraser@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Comments for Planning Application 22/03018/FUL

Application Summary

Application Number: 22/03018/FUL

Address: 1F1 9 Sciennes House Place Edinburgh EH9 1NN

Proposal: Change residential one bedroom property into a self catering outlet (in retrospect).

Case Officer: Local1 Team

Customer Details

Name: Mrs Fiona Dodds

Address: 34 Lauder Road Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We own the flat below and we object to a self catering flat above. Too much disturbance and noise. We understand that the council is preventing such applications and we agree. We have already had water ingress from the flat above and self catering will only aggravate the problem.

Comments for Planning Application 22/03018/FUL

Application Summary

Application Number: 22/03018/FUL

Address: 1F1 9 Sciennes House Place Edinburgh EH9 1NN

Proposal: Change residential one bedroom property into a self catering outlet (in retrospect).

Case Officer: Local1 Team

Customer Details

Name: Lord Cockburn Association

Address: 1 Trunks Close, 55 High Street, Edinburgh EH1 1SR

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Cockburn has studied this application and would wish to lodge a formal objection to it.

It is our view that in this residential shared stair context the proposed change of use is not in accordance with Policy Housing 7 'Inappropriate Uses in Residential Areas' as it would have a materially detrimental effect on the living conditions of other residents of the main door accessed residential stair, and so should not be permitted.

In addition, the proposed change of use is not supportive of either Scottish Government Housing policy on More homes - "everyone has a quality home that they can afford and that meets their needs" or Scottish Planning Policy on "socially sustainable places" and "supporting delivery of accessible housing".

Comments for Planning Application 22/03018/FUL

Application Summary

Application Number: 22/03018/FUL

Address: 1F1 9 Sciennes House Place Edinburgh EH9 1NN

Proposal: Change residential one bedroom property into a self catering outlet (in retrospect).

Case Officer: Local1 Team

Customer Details

Name: Mr IAN FORREST

Address: 31 Adelphi Place Edinburgh Edinburgh

Comment Details

Commenter Type: Other

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:WHILST NOT AGAINST AIR BnB PER SE, IN THIS INSTANCE, DUE TO THE NATURE OF THE COMMUNAL ENTRANCE (7 & 9) TO A SMALL COURTYARD TO THE REAR, I FEAR IT WOULD HAVE POTENTIAL FOR DISTURBING THE NEIGHBOURING RESIDENTS (ENTRYPHONE CALLS AT NO. 7, SHORT TERM VISITORS LEAVING THE SECURITY DOOR OPEN, ABUSE OF THE COMMUNAL COURTYARD GARDEN AND INCREASED SECURITY RISKS IN NO.7). THE 8 FLATS IN SECLUDED NO.9 AT THE REAR OF THE COURTYARD WHERE THIS WOULD BE SET WOULD BE SUBJECT TO UNKNOWN VISITORS ON A REGULAR BASIS THUS INCREASING SECURITY ISSUES.

Comments for Planning Application 22/03018/FUL

Application Summary

Application Number: 22/03018/FUL

Address: 1F1 9 Sciennes House Place Edinburgh EH9 1NN

Proposal: Change residential one bedroom property into a self catering outlet (in retrospect).

Case Officer: Local1 Team

Customer Details

Name: Mr Stuart Swanston

Address: 7/9 Sciennes House Place Edinburgh

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the proposed application for a change of use of 9 Sciennes House Place, EH9 1NN from residential to a self catering / holiday letting business because....

- 1) There should be a presumption against such holiday flats operating on common stair;
- 2) The main door to the close and stairs of 7 & 9 Sciennes House Place serves 19 flats and given the weekly or bi weekly changing identities of holiday guests staying in one self catering flat over a year it would be very difficult for the full time residents to tell who had and who had not any business to be in the close or on the stairs by way of looking out for the security of our own and neighbouring flats.
- 3) When the flat at 7/4 Sciennes House Place was being used as an AirBnB its guests would sometimes ring my bell (and presumably those of other neighbours) seeking access to the stair because they had forgotten which flat they were staying in.
- 4) The holiday tenants at that same flat had BBQs and drinks parties in our wee back green (which is overlooked by over fifty flats) until the early hours of the morning and until daylight in one case.
- 5) At one time there were three AirBnB key boxes fixed to the stonework of the western reveal of the architrave of the door to the common close and stairs of 7 & 9 Sciennes House Place. The building is listed and no listed building consent had been sought or granted for those unsightly black metal AirBnB key boxes.
- 6) The railings of the Jewish Burial Ground opposite were also desecrated by a big black padlock

type of AirBnB keybox being fitted to them.

7) Tenement flats are not suitable accommodation for tourists unless they are custom built with on site reception, concierge and maintenance services because tourists do not understand the common courtesies which make tenement living bearable for each other. I know this because I worked as a concierge for fifteen years in a custom conversion of offices into thirty self catering flats at 2 York Buildings on Queen Street, Edinburgh and I am not against the concept of holiday flats as such. They just should not be on stairs with full time residents. I enjoyed working as a concierge at that block of holiday flats but I did not enjoy being treated like an unpaid concierge by the guests of a holiday flat on my own stair.

8) AirBnB -type holiday flats in tenements reduce the accommodation in the city centre for full time residents whether owner occupiers or full time tenants.

9) The higher margins enjoyed by owners of self catering flats over the owners of buy to let flats drives up city centre property prices for flats in tenement buildings, reduces the supply of flats for owner occupiers and full time tenants and drives up rents for full time residents.

10) Edinburgh works and is attractive to tourists because so many of the people who work in the city centre are able to live within walking, cycling and short bus rides from their places of work. Reducing the supply of flats for full time residents to favour more self catering flats is damaging to the civic life of the city.

The proposed change of use should be refused.

Comments for Planning Application 22/03018/FUL

Application Summary

Application Number: 22/03018/FUL

Address: 1F1 9 Sciennes House Place Edinburgh EH9 1NN

Proposal: Change residential one bedroom property into a self catering outlet (in retrospect).

Case Officer: Local1 Team

Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined the proposals for the change of use to short-term let in a B-listed tenement within the Grange Conservation Area, and objects.

- 1) The proposals only relate to one property within the tenement, which is accessed from a shared stair. This would have a detrimental impact on the residential amenity of neighbouring properties, and limits the future of the flats not included within the application.
- 2) The change of use would contribute to the unsustainable growth of the short term let (STL) sector in Edinburgh. The economic benefits of tourism for Edinburgh are clear, and we celebrate the role that our architectural heritage plays in this sector. However, the current rising rate of STLs threatens the sense of place and community which are part of the city's attraction.
- 3) Scottish Government Research has highlighted the links between STLs and the negative impacts of reduced availability of affordable housing, congestion and reduced quality of life through noise and disturbance (People, Communities and Places, October 2019, pp. iv-v)
- 4) With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is diminished by the increase of short-term occupants.

The change of use does not respect the special characteristics of history and place reflected in the building's designation and location in the Conservation Area, and would increase the negative impacts caused by the growth of STLs in Edinburgh.

The proposals contradict Edinburgh Council's Local Development Plan policies DES1 (Sense of place), DES5 (amenity of neighbours/refuse and recycling facilities), ENV 4 (Risk of unnecessary damage to historic structures), and HOU7 (Materially detrimental effect on the living conditions of nearby residents). We therefore object to the application.

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Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100616228-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Applicant Details

Please enter Applicant details

<p>Title: <input type="text" value="Ms"/></p> <p>Other Title: <input type="text"/></p> <p>First Name: * <input type="text" value="Eve"/></p> <p>Last Name: * <input type="text" value="Worden"/></p> <p>Company/Organisation <input type="text"/></p> <p>Telephone Number: * <input type="text" value="██████████"/></p> <p>Extension Number: <input type="text"/></p> <p>Mobile Number: <input type="text"/></p> <p>Fax Number: <input type="text"/></p> <p>Email Address: * <input type="text" value="████████████████████"/></p>	<p>You must enter a Building Name or Number, or both: *</p> <p>Building Name: <input type="text" value="Sciennes House Place"/></p> <p>Building Number: <input type="text" value="9"/></p> <p>Address 1 (Street): * <input type="text" value="23 Craiglockhart Grove"/></p> <p>Address 2: <input type="text"/></p> <p>Town/City: * <input type="text" value="Edinburgh"/></p> <p>Country: * <input type="text" value="Edinburgh City"/></p> <p>Postcode: * <input type="text" value="EH141ET"/></p>
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Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

1F1

Address 2:

9 SCIENNES HOUSE PLACE

Address 3:

SCIENNES

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH9 1NN

Please identify/describe the location of the site or sites

Northing

672289

Easting

326274

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

I am appealing the decision made by the planning department which refused my planning application to operate as a self catering business.

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

I have invested heavily in the Capital Outlay (sheets, towels, soap dispensers, safety equipment to name but a few) as well as refurbishment, including new windows, new kitchens, new bathrooms and central heating in all properties as well as refurbishment throughout for the purpose of running them as Self Catering Outlets (I have documentation to this effect). Further appeal information in supporting documentation

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

I feel that the decision is unjustified and have written my explanation in the supporting uploaded documentation.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Uploaded in word doc

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/03018/FUL

What date was the application submitted to the planning authority? *

07/11/2022

What date was the decision issued by the planning authority? *

07/11/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ms Eve Worden

Declaration Date: 02/02/2023

Appeal Planning Permission

This is a continuation of my appeal as the wizard form only allows you 500 words. Appeal Cont...

This is my main business and I employ a local cleaner, use local shops to stock self catering goods and use a local dry cleaners for all our laundry.

I applied recently for planning permission for my property '9 Sciennes House Place' to be changed into a self catering outlet (Application No: 22/03018/FUL) and was refused.

I would like to point out that I had to apply 'In retrospect' even though I had already applied to become a self catering outlet through the council a number of years ago and was already a successful, established and legitimate business, paying business rates etc.

I have invested heavily in the Capital Outlay and refurbishment of the property for the purpose of running it as a self catering business (including new kitchen, bathroom, windows, boiler, towels sheets, to name a few).

I have tried to ensure that property is well maintained from both the inside and out - it has a smart new front door, welcome mat, foliage and brand new interiors as stated above. Additionally, I set up a residents WhatsApp group to improve cleanliness and communication, as well as recently liaising directly with a local establishment regarding early morning noise pollution. I also put up 'no smoking' signage (people have been dropping cigarettes in the courtyard) to help improve the pleasantness of the building for all. This is quite the opposite to 'causing materially detrimental effect on the living conditions and amenity of nearby residents'.

There were a small number (I believe 5 residents) who objected to my application.

My property is a small one bedroom apartment and it is usually only two people who stay and I have found guests to be respectful of my property and of residents. I have notices in my property asking guests to be respectful (due to the fact the area is residential) and have had no problems over the years.

While I understand the need for security within a building, I would like to point out that the self catering platform we use vets all its guests/checks passports to ensure there is a level of safety of regarding guests.

I would also like to clarify I have never disrespected the graveyard opposite the property (as stated by one objector) by putting up lockboxes. I did however, before starting up the business contact the planning department to ask if planning permission was needed to put a lock box at the entry to the property and was told that it was not required. I alternately, decided to use a Key Nest at a local newsagents, as I was aware a disgruntled resident had been vandalising (putting glue in) current lock boxes (thus making it impossible to remove them from the building).

One of the comments made by a resident was something to do with a noisy BBQ in the courtyard, I would like to state this was absolutely nothing to do with my guests. Another pointed out that they had had a leak from our property which is above theirs (we have also had leaks twice from the flat above us) and I want to state that this has nothing to do with the property being a self catering unit. Any leaks would be picked up quickly by either myself or my cleaner who go into the property on a regular basis. I am also in contact regularly with the guest during their stay and any issues would be dealt with promptly.

I have spent a number of years building up this business and I am astounded that Edinburgh Council is able to basically shut down a small business with such a blanket approach. Whilst I understand the requirement for rental accommodation due to shortages within the Capital, self catering outlets are just one of the factors which have contributed to this and the approach that Edinburgh Council has taken in my opinion is wholly unfair to small business individuals such as

myself. The people who will benefit from our loss will be people with main door properties (who are likely to be more affluent) and big national hotel chains.

I love selling The City of Edinburgh and providing tourists with local recommendations for food and things to do. I believe it is a unique experience, where tourists stay in small neighbourhoods where they would not normally visit and in turn that area benefits from this tourist revenue.

I have spent nearly £1,000 on this planning application (including planing location and site plans) and this combined with my loss of capital outlay, refurbishment costs and also the future loss of income is a devastating blow especially following a very difficult period over covid.

Subsequent to applying for planning permission, I learnt that it is EXTREMELY unlikely that anyone currently running a self catering outlet in a residential area (which has shared access) will be granted permission. It seems that all shared tenement properties in Edinburgh automatically fall under The council's "Development Plan"/SSP (Scottish Planning Policy).

Why therefore have the planning department not informed people on application that this would be the case before allowing them to go ahead wasting such a lot of time and money!

I do not believe that my Self Catering Outlet is having 'material detrimental affects on the living conditions and amenity of nearby residents '-

Policy Hou 7 also states the policy is 'firstly, to preclude the introduction or intensification of non residential uses incompatible with predominately residential areas' and unless my property was a new self catering outlet, how could it cause 'further deterioration of living conditions?

Moreover, I was keen to ensure we could continue to run the business, so I was very prompt at applying for planning permission, and will therefore, (as I have been refused) have to shut my business down early. Whereas other businesses who are now waiting until the last minute to apply for planning permission (due to the 6 month extension from the government) will be able to run their business for longer, thus making as much money as they can before they are shut down.

I am angered at the way Edinburgh Council has dealt with this issue. I would have understood if Edinburgh Council had taken a more measured approach to the management of self outlets in The Capital, such as as potentially putting a cap on the number of self catering units, or the amount per individual , or at least allowing existing businesses to remain in operation.

I am sure this appeal will not be granted, but I hope this appeal goes some way to explaining how small self catering businesses are being treated by the City of Edinburgh Council.

is relevant in this respect. However, there is a current lack of information on the scale of such requirements and how they should be addressed. Whilst it may be appropriate to seek contributions for such provision any requirement would need to be considered on a case by case basis where a clear justification can be provided in the context of Circular 3/2012. The feasibility of including such additional contributions and the impact on development viability would also have to be assessed.

Area Specific Policies - Opportunities for major mixed use development/regeneration

146 Policies Del 2 - Del 4 will guide development in three major regeneration areas, the City Centre, Edinburgh Waterfront and Edinburgh Park/South Gyle. These policies aim to ensure that development and regeneration proposals incorporate an appropriate mix of uses consistent with the character of the wider area and its role in meeting the objectives of the plan.

Policy Del 2 City Centre

Development which lies within the area of the City Centre as shown on the Proposals Map will be permitted which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city. The requirements in principle will be for:

- a) comprehensively designed proposals which maximise the potential of the site in accordance with any relevant development principles, development brief and/or other guidance
- b) a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area.
- c) Where practicable, major mixed use developments should provide offices,

particularly on upper floors. At street level, other uses may be more appropriate to maintain city centre diversity, especially retail vitality on important shopping frontages

- d) the creation of new civic spaces and traffic-free pedestrian routes where achievable.

Housing as part of mixed use development will be encouraged on appropriate sites to help meet housing need and create strong, sustainable communities.

147 This policy guides development in the City Centre to ensure proposals provide an appropriate mix of uses and are of a high quality of design taking account of the characteristics of the historic environment. Given the demand for office space in the City Centre and the importance of office jobs to the economy, the policy requires office provision to be included in major mixed use development proposals wherever possible. Development principles for the Fountainbridge, Edinburgh St James and New Street sites are provided in Table 10 (Part 1 Section 5).

Policy Del 3 Edinburgh Waterfront

Planning permission will be granted for development which will contribute towards the creation of new urban quarters at Leith Waterfront and Granton Waterfront (specifically EW 1a, b & c and EW 2 a -d on the Proposals Map). The requirements in principle will be for:

- a) comprehensively designed proposals which maximise the development potential of the area
- b) the provision of a series of mixed use sustainable neighbourhoods that connect to the waterfront, with each other and with nearby neighbourhoods
- c) proposals for a mix of house types, sizes and affordability
- d) the provision of open space in order to meet the needs of the local community, create local identity and a sense of place

- e) the provision of local retail facilities and leisure and tourism attractions, including water related recreation in and around retained harbours
- f) transport measures agreed with the Council, including a contribution to the proposed tram network and other necessary public transport improvements, the eastwards extension of Ocean Drive and the provision of a network of paths for pedestrians and cyclists, including an east-west path that will form part of the city-wide coastal promenade (safeguarded routes for these are shown on the Proposals Map).

In Seafield and Leith's northern and eastern docks (EW 1d and e), planning permission will be granted for industrial and port-related development and compatible uses provided it complies with other relevant policies in this plan.

Development should accord with the Leith Waterfront or Granton Waterfront Development Principles.

¹⁴⁸ The purpose of this policy is to ensure the regeneration of Edinburgh's Waterfront comes forward in a planned manner within the context of a long term vision. It sets out key development principles to guide housing led regeneration on large parts of the site, with more detailed guidance provided in the relevant site briefs. The policy also recognises that some parts of the Waterfront will remain in business and industrial uses. Development Principles for Leith Waterfront and Granton Waterfront are set out in Table 11 (Part 1 Section 5).

Policy Del 4 Edinburgh Park/South Gyle

Within the boundary of Edinburgh Park/South Gyle as shown on the Proposals Map, planning permission will be granted for development which maintains the strategic employment role of the area and also introduces a wider mix of uses. The requirements in principle will be for;

- a) comprehensively designed proposals which maximise the development potential of the area
- b) development for office and other business uses as part of mixed use proposals
- c) housing as a component of business-led mixed use proposals
- d) the creation of a new commercial hub adjacent to Edinburgh Park Station
- e) additional leisure and community uses at Gyle shopping centre
- f) an extension of the existing green space corridor (known as the Lochans) space
- g) improved pedestrian and cycle links through the site and to provide strong, safe connections with services and facilities in the surrounding area

Development should accord with the Edinburgh Park/South Gyle Development Principles.

¹⁴⁹ This policy aims to promote a better mix of uses in Edinburgh Park/South Gyle and still retain its important role as a strategic business location. The vision is to change the character of the Edinburgh Park/South Gyle area over time from a business dominated environment with limited evening and weekend activity to a thriving mixed use and well integrated part of the city. The Edinburgh Park/South Gyle Development Principles set out in Part 1 Section 5 provide guidance on how development can help deliver the long term vision for this area.

Policy Des 11 Tall Buildings – Skyline and Key Views

Planning permission will only be granted for development which rises above the building height prevailing generally in the surrounding area where:

- a) a landmark is to be created that enhances the skyline and surrounding townscape and is justified by the proposed use
- b) the scale of the building is appropriate in its context
- c) there would be no adverse impact on important views of landmark buildings, the historic skyline, landscape features in the urban area or the landscape setting of the city, including the Firth of Forth.

166 Proposals for development that would be conspicuous in iconic views of the city will be subject to special scrutiny. This is necessary to protect some of the city's most striking visual characteristics, the views available from many vantage points within the city and beyond, of landmark buildings, the city's historic skyline, undeveloped hillsides within the urban area and the hills, open countryside and the Firth of Forth which create a unique landscape setting for the city. In addition, the height of new buildings may need to be suppressed where necessary so that the city's topography and valley features continue to be reflected in roofscapes. This policy will play an important role in protecting the setting of the World Heritage Sites.

167 A study undertaken for the Council identifies key public viewpoints and is used in assessing proposals for high buildings. Further advice is provided in Council guidance.

Policy Des 12 Alterations and Extensions

Planning permission will be granted for alterations and extensions to existing buildings which:

- a) in their design and form, choice of materials and positioning are compatible with the character of the existing building
- b) will not result in an unreasonable loss of privacy or natural light to neighbouring properties
- c) will not be detrimental to neighbourhood amenity and character

168 Every change to a building, street or space has the potential to enrich or, if poorly designed, impoverish a part of the public realm. The impact of a proposal on the appearance and character of the existing building and street scene generally must be satisfactory and there should be no unreasonable loss of amenity and privacy for immediate neighbours.

Policy Des 13 Shopfronts

Planning permission will be granted for alterations to shopfronts which are improvements on what already exists and relate sensitively and harmoniously to the building as a whole. Particular care will be taken over proposals for the installation of illuminated advertising panels and projecting signs, blinds, canopies, security grills and shutters to avoid harm to the visual amenity of shopping streets or the character of historic environments.

169 Shopfront design, shop designs and shopfront advertising play an important role in the visual environment of the city. Important traditional or original features on older buildings, such as stall risers, fascias and structural framing of entrances and shop windows, should be retained and incorporated into the design. In conservation areas and on listed buildings, design and materials used will be expected to be of a high standard, and not damaging to existing fabric of buildings or wider character. Detailed advice on shopfronts is provided in Council guidance.

3 Caring for the Environment

170 Protection of the historic and natural environment for the benefit of future generations is an important role of the planning system. The purpose and context of Edinburgh's most important environmental designations including the World Heritage Site, Conservation Areas and Green Belt are explained in Part 1 of the plan. Policies Env 1 – Env 22 will be used in assessing planning applications to meet the following objectives;

Objectives

- To ensure that the unique qualities of the city, its historic environment and the character of its urban areas are safeguarded for the future
- To protect important landscape and natural features of the environment, including the city's Green Belt setting
- To protect and enhance the nature conservation and biodiversity interest of the city
- To protect natural resources



The Historic Environment

171 Policies Env 1 – Env 6 will be used to assess proposals affecting Edinburgh's world heritage sites, conservation areas and listed buildings. The Council's guidance on Conservation Areas and Listed Buildings provide further advice. Policy Env 7 relates to historic landscapes and policies Env 8 and 9 cover archaeological resources.

Policy Env 1 World Heritage Sites

Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

172 This policy requires development to respect and protect the outstanding universal values of the World Heritage Sites and their settings. Setting may include sites in the immediate vicinity, viewpoints identified in the key views study and prominent landscape features throughout the city.

Policy Env 2 Listed Buildings - Demolition

Proposals for the total or substantial demolition of a listed building will only be supported in exceptional circumstances, taking into account:

- a) the condition of the building and the cost of repairing and maintaining it in relation to its importance and to the value to be derived from its continued use
- b) the adequacy of efforts to retain the building in, or adapt it to, a use that will safeguard its future, including its marketing at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.
- c) the merits of alternative proposals for the site and whether the public benefits to be derived from allowing demolition outweigh the loss.

Development within a conservation area or affecting its setting will be permitted which:

- a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal
- b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and
- c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

Planning applications should be submitted in a sufficiently detailed form for the effect of the development proposal on the character and appearance of the area to be assessed.

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Policy Env 3 Listed Buildings - Setting

Development within the curtilage or affecting the setting of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

Policy Env 4 Listed Buildings – Alterations and Extensions

Proposals to alter or extend a listed building will be permitted where

- a) those alterations or extensions are justified;
- b) there will be no unnecessary damage to historic structures or diminution of its interest; and
- c) where any additions are in keeping with other parts of the building.

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¹⁷³ In determining applications for planning permission or listed building consent, the Council is required to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest that it possesses. Applications for the demolition or substantial alteration of a listed building must be accompanied by a thorough structural condition report demonstrating that the proposals are necessary or justified. Information must be provided on the proposed replacement building; these should be of comparable quality in terms of construction and design. The loss of a listed building will only be justified in exceptional circumstances. Scottish Historic Environment Policy (SHEP) and Council guidance provide further advice for applications relating to Listed Buildings.

Policy Env 5 Conservation Areas – Demolition of Buildings

Proposals for the demolition of an unlisted building within a conservation area but which is considered to make a positive contribution to the character of the area will only be permitted in exceptional circumstances and after taking into account the considerations set out in Policy Env 2 above.

Proposals for the demolition of any building within a conservation area, whether listed or not, will not normally be permitted unless a detailed planning application is approved for a replacement building which enhances or preserves the character of the area or, if acceptable, for the landscaping of the site.

Policy Env 6 Conservation Areas - Development

Development within a conservation area or affecting its setting will be permitted which:

- a) preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal
- b) preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area and
- c) demonstrates high standards of design and utilises materials appropriate to the historic environment.

Planning applications should be submitted in a sufficiently detailed form for the effect of the development proposal on the character and appearance of the area to be assessed.

¹⁷⁴ The purpose of the above policies is to protect and, where possible, enhance the character and appearance of Edinburgh's many conservation areas. By controlling the demolition of buildings and ensuring new development is of appropriate design and quality, their aim is to protect the City's heritage for future generations.

¹⁷⁵ Applications for demolition will be permitted only where this does not erode the character and appearance of the conservation area. The general presumption will be in favour of retaining buildings that make a positive contribution to the conservation area, particularly where it can be demonstrated that the building is able to support a new viable use, or might be capable of such in the future. Conservation Area Consent may be subject to conditions or a legal agreement to link demolition works to the

provision of the proposed replacement building or, in exceptional circumstances, to require temporary landscaping.

- 176 Design statements are required for new developments in a conservation area. This statement should include reference to the relevant Conservation Area Character Appraisal and Council guidance on Conservation Areas and Listed Buildings and show how these have informed the proposed design.

Policy Env 7 Historic Gardens and Designed Landscapes

Development will only be permitted where there is no detrimental impact on the character of a site recorded in the Inventory of Gardens and Designed Landscapes, adverse effects on its setting or upon component features which contribute to its value. Elsewhere, adverse effects on historic landscape features should be minimised. Restoration of Inventory sites and other historic landscape features is encouraged.

- 177 This policy aims to protect sites included in the national Inventory of Gardens and Designed Landscapes (shown on the Proposals Map) and other historic landscape features elsewhere across the Council area. An understanding of how the landscape has evolved can help inform a development proposal. A historical landscape appraisal may be requested from applicants to allow full assessment of the implications of development and identify restoration opportunities.

Policy Env 8 Protection of Important Remains

Development will not be permitted which would:

- a) adversely affect a scheduled monument or other nationally important archaeological remains, or the integrity of their setting
- b) damage or destroy non-designated archaeological remains which the Council considers should be preserved in situ.

Policy Env 9 Development of Sites of Archaeological Significance

Planning permission will be granted for development on sites of known or suspected archaeological significance if it can be concluded from information derived from a desk-based assessment and, if requested by the Council, a field evaluation, that either:

- a) no significant archaeological features are likely to be affected by the development or
- b) any significant archaeological features will be preserved in situ and, if necessary, in an appropriate setting with provision for public access and interpretation or
- c) the benefits of allowing the proposed development outweigh the importance of preserving the remains in situ. The applicant will then be required to make provision for archaeological excavation, recording, and analysis, and publication of the results before development starts, all to be in accordance with a programme of works agreed with the Council.

- 178 The objective of the above policies is to protect and enhance archaeological remains, where possible by preservation in situ in an appropriate setting. In some cases, depending on the nature of the remains and character of the site, the Council may require provision for public access and interpretation as part of the proposed development. When preservation in situ is not possible, recording and/or excavation followed by analysis and publication of the results will be required.

- 179 Developers should seek early advice from the Council's Archaeologist for sites where historic remains are known or thought likely to exist. Where a development may affect a scheduled monument or its setting, early contact should be made with Historic Environment Scotland.

Policy Hou 6 Affordable Housing

Planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. For proposals of 20 or more dwellings, the provision should normally be on-site. Whenever practical, the affordable housing should be integrated with the market housing.

- 230 Government policy states that where a shortage of affordable housing has been identified, this may be a material consideration for planning and should be addressed through local development plans.
- 231 Affordable housing is defined as housing that is available for rent or for sale to meet the needs of people who cannot afford to buy or rent the housing generally available on the open market. Affordable housing is important in ensuring that key workers can afford to live in the city as well as helping meet the needs of people on low incomes.
- 232 A key aim is that affordable housing should be integrated with market housing on the same site and should address the full range of housing need, including family housing where appropriate. Provision on an alternative site may be acceptable where the housing proposal is for less than 20 units or if there are exceptional circumstances. Where planning permission is sought for specialist housing an affordable housing contribution may not always be required depending on the nature of the specialist housing being proposed and economic viability considerations.
- 233 Further information on affordable housing requirements is provided in planning guidance. The details of provision, which will reflect housing need and individual site suitability, will be a matter for agreement between the developer and the Council.

Policy Hou 7 Inappropriate Uses in Residential Areas

Developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

- 234 The intention of the policy is firstly, to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation (i.e. for five or more people). Further advice is set out in Council Guidance

Policy Hou 8 Student Accommodation

Planning permission will be granted for purpose-built student accommodation where:

- a) The location is appropriate in terms of access to university and college facilities by walking, cycling or public transport
 - b) The proposal will not result in an excessive concentration of student accommodation (including that in the private rented sector) to an extent that would be detrimental to the maintenance of balanced communities or to the established character and residential amenity of the locality.
- 235 It is preferable in principle that student needs are met as far as possible in purpose-built and managed schemes rather than the widespread conversion of family

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taken to mitigate any adverse effects on networks and bring accessibility by and use of non-car modes up to acceptable levels if necessary.

271 The policy applies to major offices, retail, entertainment, sport and leisure uses and other non-residential developments which generate a large number of journeys by employees and other visitors. These developments should be accessible by a choice of means of transport which offer real alternatives to the car. For this reason, a location in the City Centre will normally be preferable. Major travel generating developments will also be encouraged to locate in the identified town centres and employment centres, provided that the scale and nature of the development is such that it can be reached conveniently by a majority of the population in its catchment area by walking, cycling or frequent public transport services.

272 Out-of-centre development will only be acceptable where it can clearly be demonstrated that the location is suitable, and that access by sustainable forms of transport and car parking provision and pricing mean that the development will be no more reliant on car use than a town centre location. This means that good public transport, walking and cycling accessibility will still need to be assured.

273 Applications should be accompanied by travel plans to demonstrate how development, particularly in out of centre locations, will meet the requirements of Policy Tra 1. Travel plans should accord with Scottish Government guidance and will be monitored to assess their impact on reducing demand for car travel and maximising use of existing and new transport infrastructure. Travel plans may also be relevant when assessing residential applications in terms of Policy Hou 4 Housing Density or Policy Tra 2 Private Car Parking.

Car and Cycle Parking

Policy Tra 2 Private Car Parking

Planning permission will be granted for development where proposed car parking provision complies with and does not exceed the parking levels set out in Council guidance. Lower provision will be pursued subject to consideration of the following factors:

- a) whether, in the case of non-residential developments, the applicant has demonstrated through a travel plan that practical measures can be undertaken to significantly reduce the use of private cars to travel to and from the site
- b) whether there will be any adverse impact on the amenity of neighbouring occupiers, particularly residential occupiers through on-street parking around the site and whether any adverse impacts can be mitigated through control of on-street parking
- c) the accessibility of the site to public transport stops on routes well served by public transport, and to shops, schools and centres of employment by foot, cycle and public transport
- d) the availability of existing off-street parking spaces that could adequately cater for the proposed development
- e) whether the characteristics of the proposed use are such that car ownership and use by potential occupiers will be low, such as purpose-built sheltered or student housing and 'car free' or 'car reduced' housing developments and others providing car sharing arrangements
- f) whether complementary measures can be put in place to make it more convenient for residents not to own a car, for example car sharing or pooling arrangements, including access to the city's car club scheme.

274 The purpose of this policy is to ensure car parking provided as part of development proposals accords with the Council standards which are tailored to local circumstances, including location, public transport accessibility and economic needs, but generally fulfil the wider strategy of encouraging sustainable, non-car modes. The standards express the maximum amount of car parking that different types of development may provide.

275 The policy sets out the circumstances in which a lesser amount of car parking than the standards require may be appropriate to help reduce car use. This is only likely to be acceptable in locations where there are existing or planned on-street parking controls.

276 At least half the space saved by omitting or reducing car parking should be given over to landscape features and additional private open space (see Policy Hou 3), so that residents will have the amenity benefits of a car-free environment.

Policy Tra 3 Private Cycle Parking

Planning permission will be granted for development where proposed cycle parking and storage provision complies with the standards set out in Council guidance.

277 The provision of adequate cycle parking and storage facilities is important in meeting the objective of the Local Transport Strategy to increase the proportion of journeys made by bicycle. The Council's parking standards set out the required levels of provision of cycle parking and storage facilities in housing developments and a range of non-residential developments.

Policy Tra 4 Design of Off-Street Car and Cycle Parking

Where off-street car parking provision is required or considered to be acceptable, the following design considerations will be taken into account:

a) surface car parks should not be located in front of buildings where the building would otherwise create an active frontage onto a public space or street, and

main entrances to buildings should be located as close as practical to the main site entrance

- b) car parking should preferably be provided at basement level within a building and not at ground or street level where this would be at the expense of an active frontage onto a public street, public space or private open space
- c) the design of surface car parks should include structural planting to minimise visual impact
- d) the design of surface car parking or entrances to car parking in buildings should not compromise pedestrian safety and should assist their safe movement to and from parked cars, for example, by the provision of marked walkways.
- e) Space should be provided for small-scale community recycling facilities in the car parking area in appropriate development, such as large retail developments.

Cycle parking should be provided closer to building entrances than general car parking spaces and be designed in accordance with the standards set out in Council guidance.

278 This policy sets out important design considerations for car and cycle parking provision including environmental quality, pedestrian safety and security. Poorly located or designed car parking can detract from the visual appearance and vitality of the surrounding area. Car parking in front of supermarkets which widely separates entrances from main roads, is an added discouragement to public transport use and walking, and detracts from urban vitality and safety. A high standard of design for surface car parking will be sought, with landscaping to soften its visual impact, and in larger car parks the provision of marked walkways for ease of pedestrian movement and safety. New off-street car parking provides an opportunity to expand the city's network of small recycling points to complement larger community recycling centres. Provision of well located high quality cycle parking suitable to the type of development and to users is an essential component of the Council's efforts to encourage cycling.

Guidance for Businesses

Page 583

March 2018

Agenda Item 9.1

Guidance for Businesses



Who is this guidance for?

This guidance is intended to assist businesses in preparing applications to change the use of a property or carry out alterations to a business premises.



Policy Context

This document interprets policies in the *Edinburgh Local Development Plan*. Relevant policies are noted in each section and should be considered alongside this document.



Business Gateway

Business Gateway offers businesses free practical help and guidance. Whether you're starting up or already running a business, and provide access to business support and information services.

To get more information on help for your business, or to book an appointment with our experienced business advisers please contact our Edinburgh office.

Contact details:

Business Gateway (Edinburgh Office)
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG
Tel: 0131 529 6644

Email: bglothian@bgateway.com

www.bgateway.com

This guidance was initially approved in December 2012 and incorporates additional text on short term commercial visitor accommodation approved in February 2013, and minor amendments approved in February 2014, February 2016 and March 2018.

Cover image courtesy of Edinburgh World Heritage.

Misc: Student Housing, Radio Telecommunications, Open Space Strategy etc.

This document and other non-statutory guidance can be viewed at: www.edinburgh.gov.uk/planningguidelines

Listed Buildings and Conservation Areas

If the building is listed or located within a Conservation Area, guidance on *Listed Buildings and Conservation Areas* must also be considered. Boxes throughout this guideline give specific information relating to Listed Buildings and Conservation Areas. You can check if your property is listed or located within a conservation area on the Council's website www.edinburgh.gov.uk/planning

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Do I need Planning Permission?

Planning Permission

Planning permission is required for many alterations, and changes of use. However, some work can be carried out without planning permission; this is referred to as 'permitted development'. Permitted development is set out in legislation.

Common enquiries are set out in the relevant chapters of this document.

If you believe your building work is 'permitted development', you can apply for a *Certificate of Lawfulness* to confirm that the development is lawful and can go ahead. This can be applied for online at www.eplanning.scot

What is a change of use?

Most properties are classified under categories known as a 'Use Class'. For example, shops are grouped under Class 1 and houses under Class 9. Some uses fall outwith these categories and are defined as 'sui generis', meaning 'of its own kind'. This is set out in The Use Classes (Scotland) Order 1997 (as amended).

Changing to a different use class is known as a change of use and may require planning permission, although some changes between use classes are allowed without planning permission. Planning permission is not required when both the present and proposed uses fall within the same 'class' unless there are specific restrictions imposed by the council. *The Scottish Government Circular 1/1998* contains guidance on use classes.

Listed Buildings and Conservation Areas

Fewer alterations are considered to be permitted development and most changes to the outside of a building, including changing the colour, require planning permission. More information on other consents which may be required is included on the next page.

Listed Building Consent

Listed building consent is required for works affecting the character of listed buildings and also applies to the interior of the building and any buildings within the curtilage. Planning permission may also be required in addition to Listed Building Consent. If your building is listed, specific guidance on *Listed Buildings and Conservation Areas* must also be considered along with this document.

What Other Consents Might Be Required?

Advertisement Consent

Advertisements are defined as any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, and employed wholly or partly for the purpose of advertisement, announcement or direction.

While many advertisements require express consent, certain types do not need express consent as they have 'deemed consent'. You can check this by consulting *The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984*.

Advertisements displayed in accordance with the advert regulations do not require advertisement consent.

Building Warrant

Converted, new or altered buildings may require a Building Warrant. There is more Building Standards information at www.edinburgh.gov.uk/buildingwarrants. For detailed information please go to the [Scottish Government website](http://www.scottish.gov.uk).

Road Permit

You must get a permit to the Council if you want to carry out work in or to occupy a public street. A *road permit* will be required if forming a new access or driveway or if placing a skip or excavation in a public road. It will also be required for scaffolding or to occupy a portion of the road to place site huts, storage containers, cabins, materials or contractors

plant, to put up a tower crane or to operate mobile cranes, hoists and cherry pickers from the public highway. For more information contact the Areas Roads Manager in your *Neighbourhood Team*.

Licensing

Some activities, such as the sale and supply of alcohol or late hours catering, require a licence. Please contact *Licensing* for more information on 0131 529 4208 or email licensing@edinburgh.gov.uk.

The Civic Government (Scotland) Act 1982 (Licensing of houses in Multiple Occupation) Order 2000, requires operators of HMOs to obtain a licence allowing permission to be given to occupy a house as a HMO where it is the only or principal residence of three or more unrelated people.

Table and Chairs Permit

If your business sells food and drink you may be able to get a permit from the Council to put tables and chairs on the public pavement outside your business.

A *tables and chairs permit* allows you to put tables and chairs on the public pavement between 9am and 9pm, seven days a week and is issued for either six or twelve months. For more information please email TablesChairsPermits@edinburgh.gov.uk or phone 0131 529 3705.

Biodiversity

Some species of animals and plants are protected by law. Certain activities, such as killing, injuring or

capturing the species or disturbing it in its place of shelter, are unlawful. It is also an offence to damage or destroy a breeding site or resting place (or obstruct access to).

If the presence of a European Protected Species (such as a bat, otter or great crested newt) is suspected, a survey of the site must be taken. If it is identified that an activity is going to be carried out that would be unlawful, a license may be required.

More information on European Protected Species, survey work and relevant licenses is available on the [Scottish Natural Heritage website](http://www.scottishnaturalheritage.gov.uk).

Trees

If there are any trees on the site or within 12 meters of the boundary, they should be identified in the application. Please refer to *the Edinburgh Design Guidance (chapter 3.5)* for advice.

All trees in a Conservation Area or with a Tree Preservation Order are protected by law, making it a criminal offence to lop, top, cut down, uproot wilfully, damage or destroy a tree unless carried out with the consent of the council. To apply for works to trees, go to www.eplanning.scot.

Changing a Residential Property to a Commercial Use

What does this chapter cover?

Changes of use to:

- guest houses
- short term commercial visitor accommodation
- house in multiple occupation (HMOs)
- private day nurseries
- running a business from home

Page 588 This guideline is not intended to address new hotel development which is covered by [Edinburgh Local Development Plan](#) (LDP) Policy Emp 10 Hotel Development.

Where an extension to a residential property is required to then run a business from home, please refer to the [Guidance for Householders](#) to understand what permissions are required.

When is planning permission required?

Some activities within a residential property can be undertaken without requiring planning permission. Some common enquiries are given below.

What should I do if it is permitted development?

If you believe planning permission is not required, you can apply for a [Certificate of Lawfulness](#) for legal confirmation.

Using your home as a guest house

Planning permission will not be required for the use of a house as a bed and breakfast or guest house if:

- The house has less than four bedrooms and only one is used for a guest house or bed and breakfast purpose
- The house has four or more bedrooms and no more than two bedrooms are used for a guest house or bed and breakfast purpose

Planning permission will always be required if a flat is being used as a guest house or bed and breakfast, regardless of the number of rooms.

Short Term Commercial Visitor Accommodation

The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had 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.

Houses of Multiple Occupation (HMOs)

The sharing of accommodation by people who do not live together as a family is controlled at the point at which there is considered to be a material change of use. For houses, Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 considers this to be when more than 5 people are living together, other than people living together as a family. As with houses, the Council would also expect a material change of use to occur in flats when more than 5 unrelated people share accommodation. All planning applications for Houses in Multiple Occupancy (HMOs) are assessed using LDP Policy Hou 7: Inappropriate Uses in Residential Areas, having regard to the advice below.

Private day nurseries

The change of use from a residential property to a private day nursery requires planning permission.

Where child minding is undertaken from a residential property, whether a change to a private day nursery has occurred will be assessed on a case by case basis. Consideration will be given to the number of children, the frequency of activity and the duration of stay. The criteria under 'Running a business from home' should also be considered.

Running a business from home

Proposals which comply with all the following may not need planning permission, but always check with the council first.

- There should be no change in the character of the dwelling or the primary use of the area. For example signage, display of commercial goods, increased pedestrians and vehicular movements, noise etc.
- There should be no more than the parking of a small vehicle used for commercial and personal purposes within the curtilage of a dwelling house.
- Any ancillary business should not be detrimental to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, ash, dust, or grit.
- There should be no impact on the amenity or character of the area as a result of visitors or deliveries to the property.
- The primary use of the property must be domestic and any members of staff on the premises should have no impact on the amenity and character of the property.

What to consider if planning permission is required

Policy Hou 7

Sets out when uses will not be permitted in predominately residential or mixed use areas i.e. uses which would have a materially detrimental effect on the living conditions of nearby residents.

Amenity

Proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents.

In the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest.

In the case of private day nurseries, whether nearby residential uses overlook the garden will also be considered. This is due to the potential for increased noise to those households.

Road Safety and Parking

The *car parking standards* define the levels of parking that will be permitted for new development and depends on the scale, location, purpose of use and the number of staff. Parking levels will also be dependent on the change of use and proximity to public transport.

The existing on-street parking and traffic situation will be important considerations in this assessment. The location should be suitable to allow people and deliveries to be dropped-off and collected safely. This is especially important for children going to and from a private day nursery. The potential impact on vulnerable road users – cyclists and pedestrians – will also be a consideration.

Parking in Gardens

The provision of new car parking should have regard to character and setting of the property and should normally preserve a reasonable amount of front garden. In a conservation area parking in the front garden would only be considered if there was an established pattern and it was part of the character of the area. Parking in the front garden of a listed building is not likely to be supported and there is normally a presumption against loss of original walling and railings and loss of gardens. Further information on the design of parking in gardens can

be found in the *Guidance for Householders*.

Flatted Properties

Change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs. Nurseries must also benefit from suitable garden space.

Further information

If a proposal has the potential to result in impacts then these should be addressed at the outset so they can be considered by the case officer. Examples of information that may be required include:

- An acoustic report if there is potential for noise impact.
- Details of ventilation systems if the application has the potential to create odour problems, and details of the noise impact of any proposed ventilation system.
- Details of any plant and machinery
- Details of attenuation measures if structure-borne and air-borne vibrations will occur.

Changing to a Food or Drink Use

What does this chapter cover?

Uses such as:

- Restaurants, cafes and snack bars (Class 3)
- Hot food takeaways (Sui Generis)
- Cold food takeaways which are classed as a shop (Class 1)
- Public houses and bars (Sui Generis)
- Class 7 uses (hotels and hostels) licensed or intending to be licensed for the sale of alcohol to persons other than residents or persons other than those consuming meals on the premises. i.e. with a public bar.

It does not include:

- Class 7 uses (hotels and hostels) without a public bar.

When is planning permission required?

Some food and drink uses do not require planning permission. Information on some common enquiries is given on this page.

Changing a shop to Class 3 use or hot food takeaway

Planning permission is required for a change of use from a shop to a hot food takeaway or to a Class 3 use, such as a café or restaurant. Whether this change has, or will occur will be determined on a case by case basis. Regard will be given to:

- Concentration of such uses in the locality
- The scale of the activities and character and appearance of the property
- Other considerations are the impact on vitality and viability, the effect on amenity and potential road safety and parking problems.

Selling cold food for consumption off the premises

Businesses selling cold food for consumption off the premises, such as sandwich bars, fall within Class 1 shop use. If the building is already in use as a shop then permission is not required.

Some secondary uses alongside the main uses also do not need permission; this is dependant on the scale of the activity.

Ancillary uses which are not likely to require planning permission in addition to a Class 1 shop use are:

- The sale of hot drinks
- The provision of one microwave oven and/or one soup tureen
- Seating constituting a very minor element to the overall use. The limit will vary according to the size and layout of the premises
- An appropriately sized café in a larger unit, such as a department store, if it is a relatively minor proportion of the overall floorspace and operates primarily to service the shop's customers.

What should I do if it is permitted development?

If you believe planning permission is not required, you can apply for a *Certificate of Lawfulness* for legal confirmation.

What to consider if planning permission is required

Protecting Shops

Policies Ret 9-11

Set out which locations a non-shop use is acceptable. These policies should be considered if a shop will be lost as part of the changes. In some areas of the City, the loss of a shop use will not be permitted. In other areas, certain criteria must be met.

Policy Hou 7

sets out when uses will not be permitted in predominantly residential or mixed use areas.

Policy Ret 11

Sets out when food and drink establishments will not be permitted.

Restaurants, cafés, snack bars and other Class 3 Uses

Proposals will be supported in principle in the following locations:

- Throughout the Central Area
- In designated shopping centres
- In existing clusters of commercial uses, provided it will not lead to an unacceptable increase in disturbance, on-street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

Proposals in predominantly housing areas will not normally be permitted.

Hot Food Takeaways

With the exception of proposals within areas of restriction (shown on the next page), proposals will be supported in principle in the following locations:

- Throughout the Central Area
- In designated shopping centres
- In existing clusters of commercial uses, provided it will not lead to an unacceptable increase in disturbance, on-street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

Proposals in the areas of restriction will only be accepted if there will be no adverse impact upon existing residential amenity caused by night-time activity. Where acceptable, this will normally be controlled through conditions restricting the hours of operation to 0800 to 2000.

Proposals in predominantly housing areas will not normally be permitted.

Where a restaurant's trade is primarily in-house dining but a minor element is take-away food then this still falls within the Class 3 use. Where take-away is a minor component of the business it will not require planning permission.

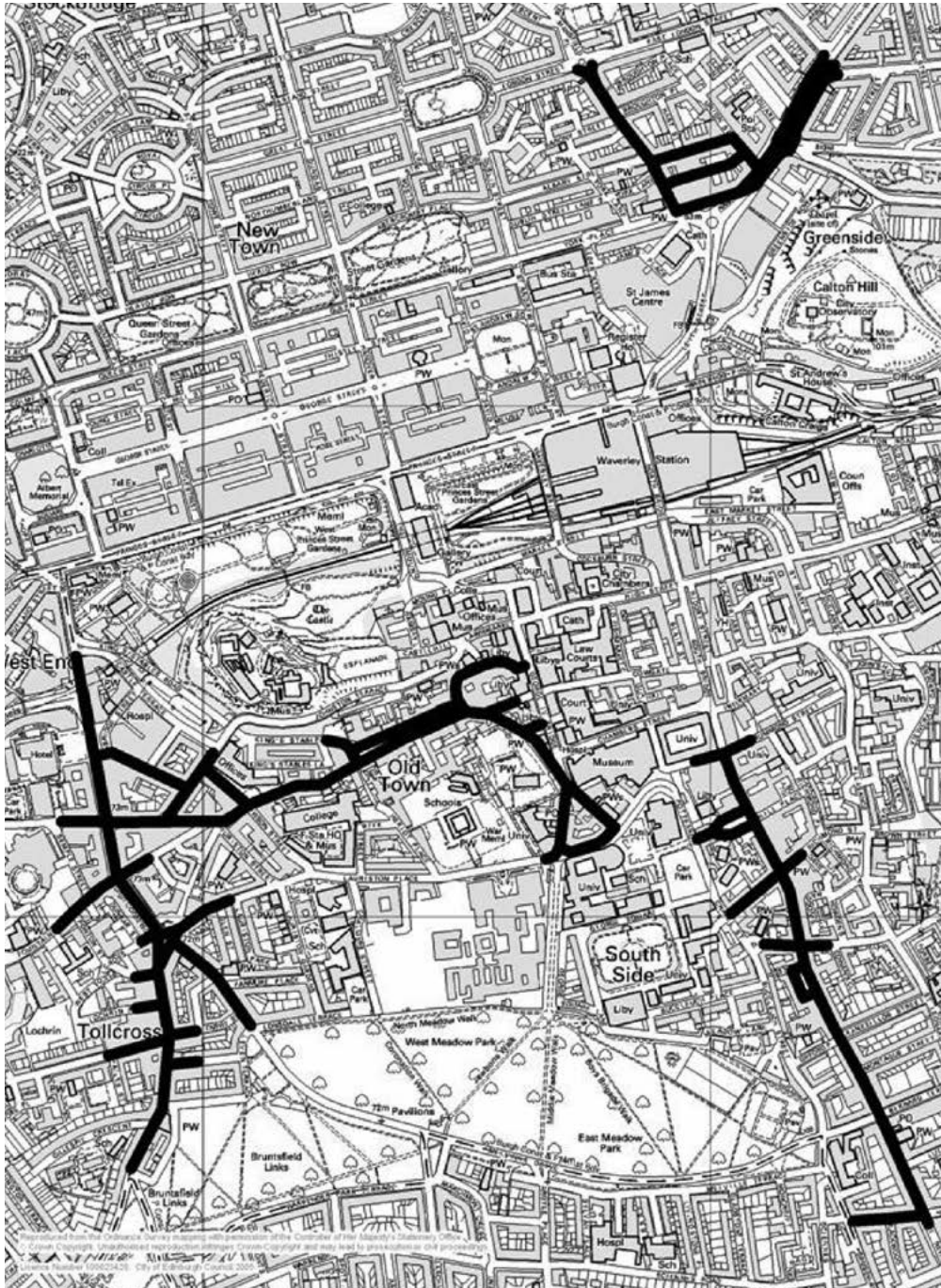
Public houses, entertainment venues and hotels outwith Class 7 (Hotels and Hostels)

In all locations, these uses should be located so as not to impinge on residential surroundings. Accordingly, such developments, with the exception of public houses designed as part of a new build development, will not be allowed under or in the midst of housing¹

There will be a presumption against new public houses and entertainment venues in the areas of restriction (shown on Page 10). Proposals for extensions to venues in the areas of restriction will only be accepted if there will be no adverse impact of the residential amenity caused by night time activity.

Proposals in predominantly housing areas and residential side streets will not normally be permitted.

[1] "Under or in the midst of housing" means a) where there is existing residential property above the application site or premises; or b) where there is existing residential property immediately adjoining two or more sides of the building or curtilage comprising the application site. "Residential property" means dwelling houses, flats or houses in multiple occupancy and includes any vacant units.



Ventilation

If the use is acceptable in principle, establishments with cooking on the premises must satisfy ventilation requirements to ensure that they do not impinge on the amenity of the residential area or other neighbourhoods.

An effective system for the extraction and dispersal of cooking odours must be provided. Details of the system, including the design, size, location and finish should be submitted with any planning application. A report from a ventilation engineer may also be required where it is proposed to use an internal route in an existing building for ventilation ducting.

The ventilation system should be capable of achieving 30 air changes an hour and the cooking effluvia ducted to a suitable exhaust point to ensure no cooking odours escape or are exhausted into neighbouring premises.

Conditions shall be applied to ensure the installation of an effective system before any change of use is implemented, and/or the restriction of the form and means of cooking where necessary.

On a listed building or in a conservation area, the use of an internal flue should be explored before considering external options. The flue would need planning permission and listed building consent in its own right.

Design

Any external duct should be painted to match the colour of the existing building to minimise its visual impact.

Location

Ventilation systems should be located internally. Where this is not practicable, systems located to the rear may be considered.

Noise

Conditions may be put in place to ensure that there is no increase in noise that will affect the amenity of the area.

The map identifies areas of restriction. These are areas of mixed but essentially residential character where there is a high concentration of hot food takeaways, public houses and entertainment venues.

Changing a Commercial Unit to Residential Use

When is permission required?

Planning permission is required to convert a business to a house or flat. Permission will also be required for physical alterations to any external elevation. Listed building consent, where relevant, may also be required.

What to consider if planning permission is required

Protected shops

Policies Ret 9-11

set out when a non-shop use is acceptable. They should be considered if a shop will be lost as part of the changes.

In some areas of the city, the loss of a shop use will not be permitted. In other areas, certain criteria must be met. These policies should be considered for more information.

Amenity

Policy Hou 5

Sets out the criteria to be met by proposals to convert to residential use.

Applications for a change of use will need to prove that the quality and size of accommodation created is satisfactory.

Units with insufficient daylight will be unacceptable; proposals should fully meet the council’s daylight requirements in the [Edinburgh Design Guidance](#). Basement apartments with substandard light will only be accepted where the remainder of the created unit represents a viable unit in its own right with regards to adequate daylight.

Dwelling sizes should meet the following minimum requirements and exceeding these standards is encouraged. Provision of cycle and waste storage is encouraged and may be required in some instances.

Number of Bedrooms	Minimum Gross Floor Area (sq m)
Studio	36
1 (2 persons)	52
2 (3 persons)	66
2 (4 persons)	81
3 (4 persons)	81
Larger Dwellings	91

Design

New designs should be of a high quality and respect their context

1. Consider the architectural or historic merit of the shopfront and its context and identify an appropriate design from one of the following three basic approaches.

Retain the shopfront



Henderson Street

Retaining the existing shopfront and adapting it for residential use is a simple method of conversion and ensures the property fits well within its context. Where the shopfront is of architectural or historic merit this will be the only appropriate design.

A design which retains the shop front could be used in residential areas or within a row of shops.

Simple contemporary design



Royal Park Terrace

Simple contemporary designs are often the most successful. The existing structural openings should be retained and any features of architectural or historic merit retained and restored. High quality materials should be used.

A simple contemporary design could be used in residential areas or within a row of shops.

Residential appearance

Conversions with a residential appearance are rarely successfully achieved. Attention should be paid to structural openings, materials and detailing to ensure the new residential property does not stand out from its context.

Windows which are a version of those on the upper floors in terms of proportions, location and detail are usually most appropriate. Doors should relate to the scale of the building and should not result in a cluttered appearance.

Paint work should be removed to expose the stone or toned to match the building above.

A design with a residential appearance may be appropriate in residential areas but not within a row of shops.



Consider the privacy of residents

To create privacy within the property, shutters or moveable screens behind the window could be considered as an alternative to frosted glass. Where considered acceptable, frosted glass should not occupy more than 50% of the height of the window. Retaining recessed doors also provides a degree of separation from the street. Metal gates could also be added.

Altering a Shopfront

There should always be a presumption to improve, where possible, a poor shopfront.

Understanding your shopfront

Policy Des 12

sets out the principles for altering a shopfront

Page 595

1. Consider the period of the building and the style of the shopfront

Shopfronts come in many styles, reflecting the different periods of architecture in Edinburgh. Those of architectural merit or incorporating traditional features or proportions should be retained and restored.

2. Determine whether there are any original or important architectural features or proportions which need to be retained

The pilasters, fascia, cornice and stallriser form a frame around the window and should be retained. Recessed doorways, including tiling, should not be removed. Original proportions should be retained.



Pilasters



Cornice



Stallriser

3. Identify any inappropriate additions which should be removed

Large undivided areas of plate glass can be appropriate within a small shopfront, however over a larger area can appear like a gaping hole over which the upper storeys look unsupported.

Large deep fascia boards and other claddings should be removed and any original features reinstated.

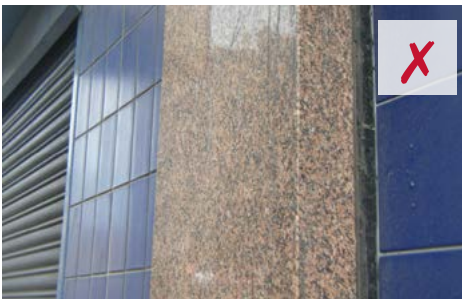
Page 596



Deep Fascia



Proportions



Cladding

Good Example

At 37-41 Nicolson Street, Edinburgh, restoration work has been carried out to remove modern additions and unveil the original Victorian shopfront of 'McIntyre's Drapery Stores'. Architectural features, including the cornice, pilasters and glazing bars have been exposed. Views into the store have now been opened up and the shop is more noticeable in the street.



Context

Shopfronts should be designed for their context

1. Consider the relationship of the frontage to the rest of the street

The relationship of the frontage to the established street pattern should be considered, particularly in terms of fascia and stallriser height and general proportions. Alterations should preserve and strengthen the unity of the street.



One shopfront across two separate buildings will not normally be acceptable as it disrupts the vertical rhythm of the facades above.



Good Examples



St Stephen Street



William Street



Grassmarket

New Design

New designs should be of high quality and respect their surroundings

1. Identify the features or proportions which will need to be retained or restored

The pilasters and frame should be retained, even if the rest of the frontage is not of sufficient quality to merit retention.

Poorly designed fascias and pilasters do not make up a well composed frame. Pilasters should not be flat to the frontage and fascias should not exceed one-fifth of the overall frontage height or be taken over common staircases. Stallrisers should be in proportion to the frontage.

Cornice which continues from the adjacent frontages will require to be restored. No part of the frontage should be located above this.

2. Consider the design and materials to be used

Where a new frontage is considered appropriate, there is no particular correct style. Modern designs will be considered acceptable providing they incorporate high quality materials, are well proportioned, and retain any features of architectural merit.

Reproduction frontages should be based on sound historical precedent in terms of archival evidence or surviving features.

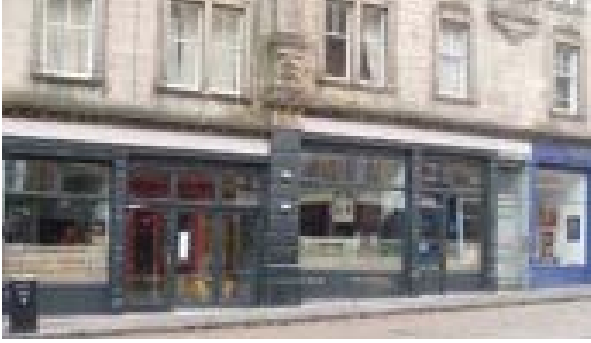
Appropriate spacing and cornice should be used to create a visual break between the frontage and the building above.

2. Consider the relationship to features on the upper floors

Where units have a narrow frontage and vertical emphasis, they should retain their individual integrity, rather than attempting to achieve uniformity with adjoining properties.



Good Examples



Barclay Place



Bread Street

In general, natural and traditional materials, such as timber, stone, bronze, brick and render should be used. These should be locally sourced from renewable or recycled materials, wherever possible. Frontages clad in incongruous materials will not be acceptable.

Paint and Colour

When is permission required?

Planning permission, and where relevant listed building consent, will be required to paint a building which is listed or within a conservation area, including a change of colour.

Planning Permission will not be required to paint an unlisted building out with conservation areas. However the painting and colour of a building should reflect its character and the area.

Good Example



Victoria Street

Listed Buildings and Conservation Areas

Paint

Unpainted stonework and other good quality materials should not be painted.

Colour Schemes

The creation of a strong identify for a business must come second to an appropriate balance with the context. Colour schemes should clarify the architectural form and not apply alien treatments and design. The most successful are simply schemes which employ only one or two colours.

Muted or dark colours are preferable.

Uniform Appearance

Coordinated paint schemes are encouraged and should be retained where present. In particular, common details, such as arches and pilasters, should have a uniform treatment. Similar lettering and signage should also be used.

The range of colours within a block should be limited.

Security

1. Determine whether a security device is necessary and consider alternative solutions

Security devices should not harm the appearance of the building or street. Toughened glass or mesh grilles could be used as an alternative to security shutters.



2. If a device is considered acceptable, consider its location in relation to the window

Where shutters are not common within the immediate area, they should be housed internally, running behind the window.

Elsewhere, shutters should be housed behind the fascia or a sub-fascia.

Shutters should not be housed within boxes which project from the front of the building.



3. Identify an appropriate shutter design

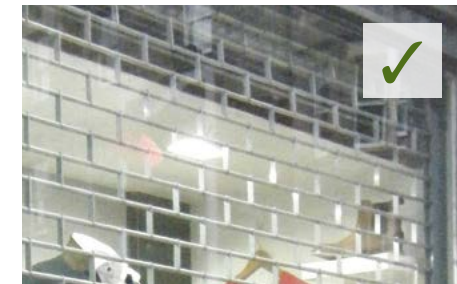
Solid roller shutters are unacceptable. They do not allow window shopping at night, the inability to view the inside of the shop can be a counter security measure and they tend to be a target for graffiti.



Roller shutters of the non-solid type may be acceptable in a perforated, lattice, brick bond or open weave pattern. Shutters made up of interlocking clear polycarbonate sheets running externally to the glass may also be acceptable.



Where there is evidence of early timber shutters, they should be restored to working order or replaced to match.



Listed Buildings and Conservation Areas

Externally mounted shutters will not be considered acceptable.

The most appropriate security method is toughened glass. Internal open lattice shutters or removable mesh grilles may also be acceptable.

Metal gates are most appropriate on recessed doors.

Shutters should be painted an appropriate colour, sympathetic to the rest of the frontage and immediate area.

Blinds and Canopies

1. Consider whether a blind or canopy is appropriate on the building

Blinds and canopies should not harm the appearance of the building or street.

Traditional projecting roller blinds, of appropriate quality, form and materials, will be considered generally acceptable

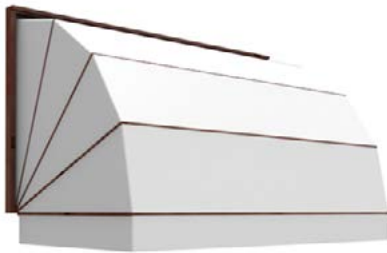
Dutch canopies will not be acceptable on traditional frontages where important architectural elements would be obscured.

Listed Buildings and Conservation Areas

Dutch canopies will not be acceptable on listed buildings or in conservation areas.

Blinds and canopies will not be considered acceptable on domestic fronted buildings.

Solar glass and film are acceptable alternative methods of protecting premises from the sun, providing they are clear and uncoloured.



Dutch canopy

2. If acceptable, consider the location of the blind or canopy

Blinds and canopies should fold back into internal box housings, recessed within the frontage. They must not be visually obtrusive or untidy when retracted.



Boxes housing blinds and canopies that project from the building frontage will not be acceptable.

Blinds and canopies will not be acceptable above the ground floor level.



3. Determine an appropriate design and materials

Blinds and canopies must be made of high quality fabric. Shiny or high gloss materials in particular will not be supported.

An advert, including a company logo or name, on a blind or canopy will need advertisement consent.



Automatic Teller Machines

1. Consider whether an ATM will be acceptable

ATMs should not impact upon the character of the building or area.

Free standing ATMs add to street clutter and will not be considered acceptable.

ATMs may be considered acceptable when integrated into a frontage, providing no features of architectural or historic interest will be affected and the materials and design are appropriate.

2. If acceptable, consider the location, design and access

Consideration should be given to pedestrian and road safety. Terminals should be sited to avoid pedestrian congestion at street corners and narrow pavements. The assessment of the impact on road safety will include any potential increase in the number of vehicles stopping, visibility and sightlines.

The use of steps for access to ATMs should be avoided and the units should be suitable for wheelchair access.

Where ATMs are removed, the frontage should be reinstated to match the original.

Listed Buildings and Conservation Areas

Consideration should first be given to locating the ATM internally. For guidance on internal alterations, consider the Listed Buildings and Conservation Area guidance.

Externally, ATMs should be located in a concealed position on the façade, within an inner vestibule or on a side elevation.

ATMs should not be fitted to finely detailed façades or shopfronts of historic or architectural merit. They will not be acceptable where stone frontages, architectural features or symmetry will be disturbed. New slappings (knocking a hole through a wall to form an opening for a door, window etc) will be discouraged.

Only one ATM will be allowed on the exterior of any building.

Where acceptable, the ATM should not be surrounded by coloured panels or other devices and signage should not be erected. The ATM and any steps or railings, where necessary, should be formed in high quality materials and be appropriate to the area. Surrounding space should match the façade in material and design.

Permissions Required

ATMs which materially affect the external appearance of a building require planning permission. Listed building consent may also be required for an ATM on a listed building. In addition, advertisement consent may be required for any additional signage.

Air Conditioning and Refrigeration

Location

Air conditioning and refrigeration units should not be located on the front elevation or any other conspicuous elevations of buildings, including roofs and the flat roofs of projecting frontages.

It will normally be acceptable to fix units to the rear wall. These should be located as low as possible.

Design

Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Listed Buildings and Conservation Areas

The preferred location for units on listed buildings and within conservation areas are:

- standing within garden or courtyard areas (subject to appropriate screening and discreet ducting)
- Within rear basement areas
- Inconspicuous locations on the roof (within roof valleys or adjacent to existing plant). However, in the New Town Conservation Area and World Heritage Site, aerial views will also be considered.
- Internally behind louvers on inconspicuous elevations. This should not result in the loss of original windows.

Where it is not practicably possible to locate units in any of the above locations, it may be acceptable to fix units to the wall of an inconspicuous elevation, as low down as possible.

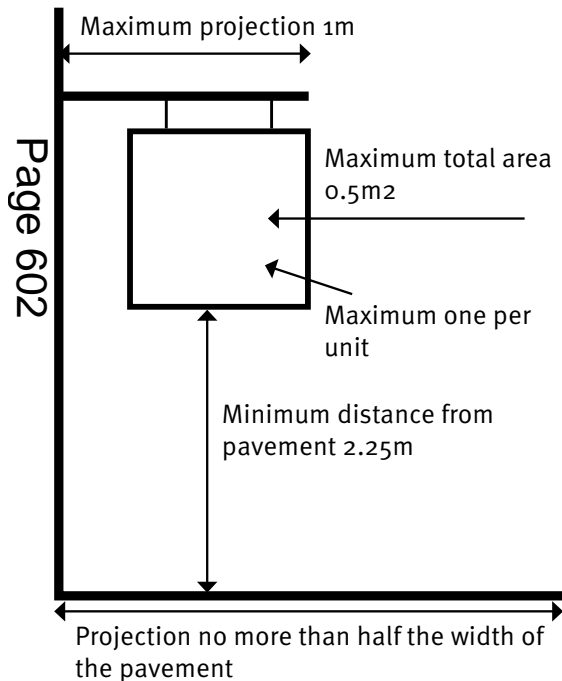
Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Ducting must not detract from the character of the building.

Signage and Advertisements

1. Consider the scale, location and materials of the advertisement and any lettering

High level signage is not normally considered acceptable.



NB. Dimensions may be reduced for smaller frontages

Projecting and Hanging Signs

Traditional timber designs are most appropriate on traditional frontages.



Fascia

Box fascia signs applied to existing fascias are not considered acceptable.

Individual lettering should not exceed more than two thirds the depth of the fascia, up to a maximum of 450mm.

Princes Street

Projecting signs and banners will not be supported. Illumination must be white and static.

Listed Buildings and Conservation Areas

Signage obscuring architectural details is not acceptable.

Signage should be timber, etched glass or stainless steel; synthetic materials are not appropriate.

Signage should harmonise with the colour of the shopfront.

Applied fascia boards/panels will not normally be acceptable. Lettering shall be applied directly onto the original fascia. If there is an existing applied fascia board/panel in place, this should a) be removed and the original fascia restored, or b) an appropriate new fascia applied but only where there is no original fascia.

Letters must be individual and hand painted.

On buildings of domestic character, lettering or projecting signs are not acceptable. Guidance on alternative signage is given on the next page.

2. Consider an appropriate method of illumination

External illumination will only be acceptable if unobtrusive.

Individual letters should be internally or halo lit. Discreet spotlights painted out to match the backing material or fibre optic lighting may also be acceptable. Illumination must be static and no electrical wiring should be visible from outside of the premises. White illumination is preferable.

Projecting signs should only be illuminated by concealed trough lights.

LED strip lighting to illuminate signage may be acceptable where it can be positioned discreetly on the shop front.

3. Consider alternative advertisements

Internal Advertisements

Advertisements behind the glass should be kept to a minimum to allow maximum visibility into the premises.



Listed Buildings and Conservation Areas

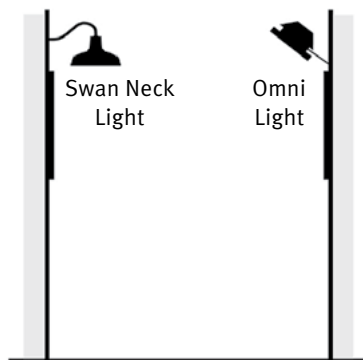
Basement properties

Basement properties may be identified by a name plate or modest sign on the railings, or where they don't exist, discreet and well designed pole mounted signs may be acceptable.



Listed Buildings and Conservation Areas

Swan neck lights, omni-lights on long arms or trough lights along the fascia will not normally be acceptable. Letters should be halo or internally lit.



Directional Signs

Advance directional signs outwith the curtilage of the premises to which they relate are not acceptable unless particular circumstances justify a relaxation.

Guest Houses

Houses in residential use (Class 9) but with guest house operations should not display signs, except for an official tourism plaque or a window sticker.

For properties operating solely as a guest house (Class 7), any pole signs located in front gardens should not exceed 0.5sq metres in area.

Buildings of domestic character

On buildings of domestic character, identification should consist of a brass or bronze nameplate, smaller than one stone. Where the building is in hotel use, consideration will be given to painted lettering on the fanlight or a modest sign on the railings.



HAPPY TO TRANSLATE

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You can get this document on tape, in Braille, large print and various computer formats if you ask us. Please contact ITS on 0131 242 8181 and quote reference number 12-0930. ITS can also give information on community language translations.

INTERIM GUIDANCE ON THE DESIGNATION OF CONSERVATION AREAS AND CONSERVATION AREA CONSENT

APRIL 2019



HISTORIC
ENVIRONMENT

SCOTLAND

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EACHDRAIDHEIL

ALBA

This guidance was published by Historic Environment Scotland as part of the Historic Environment Scotland Policy Statement (2016). This edition is an interim document published by Historic Environment Scotland in 2019 to provide detailed guidance on the application of Historic Environment Policy for Scotland (HEPS, 2019). It sets out the principles HES recommends are followed in implementing the requirements of Scottish Planning Policy paragraphs 141 and 142 and is a material consideration in the planning process. It should be read alongside HEPS and the Managing Change Guidance Notes series. We will be reviewing and updating our Managing Change Guidance series and any new guidance will be subject to public consultation.

HISTORIC ENVIRONMENT SCOTLAND GUIDANCE ON THE DESIGNATION OF CONSERVATION AREAS AND CONSERVATION AREA CONSENT

1. Conservation areas are designated under the Planning Listed Buildings and Conservation Areas (Scotland) Act 1997.
2. Conservation areas are areas which have special architectural or historic interest that are considered worthy of protection. Conservation areas are varied in character, encompassing the urban and the rural; they range from the historic core of our cities to isolated rural settlements or landscapes.
3. It is the character of an area, either architectural or historic, created by buildings and open spaces and their relationship with one another which the designation of a conservation area seeks to preserve. Elements such as the street layout, open spaces and the public realm all contribute to an area's special character.
4. To be designated as a conservation area it must meet the criteria of **'special architectural or historic interest the character or appearance of which is desirable to preserve or enhance'**, as set out in Section 61 of the 1997 Act.
5. National planning policy sets out that local authorities are expected to ensure that local development plans and supplementary guidance provide a framework for protecting and, where appropriate, enhancing all elements of the historic environment. In this regard, local planning authorities should designate and review existing and potential conservation areas and identify existing and proposed Article 4 Directions. This should be supported by Conservation Area Appraisals and Management. As part of this process, planning authorities are encouraged undertake a thorough appraisal of any area before designation to ensure that its character or appearance is understood.
6. By law, Historic Environment Scotland has the power to determine, after consultation with the planning authority, that an area should be a conservation area and may designate it. This is a power which will be used only exceptionally.
7. As set out in Section 62 of the 1997 Act, once a planning authority has decided to designate a conservation area, notice of the designation must be published in the *Edinburgh Gazette* and at least one local newspaper.
8. Scottish Ministers and Historic Environment Scotland, at the same time as the designation is advertised, must be formally notified of the designation of the conservation area. They must also be provided with a copy of the published notice, together with a copy of the designation map and a list of street names which will usually be submitted in an open GIS format.
9. Planning authorities may also amend or remove a conservation area that is already designated. Notification of this will be in the same way as for new designations. Amended conservation areas should normally be re-designated in their entirety.
10. Every planning authority is required to compile and keep available for public inspection a list containing appropriate information about their conservation areas.
11. Planning authorities have a duty to submit their proposals for the preservation and enhancement of conservation areas for consideration to a local public meeting and should, when preparing schemes, seek the advice and views of local residents and amenity groups. Wherever possible, proposals should first be subject to public consultation through the Local Development Plan process, thus providing opportunity for the views of stakeholders to be taken into account. Owners and occupiers of property within a conservation area do not have to be specifically notified

and there is no right of appeal against a designation, variation or cancellation.

12. Once an area has been designated it becomes the duty of the planning authority and any other authority concerned, including Historic Environment Scotland, to pay special attention to the desirability of preserving or enhancing the character and appearance of the area when exercising their powers under planning laws.
13. Some types of development which would not otherwise require permission may require permission through the planning process.

Selection guidance for designating a conservation area

14. Areas of 'special architectural or historic interest' will be selected based on a range of factors which may include:
 - areas of significant architectural or historic interest in terms of specific listed buildings and/or scheduled monuments;
 - areas of significant architectural or historic interest in terms of building groupings, which may or may not include listed buildings and/or scheduled monuments, and open spaces which they abut;
 - areas with features of architectural or historic interest such as street pattern, planned towns and villages and historic gardens and designed landscapes; and
 - other areas of distinctive architectural or historic character.
15. The characteristics and values that contribute to a conservation area's special architectural or historic interest are:
 - its special architectural or historic importance;
 - its distinct character;
 - its value as a good example of local or regional architectural style;
 - its value within the wider context of the village or town; and
 - its present condition, and the scope for significant improvement and enhancement.

Guidance on Conservation Area Consent for demolition of unlisted buildings

16. The demolition of even a single building and the construction of a new building or buildings in its place could result in harm to the character or appearance of a conservation area, or part of it.
17. In deciding whether conservation area consent should be granted, planning authorities should therefore take account of the importance of the building to the character or appearance of any part of the conservation area, and of proposals for the future of the cleared site.
18. If the building is considered to be of any value, either in itself or as part of a group, a positive attempt should always be made by the planning authority to achieve its retention, restoration and sympathetic conversion to some other compatible use before proposals to demolish are seriously investigated.
19. In some cases, demolition may be thought appropriate, for example, if the building is of little townscape value, if its structural condition rules out its retention at reasonable cost, or if its form or location makes its re-use extremely difficult. In instances where demolition is to be followed by re-development of the site, consent to demolish should in general be given only where there are acceptable proposals for the new building.
20. Decision makers are required to have regard to the desirability of preserving or enhancing the appearance of the conservation area in exercising their responsibilities under the planning legislation, and this statutory duty should always be borne in mind when considering demolition applications (Scottish Planning Policy, paragraph 143).

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Listed Buildings and Conservation Areas

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March 2018

Listed Buildings & Conservation Areas

Who is this guidance for?

Anyone considering work to a property within a conservation area or to a listed building.

This guidance provides information on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

This document and other non-statutory guidance can be viewed at:

www.edinburgh.gov.uk/planningguidelines

This document is divided into two parts:

Part 1. Listed Building Guidance

Part 2. Conservation Area Guidance

Policy Context

This guidance interprets policies in the Edinburgh Local Development Plan which seek to protect the character and setting of listed buildings, and the character and appearance of conservation areas.

This guidance was initially approved in December 2012 and incorporates minor amendments approved in February 2016 and March 2018.



Misc: Student Housing, Radio Telecommunications, Open Space Strategy etc.

March 2018

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- apply For Planning Permission
- apply For Listed Building Consent
- apply For Certificate of Lawfulness

Part1: Listed Buildings

Listed buildings represent the very best examples of the built heritage. They are defined as buildings of special architectural or historic interest and are protected under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The lists of Buildings of Historic or Architectural Interest are compiled by Historic Scotland on behalf of Scottish Ministers. The term *building* includes structures such as walls and bridges.

There are three categories of listed buildings:

Category A - Buildings of national or international importance, either architectural or historic, or fine little-altered examples of some particular period, style or building type.

Category B - Buildings of regional or more than local importance, or major examples of some particular period, style or building type which may have been altered.

Category C - Buildings of local importance, lesser examples of any period, style, or building type, as originally constructed or moderately altered; and simple traditional buildings which group well with others in categories A and B.

Buildings which relate together in townscape terms or as planned layouts in urban, rural or landed estate contexts, often have their group value stressed by inclusion within 'A' or 'B' groups.

To check whether your property is listed, use our [online map](#).

March 2018

Do I need Listed Building Consent?

Listed buildings are afforded statutory protection. This means that listed building consent is required for the demolition of a listed building, or its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest.

Listing covers the interior as well as the exterior, and includes any object or structure fixed to the building, or which has been included within its curtilage since 1st July, 1948. Listing, therefore, extends to historic fixtures or fittings (plasterwork, chimneypieces, panelling) and items within the curtilage such as stables, mews, garden walls and stone setts. Any proposals to alter unsympathetically, relocate or remove such features are likely to detract from the quality of the setting and are unlikely to be approved.

Listed building consent must be obtained where proposals will alter the character of the listed building, regardless of its category or whether the work is internal or external.

Proposed change will be managed to protect a building's special interest while enabling it to remain in active use. Each proposal will be judged on its own merits. Listing should not prevent adaptation to

modern requirements but ensure that work is implemented in a sensitive and informed manner. The aim is to guard against unsympathetic alterations and prevent unnecessary loss or damage to historic fabric. Any alterations which would seriously detract from or alter the character of a listed building are unlikely to receive consent



Listed building consent is not required for internal redecoration, renewal of bathroom and kitchen fittings, rewiring or new plumbing, provided fittings or internal decorations (such as decorative plaster, murals and paintings) which contribute to the character of the building or structure are not affected.

In considering any application for listed building consent, and also any application for planning permission for development which affects a listed

building or its setting, the Council are required to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it may possess. In this context, preserving, in relation to a building, means retaining it either in its existing state or subject only to such alterations or extensions as can be carried out without detriment to its character.

The tests for demolition are detailed in the Scottish Historic Environment Policy. No listed building should be demolished unless it has been clearly demonstrated that every effort has been made to retain it. The Council will only approve such applications where they are satisfied that:

- the building is not of special interest; or
- the building is incapable of repair; or
- the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

Repairs which match the original materials and methods and do not affect the character of the building do not usually require listed building consent or planning permission.

You can apply for listed building consent at www.eplanning.scot.

What if the work has already been carried out?

It is a criminal offence to demolish, alter materially or extend a listed building without listed building consent. Alterations may be subject to enforcement action or prosecution at any time. Retrospective applications for listed building consent will be considered on their merits.

Our guidance on [Selling Your House](#) sets out the criteria which will be used to determine whether to take enforcement action against unauthorised works to a listed building. This will help if you are selling a listed property and provides general advice on listed building consent.

What Other Consents Might Be Required?

Planning Permission

Development is defined as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Planning permission is required for many alterations, additions and changes of use, although some development can be carried out without planning permission. This is ‘[permitted development](#)’.

To determine whether planning permission is required, the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#) or [Government Circular on Permitted Development](#) should be considered.

If you believe your building work is ‘permitted development’, you can apply for a [Certificate of Lawfulness](#). This is a legal document from the Council which confirms that the development is lawful.

In addition, listed building consent may be required regardless of whether planning permission has been granted.

Advertisement Consent

Many advertisements will require advertisement consent, in addition to listed building consent and planning permission. You can check this by consulting or by seeking advice from the Planning Helpdesk.

Building Warrant

Converted, new or altered buildings may require a building warrant, even if planning permission or listed building consent is not required. Please contact Building Standards for more information on 0131 529 7826 or [email: buildingwarrant.applications@edinburgh.gov.uk](mailto:buildingwarrant.applications@edinburgh.gov.uk).

General Principles

The aim of this guideline is to prevent unnecessary loss or damage to historic structures and ensure that proposals will not diminish their interest.

The fact that a building is listed does not mean that changes cannot be made. However, it does mean that any alterations must preserve its character. Any alterations which would seriously detract from or alter the character of a listed building are unlikely to receive consent.

It is strongly advised that specialist advice be sought prior to carrying out any works to a listed building. Without exception, the highest standards of materials and workmanship will be required for all works associated with listed buildings.

Any alterations should protect the character and special interest of listed buildings .

There is a strong presumption against demolition of listed buildings and proposals for demolition will be assessed against the criteria set out in the Scottish Historic Environment Policy.

Repair

Planning permission and listed building consent are not normally required for repairs which match the original materials and methods and do not affect the character of the building. Inappropriate repairs can result in enforcement action or prosecution.

Repairs to listed buildings should always be carried out with care. Matching the original materials and method is important. The use of inappropriate materials and poor repair techniques can accelerate the decay of traditional historic buildings, shorten their lifespan and result in longer-term problems which may result in much higher repair costs.

Stone Repair

Before any repairs are undertaken, the existing stonework details should be carefully categorised for the:

- **Type:** ashlar, random rubble, coursed rubble etc.
- **Tooling:** broached, stugged, polished
- **Joints:** v-jointed, square-jointed, fine-jointed, etc.

An analysis of the stone will also be required to establish its chemical make-up and ensure compatibility with the existing stone.

These details should be respected and repeated, where appropriate, when stone replacement and pointing is carried out. Inappropriate replacements affect the architectural integrity of historic buildings.

It is also imperative to remedy the cause of any decay by eliminating sources of soluble salts, preventing the passage of moisture and rectifying active structural faults.

Indenting

Indenting is the insertion of a new stone to replace one which is damaged or decayed.

Indenting may not always be necessary when a stone has a defect; if the stone can reasonably be expected to survive for another 30 years, it should be left, regardless of its appearance.



Where indenting is appropriate, the indent should be selected to closely match the original stone. Artificial stone should not be used on listed buildings.



There will inevitably be a marked contrast between old and new work. However, within a few years of repair the effects of natural weathering will have gone a long way to remedy this situation. Cosmetic treatment of indented stone, either cleaning the old stone or distressing the new is not recommended.

Partial indenting should not normally be considered. In certain circumstances, small indents may be appropriate on moulded detail, but leaving the damaged stonework may be more acceptable than carrying out a visually intrusive repair.

Stone indents on external original steps and entrance platts are normally the most appropriate method of repair. Concrete screeds to steps and entrance platts are not acceptable.

Redressing

Redressing is the removal of the surface layer from the decayed stone. This may not be appropriate as it can cause considerable damage to the underlying stone and accelerate decay.

Mortar

Mortar repairs to stone should only be used as an extension of pointing to fill in small areas of decay and extend the life of a stone which would otherwise have to be replaced.

In some cases, it may be appropriate to use mortar on sculpted or moulded stonework. However, as mortar is significantly different from stone, ensuring a permanent bond between the two materials will be difficult. Therefore, a mortar repair will have a considerably shorter life than indenting.

Lime mortars will usually be the most appropriate mix. The presence of cement in the mix used for mortar repairs will accelerate decay in the neighbouring stone.

Weather Proofing

In traditional construction, the free movement of water vapour through the fabric of a building in both directions is essential.

The use of silene and silicone treatments to weather proof stone is not recommended because serious damage can occur if condensation builds up within a stone and the process is not reversible.

Mortar Joints and Pointing Repair

The original mortar joints and pointing should be respected, if traditional and causing no damage. Pointing can take many forms (recessed, flush, slaistered etc.) In some instances, small pieces of stone or slate are used in the mortar mix. In cases where it is unclear what existed previously, mortar analysis should be carried out.

Under no circumstances should joints be widened to facilitate the work. Raking out should be done carefully with hand tools; power tools should never be used. It is important that the correct pointing and tools are chosen and used for specific types of joints.

Mortar should be sufficiently resilient to accommodate minor movements in the masonry, but it should never be stronger or denser than adjoining stones. This will cause the mortar to crack and prevent drying out through the joints, causing moisture to evaporate through the stones, accelerating decay.

Lime mortar should be used in most instances. However, as the technology, science and physical properties of pure lime mortars vary considerably from cement gauged mortars, they must be used

carefully. Hard cement mortar should never be used.

Traditional Harls and Renders

Hard cement mixes should not be used for harls and renders. A hard mix will trap a layer of moisture between the harl and the stonework beneath, thus forcing water back into the stone and encouraging accelerated decay. Lime mixes are recommended.

Original harls can be analysed to establish their composition. In order to prepare surfaces for harling and rendering, old cement render should usually be removed. In most cases, it will be more appropriate to use a wet dash rather than a dry dash. It is important that each 'layer' of harl is allowed to dry fully before applying another coat. However, each situation is different and specialist advice should be sought on best practice.

Roofs

Listed building consent will be required for alterations to roofs. Planning permission may also be required, depending on the proposal.

Planning permission and listed building consent are not normally required for repairs which match the original materials and methods and do not affect the character of the building.

The roof, which includes parapets, skews, chimney heads and chimney pots, is an important feature of a building. The retention of original structure, shape, pitch, cladding (particularly colour, weight, texture and origin of slate and ridge material) and ornament is important. Any later work of definite quality which makes a positive contribution to the interest of the building should also be kept.



The restoration of lost roof elements to match the original form will be encouraged.

It is important to use the proper repair techniques and materials for ridges, flashings, mortar fillets



and parapet gutters. Ridges should be replaced to match existing. Most ridges and flashings should be replaced in lead, making sure to use the correct code of lead.

Any change to the roofing material, including alternative slate, will require listed building consent and may require planning permission.

Most traditional roofs within Edinburgh are covered with Scots slates, although other materials, such as Welsh and Cumbrian slates, pantiles and thatch, have also been used. In some instances, materials such as copper may have been used on the roof of a decorative turret. Traditional materials should always be respected and repeated, where appropriate.



Scots slates are becoming increasingly rare and in some circumstances second-hand slates are of poor quality and size. It is preferable in some cases that sound old slates are laid together on visible roof slopes, with new slates used on non-visible roof slopes. Alternatives to Scots slate will be considered on their merits.

It is important to ensure consistency in the texture and grading, and that the new slate matches the colour, size, thickness and surface texture of the original materials as closely as possible.

Concrete tiles or artificial slate should never be used in conjunction with, or as a replacement for real slate. The introduction of slate vents may require listed building consent.

Patterned slating, incorporating fish scale or diamond slates, sometimes in different colours, should be retained and repaired with special care.

The original gradation of slates should be repeated.

Flat Roofs

Lead is usually the most appropriate covering for the long-term maintenance of flat roofs. Alternatives to lead may be considered acceptable in certain cases. Bituminous felt is not generally appropriate for use on listed buildings.

Chimneys

Removal of all or part of a chimney will require listed building consent and may require planning permission.

Original chimneys should always be retained and repaired as they are an essential feature of traditional buildings and contribute to the historic skyline. Non-original additions to chimneys should be removed.

Chimneys should be repaired using traditional methods to reinstate as original, with particular attention to the detail of the coping stone. Particular care should be taken to retain chimneystacks to their original height.

Detailed records of the original structure should be made where dunting is necessary to ensure correct replacement. Chimney pots should always be replaced to match the original.

Where the original chimneys have been demolished and replaced in brick and render, the rebuilding in stone will be encouraged.

Rainwater goods (guttering, downpipes etc.)



Replacement rainwater goods should match the original, cast iron or zinc should be used where these were the original materials. Other materials such as aluminium may be acceptable, where appropriate.

They should be painted either black or to tone in with the adjacent stonework and roofing respectively.

Railings, Gates, Balconies and Handrails

The erection of railings, gates, balconies and handrails requires listed building consent and planning permission.

Planning permission and listed building consent are not normally required for repairs.

Balconies, gates, railings and handrails are usually formal components in the design of an elevation. They should be maintained and repaired and, if

they have to be replaced, should be erected on a like for like basis. The recommended paint colour is black gloss.

Usually, railings were made from cast iron, although there may be some examples surviving of wrought iron. If the railings no longer exist, it is important to establish

what the original railings were like. Remaining sections of iron work may still exist in the cope or on similar neighbouring properties or old photographs and plans can be used. In most cases, cast iron railings fixed individually into the cope should be used.

Railings are normally fixed to stone copes. These should be repaired according to the principles outlined in the previous section on stone repair. Moulded copes and other special details should always be respected and repeated.

External Alterations

Any external alterations, however minimal, may require listed building consent and possibly planning permission.

This section provides guidance on the most common forms of change. You are encouraged to contact Planning to discuss any proposed work.

Where it is proposed to restore lost features, it will be important to ensure that all restorative work is



based on sound physical and documentary evidence of the previous state of the building. This is to ensure that work is carried out in an architecturally and historically correct manner.

Stone Cleaning

Listed building consent is required to stone clean listed buildings. Planning permission is also required for the stonecleaning of any building within a conservation area.

Stone cleaning cannot be undertaken without damaging a building. It can also reveal the scars of age, such as staining, poor previous repairs and surface damage. It may also remove the natural patina, the protective layer on the stone, opening up the surface pore structure and making re-soiling much easier.

There will, therefore be a presumption against the stone cleaning of listed buildings and buildings within conservation areas. Stone cleaning will not be considered acceptable on any street where cleaning has not commenced. Where cleaning of a street has commenced, the issue of reinstating architectural unity will be a material considerations in assessing the merits of individual applications.

Specialist professional skills should be sought to undertake analysis and, where acceptable, design a suitable cleaning method and undertake work.

Applications for stone cleaning should be accompanied by a full drawing and photographic survey.

To assess the most appropriate method of stone

cleaning, applicants will be required to ascertain geological characteristics through laboratory tests.

Stone cleaning methods should be tested on an inconspicuous trial area of two or three stones.

If stone cleaning is approved, post-cleaning photographic records should be submitted and documented for research purposes.

It is expected that most necessary repairs will be identified at the initial application stage. Therefore, consent would be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to stonecleaning.

Stone Cleaning Methods

The following are the most common stone cleaning methods. Their inclusion in this guideline is for information only and does not imply their acceptability.

1. Mechanical - Carborundum Disc

This method comprises a hand-held rotary disc with a carborundum pad.

2. Air and Water Abrasive

These methods comprise grits and other abrasive mediums carried by jets of air and/or water.

3. Chemical Cleaning

This method comprises the application of chemicals and a high pressure water wash or pressure steam.

4. Water (High Pressure, Low Pressure, Manual)

When water pressure is used as part of the cleaning method, water is forced into the stone to a depth where natural evaporation will not take place. The water can then percolate down through the fabric of the wall and cause accelerated weathering at lower levels in the building. High pressure water can also cause damage to the stone.

A water wash remains an alternative stone cleaning technique. A low pressure water wash (100-200psi) is the least aggressive method of stone cleaning. However, it will not remove dirt which has combined with the surface to form an insoluble compound. High pressure and/or excessive water can cause surface erosion, pointing wash-out, staining and force water into the core of the wall. Due to the dangers of thermal expansion, water washing should be avoided in frosty conditions.

Paint Removal from Masonry

Paint removal will require planning permission and listed building consent.

The restoration of the original surface through the removal of paint can improve the character and appearance of a building. Where surfaces have been previously painted, the removal of paint will be supported in principle, provided that the proposed removal method does not adversely affect the original surface.

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The removal of paint requires chemical and/or abrasive cleaning to re-expose the stone beneath. Abrasive methods can cause severe damage to the surface and will be unlikely to remove all traces of paint from coarse, porous sandstone. In certain circumstances, a minimally abrasive method may be appropriate to remove the outermost paint layers not in contact with the stone surface. Chemical paint removal varies from paint stripper to a proprietary poultice (a substance placed on the stone to draw out the paint). Each requires extreme caution due to their potentially damaging effects and trial samples should be carried out.

Previous painting could have disguised the poor condition or appearance of the surface so repair work may be required following paint removal. Therefore, consents will be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to paint removal.

Where paint removal is not appropriate, the property should be repainted in a matt finish stone coloured paint to tone with the adjoining stonework.

Specialist professional skills should be sought to undertake analysis, design a suitable treatment method and undertake any work.

Graffiti Treatment

Graffiti treatment will require planning permission and listed building consent if the proposed method will affect the character or appearance of the building.

Whilst graffiti can have an adverse impact on the character and appearance of a building and general environment, inappropriate graffiti treatment can cause irreversible and fundamental damage to buildings.

The treatment of graffiti from listed buildings and buildings within conservation areas will generally be supported provided there would be no unacceptable change in the appearance of the historic surface or structural integrity. However, the condition or architectural detailing of the surface or the nature of the graffiti may, in some circumstances, prevent any form of graffiti treatment from being acceptable.



Each site must be assessed on an individual basis and a site specific proposal prepared. Specialist professional skills should be sought to design suitable treatment methods and undertake any work.

At sites where graffiti is a recurring issue or where historic surfaces are vulnerable to the effects of graffiti treatment, alternative strategies may be required to prevent or reduce incidences of graffiti. Lighting, CCTV, physical barriers and the repositioning of fixtures may be required. These may need listed building consent and/or planning permission.

Temporary sacrificial coatings will also be encouraged in areas of persistent graffiti attack, provided there would be no adverse impact on the surface.

The permanent sealing of a surface will result in accelerated decay of the stone leading to expensive repairs and will therefore not be considered acceptable.

Graffiti Removal Methods

Chemical

Includes solvent based paint removers, other organic solvents and alkali-based paint removers or caustic removers.

Physical

Mainly air abrasion but can also include pressure washing and steam cleaning.

Heat

Includes hot pressure washing and steam cleaning, which must be applied at an appropriate pressure for the substrate; and laser treatments which can be labour intensive, slow and expensive.

Painting and Render

Paint which matches the existing in colour and uses traditional materials and methods will not require listed building consent or planning permission.

Painting or rendering of a previously untreated surface will require planning permission and listed building consent, and is unlikely to be acceptable.

Changing the colour of a listed building will need listed building consent. Planning permission will also be required to change the colour of any building located within a conservation area.



External stonework must not be painted or rendered, unless the surface was originally painted or rendered.

Coping stones and the edge of steps should not be painted.

Information on painting a shop or other commercial premises is included within the [Guidance for Businesses](#).

Walls covered with smooth cement render or a harled finish should generally be painted in earth colours or neutrals (grey, cream or beige). Rendered bands to windows should generally be in stone colours.

Extensions and Additions

Listed building consent will be required for extensions or additions to listed buildings. Planning permission may also be required, depending on the proposal.

New extensions on a terraced block may not be acceptable where there are no existing extensions. Where the principle of extending a listed building is acceptable, the extension should be subservient to the main building and will rarely be permitted on principal elevations. Extensions should not normally exceed 50% of the width of any elevation.



It is usually acceptable for an addition to be different and distinguishable from the existing building, in terms of design. The use of high quality materials which complement the main building will be required. In other circumstances it may be appropriate to match the new work to the existing, in which case the new materials should be carefully matched.

The visual separation of extensions is encouraged. In the case of side extensions, they should be set back from the facade and be of a scale that does not affect the overall architectural composition. The effect of any addition on a symmetrical composition will be particularly important.

Encouragement will be given to the removal of inappropriate additions which are of inferior quality and which detract from the listed building. Where there is an existing extension of historic or architectural interest, such as a conservatory or outshot, this should be restored or repaired, rather than replaced.

Shopfront Alterations and Signage



Page 620 Specific information is included in Guidance for Businesses. This should be considered alongside this document, where relevant.

Windows

The removal, replacement or alteration of windows will normally require listed building consent.

Repairs and painting which match the existing and use traditional materials and methods will not require listed building consent or planning permission.

Double glazing in listed buildings will require listed building consent.

Where a significant proportion of historic glass (such as Crown, cylinder and drawn sheet) remains on an individual window, it should be retained or re-used.

Secondary glazing is likely to require listed building consent where it will impact on architectural detail or affect the external appearance of the building.

Planning permission may also be required where the replacement or alteration will not match the existing in design, material, size, opening mechanism or proportion. Replacement windows which do not result in a material change to the appearance will not normally require planning permission.

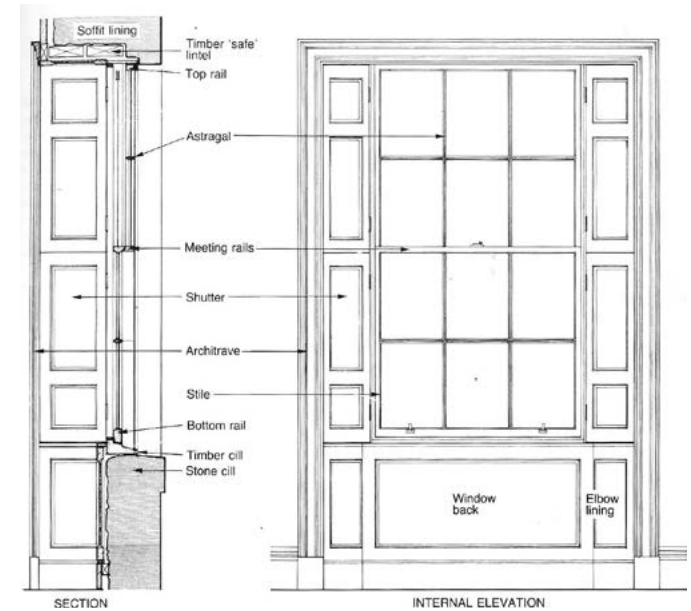
The reinstatement of the original window pattern will normally be encouraged.

Repair and Maintenance

There is a general presumption against the removal of original window frames and glazing; repair and refurbishment is preferred. Decay in timber is usually caused by moisture penetration, which can be prevented by thorough painting, regular maintenance and prompt attention to necessary repairs.

Glazing should be fixed with putty or a glazing compound rather than timber beading.

The thermal performance standard of existing windows can be improved by repair, draught-stripping and working internal shutters.



Openings

Window openings play an important role in establishing the character of an elevation and they should not be altered in their proportions or details.

Proposals to increase the glazing area by removing stone or timber mullions (vertical members between windows which form the divisions between windows) will not normally be granted consent.

Proposals to convert windows into door openings will not be considered acceptable on principal frontages or above garden level on all other elevations. Where acceptable, the width of the existing opening should not be increased. Normally, only one set of French windows will be permitted.

Entirely new window openings are unlikely to be acceptable on principal elevations as this can create an unbalanced composition.

Replacing Original Windows



Original windows are important features of any building and should not be removed or altered. The complete replacement of original windows will only be approved where they have clearly deteriorated beyond practicable repair. Proposals must be accompanied by evidence demonstrating that they are beyond repair; a professional survey may be requested.

In the event that replacement windows can be justified, they should be designed to replicate the original details, including materials, design and opening method. Particular attention must be paid to the mouldings; standard modern sections are not acceptable for reinstatement work. uPVC will not be acceptable.

Care should be taken to ensure that replacement windows are fitted in the same plane as the originals, are made of timber sections (the profile and dimensions of which match the originals) and

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have the meeting rails in the same position as the originals; this is especially important where the windows of only one property in a tenement or terrace block are being replaced.

Whenever an original window has been lost, any modern windows which are badly proportioned, of the wrong type, or incorrectly glazed, should be reinstated to the original proportion and detail. This is especially important in the case of unified terraces.

Double Glazing

Slim profile double glazing with a cavity (the space between the two sheets of glass) of a maximum of 6mm can be fitted into existing windows, provided early glass is not present.

Double glazing with a cavity of more than 6mm is not acceptable.

Secondary Glazing

Secondary glazing involves an independent internal window in addition to the existing. It should, wherever possible, be fitted immediately inside existing sashes or at a suitable position within the depth of the window reveal, being fixed either to the case or the surrounding framework of the ingoes. Secondary glazing should not disrupt architectural features, such as shutters.

The meeting rails and frames of secondary windows should be as small in section as possible to allow them to be disguised behind existing rails. Painting their external faces black helps to minimise visibility from the outside. Where necessary, detailing of internal secondary windows must allow for the use of the easy-clean hinges on the lower sash of the original outer window.

Additional glazing units fitted to the outside of existing windows are not acceptable.

Fanlights



Decorative fanlights should be retained, and where necessary, replaced.

Astragals

Where there is clear photographic or physical evidence that astragals (the glazing bars dividing panes of glass) have been removed, their replacement to the original profile and dimensions will be encouraged. The glazing pattern which forms part of a significant later re-modelling scheme should not be changed. Astragals applied to the surface of the glass or sandwiched between the glass of doubled glazed units are not considered acceptable.

Horns

Horns are Victorian projections of the side frames of the sashes, devised to strengthen them, following the introduction of heavy plate glass. Georgian and early Victorian windows with astragals never have horns and will therefore be strongly resisted. Edwardian windows sometimes had horns, and their use may, therefore, be appropriate.

Ventilators and Extractor Fans

Ventilators cut through the glass or visible on the window frames will not be considered acceptable; they should be located unobtrusively in the meeting rail or through the box frame.

Mechanical extractor fans should be located on rear or side elevations and will not normally be acceptable within windows or fanlights, or on front elevations.

Paint

Originally, most windows were painted dark brown or bottle green. However, window joinery, including fanlights, should normally be painted white or off-white to maintain uniformity (brilliant white should be avoided).

Freestanding buildings may have more scope to investigate and 'restore' the original colours.

All areas of dormer windows, other than the window frames, should be painted to tone in with the roof.

Special Cases

Institutional/Industrial buildings

Industrial and institutional buildings have a variety of window types, depending on their age and function. The original window type should be retained wherever practicable, although flexibility on window design may be acceptable to allow conversion to new uses. The glazing pattern should be reproduced and the manner of opening should be as close to the original as possible. Standard double glazing may be acceptable, provided discrepancies in the form, profile, section, materials and opening method are kept to a minimum.

Early Modern Metal Windows

Early modern metal framed windows should normally be repaired or replaced with matching windows of the same materials and design. New units manufactured from different materials will rarely be capable of accurately matching and will only be acceptable where exact replication of the original window is of less importance. In such cases, any discrepancy in form, profile, section and opening method should be kept to a minimum.

Casement Windows

Original inward opening casement windows are relatively rare and must be retained or identically replaced.

Special Types of Glass

There is a presumption in favour of retaining stained, decorative leaded, etched glass and historic glass. If the glass has to be removed and is of artistic merit, arrangements should be made for its recording and its careful removal. Proposals to use wired glass, obscured glass, and louvered glass or extract fans in windows on main elevations will not be considered acceptable.

Dormer Windows and Rooflights

New dormer windows will not normally be acceptable unless they are part of the original or early design of an area. Rooflights will almost always be a preferable solution, but these will not generally be permitted on roof slopes which are largely unaltered. Where acceptable, rooflights should be of



a conservation type and should be of an appropriate scale and proportion. The proposed number of rooflights will also be a determining factor.

Doors

The removal, replacement or alteration of doors will normally require listed building consent.

Original doors are important features of any building and should not be removed or altered. The complete replacement of original doors will only be approved where they have clearly deteriorated beyond practicable repair. Proposals must be accompanied by evidence demonstrating that they are beyond repair; a professional survey may be requested.

Replacement doors which incorporate integral fanlights or inappropriate glazing or panelling patterns will not be granted consent.

Entirely new door openings are unlikely to be acceptable on principal elevations as this can create an unbalanced composition.

Doors in street frontages, even though no longer used, should be retained.

Door furniture and later fittings of quality should be retained. Where these have not survived, the replacement of modern fittings with items appropriate to the period of the building will be encouraged.

Door entry systems should be discreetly designed and should be located on door ingoos, not the main façade.



Paint

Doors should be painted in an appropriate dark and muted colour.

Basements

Listed building consent may be required for external alterations to basements. Planning permission may also be required, depending on the proposal.

There is a presumption against the removal of original stone slabs from basement areas. They should never be covered in concrete or any other material such as gravel or chips. Where existing stone slabs need to be renewed new stone slabs should be laid. Similarly, stone steps and platts to ground floor entrances should be repaired or renewed in natural stone to match the original in



colour. Basement steps, floors and walls should not be painted .

Proposed extensions in front basement areas or under entrance platts are not normally acceptable and owners are encouraged to remove existing extensions.

The formation of lightwells in basements will only be permitted where they are part of the character of the street. These should always be in matching materials to the main building and covered with a flush cast iron grille.

Access Stairs

New external access stairs will require listed building consent and may also require planning permission.

There is a general presumption against the introduction of external access stairs on any elevation. External access stairs may be acceptable in exceptional circumstances where there is a pattern of original access stairs established relevant



to the elevation(s) in question and this can be fully supported by an historic building analysis.

Where access stairs can be justified, they should be in-keeping with the character of the building. The design of the stair should either be based on an original design for the type of building or a lightweight modern addition with metal being the preferred material. New doors and stairs should be painted appropriate colours, usually black for metal work. They should not be enclosed structures.

Stairs should normally be for access only. Where they include platforms for incidental use, the Council's guidelines on privacy must be complied with. Stairs should be kept close to the building, but should not obstruct daylight from existing windows.

When buildings are in single occupancy and there is an existing door at either ground floor or basement level, an access stair at upper levels will not normally be permitted. On all other properties, access stairs will be restricted to the floor above the lowest habitable floor level. Bridges over rear basement areas will not be considered acceptable.

Renewable Energy Technologies (Solar Panels, Wind Turbines etc.)

Listed building consent will normally be required for the installation of renewable energy technologies. Planning permission may also be required, depending on the proposal.

The installation of renewable energy technologies should be carefully sited in order to protect the architectural integrity of the listed building.

Poorly located renewable energy technologies can be visually intrusive and will not be acceptable where they detract from the character of the building. They should not be visible from public view. They may be acceptable in the following locations:

- On the ground to the rear of the building.
- On a modern extension to the rear of the building, providing that no part is higher than the main building.
- In the internal valley of a roof, provided that no part projects above the ridge.

In the New Town Conservation Area and World Heritage Site, aerial views will also be considered.

External Plumbing

Listed building consent may be required for external plumbing. In some circumstances, planning permission may also be required, depending on the proposal.

Additional pipework on important facades should be avoided especially if it would result in disturbance to, or the breaking through of masonry, mouldings or decorative features. Replacements should be in cast iron, painted to match the colour of the walling and should match the original sections.

Gas Pipes and Meter Boxes

Listed building consent is only required where the guidelines listed below cannot be complied with.

A maximum of a 450mm of supply pipe can be visible on the front wall of listed buildings. External pipes which are both horizontal and vertical must have the horizontal section within the basement areas (where applicable) and not be visible from the street.

Holes in stonework must be kept to a minimum and should be made through stone joints, except in the case of “V” jointing or rubble where holes should be in the stonework. Non-ferrous fixings must be used.

Pipe runs should not interfere with cornices and decorative plasterwork. Where pipes are chased into walls, plasterwork must be reinstated to original.

All redundant surface-run pipe work must be removed and the surfaces made good and painted to match existing materials and colour.

Meter boxes should not be fitted to the front or any conspicuous elevation of buildings.

Pipe work and meter boxes should be painted to match adjacent stone.

Flues

Listed building consent is required to install balanced flues on the front or any conspicuous elevation of listed buildings. In certain circumstances an application for planning permission will also be required.

Balanced flues will not normally be acceptable on the front or conspicuous elevations of listed buildings.

The balanced flue should be painted to match the colour of the surrounding stonework.

Holes to accommodate the balanced flue should be formed with a core cutter.

Ventilation Grilles

Listed building consent is required to install ventilation grilles on the front elevation (or any conspicuous elevations) of listed buildings. Planning permission is not normally required if of a domestic scale.

Ventilation grilles will not normally be acceptable on the front or other conspicuous elevations of listed buildings.

If acceptable in principle, ventilation grilles should generally be no bigger than the standard size, flush with the wall surface and coloured to match the background.

Air Conditioning and Refrigeration

Planning permission and listed building consent will normally be required to install air conditioning and refrigeration units on the exterior of buildings. Listed building consent may also be required to install units within listed buildings where units would disrupt architectural features and fixtures.

The preferred location for units on listed buildings are:

- Free standing within garden or courtyard areas, subject to appropriate screening and discreet ducting.
- Within rear basement areas.
- Inconspicuous locations on the roof (within roof valleys or adjacent to existing plant). However, in the New Town Conservation Area and World Heritage Site, aerial views will also be considered.
- Internally behind louvres on inconspicuous elevations. This should not result in the loss of original windows.

Where it is not practicably possible to locate units in any of the above locations, it may be acceptable to fix units to the wall of an inconspicuous elevation, as low down as possible; they should not be located on the front elevation.

Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Ducting must not detract from the character of the building.

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Alarm Boxes

Alarm boxes on listed buildings should be the smallest available, fitted in the least conspicuous location and painted to match the background colour or stonework.



There will be a general presumption against the location of alarm boxes on the front elevation of listed buildings which retain their original domestic character, irrespective of the use of the premises.

Where alarm boxes have to be located on the front elevation, they should be restricted to the least visible location. On tenemental properties, alarm boxes should not normally be located above the ground floor.

In basement areas, it may be possible to fit alarm boxes in inconspicuous locations such as on in-facing walls, under entrance platts and stairs, and on the sides of platt supporting arches close to the junction with the pavement.

Concealed locations on side and rear elevations should also be considered. Consideration should also be given to fitting boxes inside the building behind windows and fanlights. Alarm boxes should not bridge mortar joints in the stone, particularly where V or square joints are used.

Alarm boxes will normally be considered acceptable in appropriate locations and on painted shop fronts and commercial frontages where the boxes are painted to match the background colour.

Satellite Dishes

Listed building consent will normally be required to install a satellite dish on a listed building. Planning permission may also be required if located within a Conservation Area.

Poorly sited satellite dishes can be visually intrusive and will not be acceptable where they detract from the character of the building. They should not be visible from public view. They may be acceptable in the following locations:

- On the ground to the rear of the building.
- On a modern extension to the rear of the building, providing that no part of the dish is higher than the main building.
- In the internal valley of a roof, provided that no part of the dish projects above the ridge.
- Behind a parapet, provided no part of the dish projects above it.

In the New Town Conservation Area and World Heritage Site, aerial views will also be considered.

Where the location for a dish is considered to be appropriate, it should be chosen to blend in with its background. This may require the dish to be painted.

All fixings should be non-ferrous.

Consent may be refused for additional dishes due to the visual effects of a multiplicity of dishes, even if this precludes some residents from receiving satellite television. The sharing of satellite dishes will be encouraged.

Other Additions

External fixtures will require listed building consent when they affect the character of the listed building. These include floodlighting, security cameras, window boxes, key boxes, bird control installations and eyebolts (unless on window reveals). Planning permission may also be required, depending on the proposal.

Only undamaging and visually unobtrusive positions for such fixtures will be considered acceptable. Fixtures should not lie across, cut into or through any architectural feature or disturb the balance of a symmetrical façade. Fixings into stonework should be kept to a minimum and should be non-ferrous.

The size and number of additions will also be an important consideration and, where appropriate, applicants may be asked to erect fixtures on a temporary basis in order that their impact can be accurately assessed.

Proposals to erect any fixtures which fail to respect the form and detailing of the building and detract from its appearance are not likely to be acceptable.

The position and colour of cabling for lighting, television and other services should be inconspicuous. Cabling may often be accommodated behind or next to downpipes or on top of projecting string courses and cornices. Black or grey cabling is normally the most appropriate colour.

Adaptation for Accessibility

Listed building consent is required to install ramps, handrails, indicators and lifts and for alterations to doors. Planning permission may also be required.

While the Equality Act 2010 requires service providers to take “reasonable” steps to make their buildings and services accessible, there is also a statutory duty to protect the character of the historic environment. The provision of access for the less able to historic buildings will, therefore, require careful consideration and design.

Full access for everyone via the principal entrance may not be appropriate. Alternative access arrangements which preserve the character of the listed building may be required.

Listed building consent will be required for any internal alterations which will alter the character of the listed building.

Planning permission is not required for internal alterations.

Solutions should be tailored to the particular building through the use of innovative design and high quality materials.

Ramps

The placing of a ramp on a building should have minimal impact on the historic fabric.

The symmetry of existing elevations and the rhythm of the street as a whole should be respected, and where relevant, care should be taken to protect the relationship between railings, property and basement.



Where appropriate, consideration should be given to regrading the ground at the entrance in order to overcome the need for larger ramps and minimise the visual impact on the building. If this will cause a footway hazard, a ramp inside the building may be appropriate; the removal of steps and the lengthening of doors can sometimes accommodate this.

Ramps on the public footway will not generally be supported. Where acceptable, ramps must leave sufficient clear footway for pedestrians. This will vary according to the volume of pedestrian traffic. In general, this is 2 metres for residential areas, 3 metres for main roads and 5-6 metres for busy shopping streets.

Where a ramp is acceptable, high quality materials, such as stone to match the existing building, will be encouraged. In some circumstances, high quality design in modern materials may be more appropriate.

Handrails

Where required, handrails should be carefully designed and sensitively located to avoid being visually intrusive.

Appropriate contrast with the background material can be achieved with high quality traditional or contemporary materials.

Tactile Indicators

Historic flooring materials should not be replaced with standard tactile paving. A tactile grid can be achieved by using materials that match those of the surrounding area, and which have been textured with ridges or dimples. More information is available in the [Edinburgh Design Guidance](#).

Visual indicators

Brightly coloured high-visibility strips should be avoided, unless their use helps to avoid other more visually intrusive works.

Doors

There may be cases (particularly in the case of historic buildings) where it is less damaging to seek alternative access routes than to widen or alter a doorway. Historic doors are often an integral part of the design of the building, and should be retained wherever possible.

Where historic doors are heavy or difficult to operate, it is normally possible to adapt them by re-hanging and/or introducing opening mechanisms or visual indicators to make the handles more prominent.

Lifts

External chair and platform lifts can have a significant impact on the architectural character of a building, but may be more appropriate than a ramp in certain circumstances. The resting position of any external lift should be as low as possible, and the design of the platform and restraints should be as transparent as possible. Metal cages are unlikely to be acceptable as they are disruptive to the streetscape and can seem intimidating to the user.

Internal Alterations

Listed building consent will be required for any internal alterations which will alter the character of the listed building.

Planning permission is not required for internal alterations.

Subdivision

The original plan form of a building should always be respected.

All major works of alteration should be limited to areas of secondary importance. There will be a particular requirement not to sub-divide, either vertically or horizontally, principal rooms and entrance/stair halls. Where the interior is of particular architectural or historical importance, subdivision will not be permitted.

The degree of change to the plan form which may be acceptable will normally be dependent on previous alterations and use.

There will be a presumption against the sub-division of complete houses and flats currently in residential use. A greater degree of flexibility will be exercised where the current use is non-residential and a return to residential is proposed.

Where acceptable, subdivision should not normally result in the formation of more than one flat per floor in town houses.

Rear stairs should not be attached as part of a sub-division proposal. Access to rear gardens should be retained through a basement room, where possible.

Garden ground should not be formally divided up by the use of fences and other unsuitable boundary markers to delineate ownership. Particular care should be taken to conceal the clutter of intensified domestic use, e.g. garages and bin stores.

Internal Walls and Partitions

Internal walls in listed buildings should always be investigated with care in advance of alterations as historic or interesting features may be concealed by plaster or behind panelling. In some cases, the partitions themselves may be of historic interest.

In general, consent will not be granted for the removal of original internal walls or partitions between front and rear principal rooms at ground and first floor level.

In cases where it is considered acceptable for an existing wall or partition to be removed, it will be necessary to leave nibs and a downstand of at least 300mm with any original cornice left intact. Work should not cut through mouldings or enriched plaster decoration but be shaped around them to allow for reinstatement at a later date. In most cases it will be desirable to replicate the original cornice detail at the head of new partitions as well as dadoes and skirtings.

New partitions which affect the proportions of principal rooms will not be considered acceptable.

Internal Doors

Doors that form part of the architectural composition of a room or plan form should be retained. Where they are redundant in terms of circulation, they should be locked shut and left in position, rather than being removed.

If traditional panelled doors require to be upgraded for fire resistance, fire resistant paper applied to the panelling or intumescent paint and edge strips should be used. Door closers should be hidden.

In general, consent will not be granted for new doors connecting front and rear principal rooms at ground and first floor level. Jib (secret) doors may only be allowed in certain cases.

Where new door openings are considered acceptable, they should be correctly detailed with matching doors and architraves. They should not incorporate features such as glazed panels. Where doors are to be added, but are not in traditional positions it is often acceptable to design a jib door or modern opening, so as not to confuse the building's history.

Buffet recesses are an important feature in the dining rooms of listed buildings, particularly in the New Town, and should be retained. New door openings will not be granted within a buffet recess.

Plasterwork



Care should always be taken with works to old plaster to avoid destroying early decoration. All decorative features from a simple cornice or cove

to elaborate wall and ceiling decoration should be preserved. Suspended ceilings should never be formed in principal rooms or entrance halls which have decorative plasterwork. They may be acceptable in minor rooms provided they are above window height.

Chimneypieces

Chimneypieces, along with fireplaces containing original features are part of the decorative history of a building and are often central to the design of a room. Even later chimneypieces of interest can make a significant contribution to the character of a room. Original or later chimneypieces or fireplaces of interest should not be removed, even if the chimney is redundant. In cases where there is no alternative to the removal of a chimneypiece, it should be re-used in an appropriate location within the building. The removal of a chimneybreast is almost never acceptable, particularly as this may affect the structural stability and ventilation of the building. The restoration of missing chimneypieces will be supported.



Staircases



The removal or alteration of any historic staircase, including handrails and balusters, is not normally acceptable. The stair is often the most significant piece of design within a building and can be important dating evidence. Where subdividing ground and basement floors, the basement stair must be retained. In retail premises, the removal of the lowest flight of stairs, which provides access to and use of upper floors, will not be allowed.

Lifts and Stair Lifts

Wherever possible, lifts should be installed in an existing opening in order to minimise physical and visual disruption to the built fabric.

Stair lifts and chair lifts may not be acceptable in sensitive interiors. It may be better to use a secondary stair if possible, or to rationalise the service provision within the building so that access to all floors is not required. An independent device such as a stair climber could also be considered.

Floors and Ceilings

Floors which are original to the building and/or of interest because of their materials, form or surface treatment should be respected, and repaired and retained in situ. Care must be taken when such floors require to be lifted in order to install or repair services. In some instances, features of interest are concealed behind suspended or false ceilings. This should always be the subject of investigation prior to any works being carried out.

Kitchens and Bathrooms

New kitchens and bathrooms should be located at the rear of a building to prevent fittings being built across windows to the front of a property and to avoid cluttering a front elevation with downpipes and ventilators.

New kitchens will generally not be acceptable in principal rooms and must not obscure any architectural detailing.

Podded kitchens and bathrooms will rarely be permitted in principal rooms but may be permitted elsewhere provided they are of a limited area, are freestanding and do not have a detrimental effect on any fixtures of architectural interest.

En-suite bathrooms will not be acceptable in principal rooms. They should ideally be located within existing boxrooms or cupboards. Where this is not possible, it may be acceptable to locate them in larger, secondary rooms although this will be dependent on their form and how they affect room proportions.

En-suite bathrooms, where acceptable within rooms, will normally be height, appearing as a 'piece of furniture' within the room.

Sprinkler Systems

The introduction of sprinkler systems into important and/or vulnerable interiors will normally be acceptable. Whilst exposed pipework systems minimise the degree of disturbance to the structure, care must be exercised in the design of exposed pipework to ensure its appearance is appropriate to the historic interior to be protected. Pipework should not be cut into decorative plasterwork.

The location of sprinkler heads, either ceiling or wall mounted, must be carefully integrated into interiors in order to reduce their visual impact. In particular, ornate interior locations, will not normally be considered acceptable. On highly decorative ceilings, sprinkler heads are best concealed within the raised modelling of the ceiling.

The presence of sprinkler protection does not eliminate the need for preventative measures to reduce the risk of a fire occurring or spreading.

Other Services

The installation of services, such as computer trunking, fibre optics and central heating pipes, should be reversible and should not result in damage to architectural features. Surface mounting such services may be preferable.

New development in the grounds of listed buildings

Development within the curtilage of a listed building which is not physically attached to listed structures does not require listed building consent, but may require planning permission.

Buildings and structures erected before 1 July 1948 within the curtilage of a listed building are treated as part of the listing building, even if they are not included within the description. Listed building consent will, therefore, be required for works which affect their character. Planning permission may also be required.

The curtilage of a listed building is the area of land originally attached to, and containing the structure of the main house and its ancillary buildings, and which was used for the comfortable enjoyment of the house. The extent of the curtilage in individual cases will be based on an assessment of the physical layout, pattern of ownership, and the past or present use and function of the building. Thus, buildings such as coach-houses, doocots, mews/stable courts, walled gardens, lodges, boundary walls, garden ornaments and gates would all be considered to be part of the curtilage of the listed building and are treated as part of the listed building, even if they are not individually listed.

The setting of a listed building is the environment of which the building was designed to be a principal focus, and which it was designed to overlook. The 'setting' of a listed building takes into account a much broader assessment of the siting and situation

of the building. The curtilage of a house will normally form part of the setting, but it is also important to consider land immediately adjacent to, or visible from, the listed building.

Development within the setting of a listed building will only be acceptable if it can be demonstrated that the proposal would not be detrimental to the architectural or historic character of the listed building.

The sympathetic conversion and re-use of existing buildings on the site, particularly stable blocks, mews, service courts and steadings, should be considered prior to developing proposals for new build; care should be taken to incorporate surviving original features in these buildings where possible.

However, any proposals to alter unsympathetically, relocate or remove items within the curtilage, such as stables, mews, garden walls, stone steps, stone paving and cobbled or setted areas are likely to detract from the quality of the building's setting and are unlikely to be approved.

The condition of the main item of listing is critical and, where it has gone out of use, it is important that the restoration of the listed building is sought as a priority. It should be a condition that work on the listed building should be completed, or that an appropriate contract has been let for its restoration, prior to the commencement of new development.

New Development

Where new development within the grounds of a listed building is acceptable, the siting, design, scale, form, density and materials should be sympathetic to the listed building, including ancillary buildings.

The feeling of spaciousness of the grounds in relation to the main building should be protected for the amenity of the property. The scale of new development should be controlled so as not to crowd or obscure the house. No building of similar or greater bulk should be erected close to the main listed building.

The relationship that exists between the main house and its ancillary uses should not be disrupted by the new build.

Views

New development should always be set back from the original building line of the main house to avoid interfering with oblique views of the listed building and disrupting formal approaches. Development to the front of a listed building which breaks its relationship to the street is not acceptable. This is particularly destructive of character, not only to the building, but to the area, especially where the building is part of a unified group. The principal elevations should remain visible in their entirety from all principal viewpoints. New development should not restrict or obstruct views of, or from, the listed building or rise above and behind the building so that its silhouette can no longer be seen against the sky from the more familiar viewpoints. Distant views of features and landmarks which may have been exploited in the design of the building should not be obstructed by the development.

Landscape

The landscape setting of the building should be analysed as the loss of garden ground can seriously affect the setting of a listed building.

Planting which forms part of the original landscape should be retained and, where appropriate, the original landscape restored. New landscaping should be used imaginatively to screen and enhance new development and to retain the landscape setting of the building. Immediate surroundings should be maintained communally, avoiding individually defined gardens.

Conservation areas are areas of special architectural or historic interest which have a character and appearance which is desirable to preserve or enhance.

To check whether your property is located within a conservation area, the Council's [online map](#) can be used.

Part 2: Conservation Areas

Conservation Area Character Appraisals

Conservation Area Character Appraisals identify the essential character of conservation areas. They guide the local planning authority in making planning decisions and, where opportunities arise, preparing enhancement proposals. The Character Appraisals are a material consideration when considering applications for development within conservation areas.

Implications of Conservation Area Status

1. The permitted development right which allows any improvement or alteration to the external appearance of a flatted dwelling that is not an enlargement is removed.
2. Special attention must be paid to the character and appearance of the conservation area when planning controls are being exercised. Most applications for planning permission for alterations will, therefore, be advertised for public comment and any views expressed must be taken into account when making a decision on the application.
3. Within conservation areas the demolition of unlisted buildings requires conservation area consent.
4. Alterations to windows are controlled in terms of the Council's policy.

5. Trees within conservation areas are covered by the Town and Country Planning (Scotland) Act 1997. The Act applies to the uprooting, felling or lopping of trees having a diameter exceeding 75mm at a point 1.5m above ground level, and concerns the lopping of trees as much as removal. The planning authority must be given six week's notice of the intention to uproot, fell or lop trees. Failure to give notice renders the person liable to the same penalties as for contravention of a Tree Preservation Order (TPO).

Do I Need Planning Permission?

Planning Permission

Planning permission is required for many alterations, additions and changes of use. However, some work can be carried out without planning permission; this is referred to as 'permitted development'.

Within conservation areas, fewer alterations are permitted development and most changes to the outside of a building, including changing the colour, require planning permission.

The **Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended)** sets out the requirements for planning permissions.

If you believe your building work is 'permitted development' and doesn't need planning permission, you can apply for a Certificate of Lawfulness. This is a legal document from the Council which confirms that the development is lawful.

What Other Consents Might Be Required?

Listed Building Consent

Listed building consent is required for works affecting the character of listed buildings, including the interior and any buildings within the curtilage. Planning permission may also be required in addition. If your building is listed, the Listed Buildings Guidance should be used.

Advertisement Consent

Advertisements are defined as any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, and employed wholly or partly for the purposes of advertisement, announcement or direction.

While many advertisements require permission, certain types do not need permission as they have "deemed consent". You can check this by consulting **The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984**.

Building Warrant

Converted, new or altered buildings may require a Building Warrant, even if Planning Permission is not required. Please contact Building Standards for more information on 0131 529 7826 or **email: buildingwarrant.applications@edinburgh.gov.uk**.

Road Permit

A Road Permit will be required if forming a new access or driveway. Please contact the Area Roads Manager in your **Neighbourhood Team** for more information.

Biodiversity

Some species of animals and plants are protected by law. Certain activities, such as killing, injuring or taking the species or disturbing it in its place of shelter, are unlawful.

If the presence of a European Protected Species (such as a bat, otter or great crested newt) is suspected, a survey of the site must be undertaken. If it is identified that an activity is going to be carried out that would be unlawful, a licence may be required.

More information on European Protected Species, survey work and relevant licenses is available in the Edinburgh Planning Guidance on Biodiversity and the **Scottish Natural Heritage** website.

Trees

If there are any trees on the site or within 12 metres of the boundary, they should be identified in the application. Please refer to **Edinburgh Design Guidance** for advice.

Trees with a Tree Preservation Order or in a conservation area are also protected by law, making it a criminal offence to lop, top, cut down, uproot, wilfully damage or destroy a tree unless carried out with the consent of the Council. You can read more about this on our website at www.edinburgh.gov/privatetrees

General Principles

Designation of a conservation area does not mean development is prohibited.

However, when considering development within a conservation area, special attention must be paid to its character and appearance. Proposals which fail to preserve or enhance the character or appearance of the area will normally be refused. Guidance on what contributes to character is given in the conservation area character appraisals.

The aim should be to preserve the spatial and structural patterns of the historic fabric and the architectural features that make it significant.

Preservation and re-use should always be considered as the first option.

Interventions need to be compatible with the historic context, not overwhelming or imposing.

Without exception, the highest standards of materials and workmanship will be required for all works in conservation areas.

Repair

Planning permission is not normally required for repairs which match the original materials and methods and do not affect the character of the building.

Demolition

Conservation area consent is required for the complete demolition of unlisted buildings within conservation areas.

Demolition will only be acceptable if the new development preserves or enhances the area.

Extensions and Alterations

Information on extensions and alterations to residential properties is included within '**Guidance for Householders**'.

Proposals must preserve or enhance the character or appearance of the conservation area.

The use of traditional materials will be encouraged. UPVC will not be acceptable.

Shopfront Alterations and Signage

Specific information is included in Guidance for Businesses. This should be considered alongside this document, where relevant.

Windows and Doors

The replacement, repair and painting of windows and doors which match the design, materials and methods utilised in the existing build will not require planning permission.

Planning permission will not be required where replacement or altered windows and doors meet the following requirements.

Replacement windows and doors on all elevations of unlisted properties of a traditional design within conservation areas must match the original proportions, appearance, materials, and opening method. Appropriate timber sealed unit double glazing will normally be considered acceptable. Rooflights on unlisted properties of a traditional design should be of a 'conservation style'. Alternative materials such as uPVC will not be acceptable.

A departure from these guidelines must be fully justified. The form of the existing windows &



doors within the building and in its immediate surroundings will be taken into consideration.

Replacement windows and doors in less traditional developments within conservation areas should maintain the uniformity of original design and materials and should open in a manner that does not disrupt the elevation. However, the exact replication of the original windows or doors may, in some cases, be of lesser importance.

Doors should be painted in an appropriate dark and muted colour. Windows should normally be painted white or off-white.

Planning permission is required for the stonecleaning of any building within a conservation area.

Stone Cleaning

Stone cleaning cannot be undertaken without damaging a building. It can also reveal the scars of age, such as staining, poor previous repairs and surface damage. It may also remove the natural patina, the protective layer on the stone, opening up the surface pore structure and making re-soiling much easier.

There will therefore be a presumption against the stone cleaning of buildings within conservation areas. Stone cleaning will not be considered acceptable on any street where cleaning has not commenced.



Where cleaning of a street has commenced, the issue of reinstating architectural unity will be a material consideration in assessing the merits of individual applications.

Specialist professional skills should be sought to undertake analysis and, where acceptable, design a suitable cleaning method and undertake work.

1. Fabric Survey

A full drawing and photographic survey should be submitted. This should identify the types of stone on the building and the extent and nature of any current defects, including previous mortar or plastic repairs and the condition of pointing. The photographic survey should illustrate the frontage in relation to neighbouring properties and streetscape. This will allow an assessment of the impact of a 'clean' building within its wider environmental context. For comparative purposes, the fabric survey should also include a record of 'colour value' measured either by chromatic or Kodak colour strip.

2. Laboratory Analysis

To assess the most appropriate method of stone cleaning, applicants will be required to ascertain geological characteristics through laboratory tests. These tests should be carried out on uncleaned and trial area cleaned samples. The tests should include:

- (i) depth profiling
- (ii) petrological analysis
- (iii) stone permeability

These may reveal the presence of potentially damaging salts, the types of density of mineral grains and the stone's resistance to surface water penetration.

Applicants will also be asked to provide photographs to allow assessment of surface texture and roughness, both before and after trial cleaning.

The extent of laboratory analysis required may vary, subject to the architectural and historic importance of the building.

3. Trial Cleaning Samples

Paint removal methods should be tested on an inconspicuous trial area of two or three stones. A photographic survey should be carried out of the pre and post cleaning samples and the visual and chemical effects recorded. This enables an assessment of the technique's effectiveness.

Applicants may be asked for further samples.

The number of samples should reflect the nature of the specific building being tested; all varieties of stone should be tested.

4. Post-Cleaning

If acceptable, post-cleaning photographic records should be submitted and should be documented for research purposes.

It is expected that most necessary repairs will be identified at the initial application stage. Therefore, consent would be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to stonecleaning.

Stone Cleaning Methods

The following are the most common stone cleaning methods. Their inclusion in this guideline is for information only and does not imply their acceptability.

1. Mechanical - Carborundum Disc

This method comprises a hand-held rotary disc with a carborundum pad. The surface layer of stone is removed along with the dirt, often creating contours as the disc hits hard and soft areas. This produces an uneven surface and causes the loss of fine detail.

2. Air and Water Abrasive

These methods comprise grits carried by jets of air and/or water. The impact of the particles on the surface of the stone removes both dirt and stone and relies upon the skill of the operative to ensure that not too much stone is lost. The results of this method vary, but the pitting of the surface of the stone and the loss of fine detail are common. Dry grit blasting is usually more aggressive than wet grit washing.

3. Chemical Cleaning

This method comprises the application of chemicals and a high pressure water wash. The balance of chemicals varies with the type of stone and surface deposit to be removed. Poultices can also be used; these are more gentle but damage still occurs.

After chemical cleaning, most stones retain the chemicals, even after pressure washing. This then increases decay.

4. Water

When water pressure is used as part of the cleaning method, water is forced into the stone to a depth where natural evaporation will not take place. The water can then percolate down through the fabric of the wall and cause accelerated

weathering at lower levels in the building. High pressure water can also cause damage to the stone.

A water wash, pressurised or not, remains an alternative stone cleaning technique. It is likely that a low pressure water wash remains the least aggressive method of stone cleaning. However, it will not remove dirt which has combined with the surface to form an insoluble compound. High pressure and/or excessive water can cause surface erosion, pointing wash-out, staining and force water into the core of the wall. Due to the dangers of thermal expansion, water washing should be avoided in frosty conditions.

Painting

Planning permission will be required to paint or render a previously untreated surface or change the colour of a building.

Paint which matches the existing in colour and uses traditional materials and methods will not require planning permission.

External stonework must not be painted or rendered, unless the surface was originally painted or rendered.

In basements, painting the underside of the entrance platt will be considered exceptions. Coping stones and the edge of steps should not be painted.

Walls covered with smooth cement render or a harled finish should generally be painted in earth colours or neutrals (grey, cream or beige). Rendered bands to windows should generally be in stone colours.

Information on painting a shop or other commercial premises is included within the **Guidance for Businesses**.

Doors should be painted in an appropriate dark and muted colour. Windows should normally be painted white or off-white. All areas of dormer windows, other than the window frames, should be painted to tone in with the roof.

Railings, balconies, other ornamental ironwork and downpipes should be painted black gloss, although other very dark colours may be appropriate for railings, such as dark green for railings around gardens.

Paint Removal

Paint removal will require planning permission.

The restoration of the original surface through the removal of paint can improve the character and appearance of a building. Where surfaces have been previously painted, the removal of paint will be supported in principle, provided that the proposed removal method does not adversely affect the original surface.

The removal of paint requires chemical and/or abrasive cleaning to re-expose the stone beneath. Abrasive methods can cause severe damage to the surface and will be unlikely to remove all traces of paint from coarse, porous sandstone. In certain circumstances, a minimally abrasive method may be appropriate to remove the outermost paint layers not in contact with the stone surface. Chemical paint removal varies from paint stripper to a proprietary poultice (a substance placed on the stone to draw

out the paint). Each requires extreme caution due to their potentially damaging effects and trial samples should be carried out.

Previous painting could have disguised the poor condition or appearance of the surface so repair work may be required following paint removal. Therefore, consents will be conditional upon a commitment by applicants to undertake a minimum standard of repair subsequent to paint removal.

Where paint removal is not appropriate, the property should be repainted in a matt finish stone coloured paint to tone with the adjoining stonework.

Specialist professional skills should be sought to undertake analysis, design a suitable treatment method and undertake any work.

1. Fabric Survey

A full drawing and photographic survey should be submitted. This should identify the types of stone on the building and the extent and nature of any current defects, including previous mortar or plastic repairs and the condition of pointing. The photographic survey should illustrate the frontage in relation to neighbouring properties and streetscape. This will allow an assessment of the impact of paint removal within its wider environmental context. For comparative purposes, the fabric survey should also include a record of 'colour value' measured either by chromatic or Kodak colour strip.

2. Trial Paint Removal Samples

Paint removal methods should be tested on an inconspicuous trial area of two or three stones. A photographic survey should be carried out of the pre and post painting samples and the visual

and chemical effects recorded. This enables an assessment of the technique's effectiveness. Applicants may be asked for further samples.

The number of samples should reflect the nature of the specific building being tested; all varieties of stone should be tested.

Telecommunications including Satellite Dishes

Planning permission will be required for a satellite dish on a building within a conservation area.

The installation of cable television equipment in conservation areas requires planning permission. Equipment should be sensitively sited to minimise the affect on the special character and appearance of the conservation area.

Satellite dishes in conservation areas should not be easily visible from public view.

They should be located in inconspicuous locations, such as behind a parapet wall, within a roof valley or concealed behind by a chimney. They may also be acceptable on modern extensions to the rear, providing no part is higher than the main building.

To prevent a multiplicity of satellite dishes, the Council may refuse consent for additional dishes, even if this may prevent some properties from receiving satellite television. The sharing of dishes on buildings will be encouraged.

Where acceptable, satellite dishes should blend in with the background; this may require it to be painted. All fixings should be non-ferrous.

Gas Pipes and Meter Boxes

Planning permission is only required where the guidelines below cannot be complied with.

A maximum of a 450mm of supply pipe should be visible on the front wall. External pipes which are both horizontal and vertical must have the horizontal section within the basement areas (where applicable) and not be visible from the street.

Holes in stonework must be kept to a minimum and should be made through stone joints, except in the case of “V” jointing or rubble where holes should be in the stonework. Non-ferrous fixings must be used.

All redundant surface-run pipe work must be removed and the surfaces made good and painted to match existing materials and colour.

Meter boxes should not be fitted to the front or any conspicuous elevation of buildings.

Pipe work and meter boxes should be painted to match adjacent stone.

Flues

Balanced flues will only be permitted where it is not possible to line an existing chimney to form an internal flue.

Balanced flues will not normally be acceptable on the front or conspicuous elevations of listed buildings.

Air Conditioning and Refrigeration

Planning permission will normally be required to install air conditioning and refrigeration units on the exterior of buildings.

The preferred location for units within conservation areas is:

- Free standing within garden or courtyard areas, subject to appropriate screening and discreet ducting.
- Within rear basement areas.
- Inconspicuous locations on the roof (within roof valleys or adjacent to existing plant). However, aerial views will also be considered.
- Internally behind louvres on inconspicuous elevations. This should not result in the loss of original windows.

Where it is not practicably possible to locate units in any of the above locations, it may be acceptable to

fix units to the wall of an inconspicuous elevation, as low down as possible; they should not be located on the front elevation.

Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Ducting must not detract from the character and appearance of the building and area.

Adaptation for Accessibility

Planning permission may be required to install ramps, handrails, indicators and lifts and for alterations to doors.

While the Equality Act 2010 requires service providers to take “reasonable” steps to make their buildings and services accessible, there is also a statutory duty to protect the character of the historic environment. The provision of access for the less able to historic buildings will therefore require careful consideration and design.

Full access for everyone via the principal entrance may not be appropriate. Alternative access arrangements which preserve the character of the listed building may be required.

Solutions should be tailored to the particular building through the use of innovative design and high quality materials.

Apply for planning permission or a certificate of lawfulness at www.eplanning.scot.

apply

Ramps

The placing of a ramp on a building should have minimal impact on the historic fabric.

The symmetry of existing elevations and the rhythm of the street as a whole should be respected, and where relevant, care should be taken to protect the relationship between railings, property and basement.

Where appropriate, consideration should be given to regrading the ground at the entrance in order to overcome the need for larger ramps and minimise the visual impact on the building. If this will cause a footway hazard, a ramp inside the building may be appropriate; the removal of steps and the lengthening of doors can sometimes accommodate this.

Ramps on the public footway will not generally be supported. Where acceptable, ramps must leave sufficient clear footway for pedestrians. This will vary according to the volume of pedestrian traffic. In general, this is 2metres for residential areas, 3metres for main roads and 5-6metres for busy shopping streets.

Where a ramp is acceptable, high quality materials, such as stone to match the existing building, will be encouraged. In some circumstances, high quality design in modern materials may be more appropriate.

Handrails

Where required, handrails should be carefully designed and sensitively located to avoid being visually intrusive.

Appropriate contrast with the background material can be achieved with high quality traditional or contemporary materials.

Tactile Indicators

Historic flooring materials should not be replaced with standard tactile paving. A tactile grid can be achieved by using materials that match those of the surrounding area, and which have been textured with ridges or dimples. More information is available in the [Edinburgh Design Guidance](#).

Visual indicators

Brightly coloured high-visibility strips should be avoided, unless their use helps to avoid other more visually intrusive works.

Doors

There may be cases (particularly in the case of historic buildings) where it is less damaging to seek alternative access routes than to widen or alter a doorway. Historic doors are often an integral part of the design of the building, and should be retained wherever possible.

Where historic doors are heavy or difficult to operate, it is normally possible to adapt them by re-hanging and/or introducing opening mechanisms or visual indicators to make the handles more prominent.

Lifts

External chair and platform lifts can have a significant impact on the architectural character of a building, and should only be proposed where no other option is suitable. The resting position of any

external lift should be as low as possible, and the design of the platform and restraints should be as transparent as possible. Metal cages are unlikely to be acceptable as they are disruptive to the streetscape and can seem intimidating to the user.



HAPPY TO TRANSLATE

ترجمہ ککے حاضر آماندہر سہلے انুবاد کررہ

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HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

MANAGING CHANGE IN THE HISTORIC ENVIRONMENT

Setting





Above: Kilmartin Glen, Argyll and Bute. An important prehistoric linear cemetery composed of a number of burial cairns and standing stones. Intervisibility between elements of the complex, and views along the line of monuments, through and along the valley, are key to understanding each monument and the complex as a whole. © Kilmartin House Trust'

Cover image: Bronze-Age stone circle at Tomnaverie, Aberdeenshire. Many recumbent stone circles are located on elevated positions and are positioned to have wide-ranging views over the landscape. Views towards these monuments are also an important part of their setting as many appear skylined against the horizon.

MANAGING CHANGE IS A SERIES OF NON-STATUTORY GUIDANCE NOTES ABOUT MANAGING CHANGE IN THE HISTORIC ENVIRONMENT. THEY EXPLAIN HOW TO APPLY GOVERNMENT POLICIES.

The aim of the series is to identify the main issues which can arise in different situations, to advise how best to deal with these, and to offer further sources of information. They are also intended to inform planning policies and the determination of applications relating to the historic environment.

INTRODUCTION

This note sets out the principles that apply to developments affecting the setting of historic assets or places, including scheduled monuments, listed buildings, Inventory historic gardens and designed landscapes, World Heritage Sites, conservation areas, historic battlefields, Historic Marine Protected Areas and undesignated sites.

Planning authorities usually make the initial assessment of whether a development will affect the setting of a historic asset or place. However, this may also be identified through other mechanisms such as an Environmental Impact Assessment (EIA) or Strategic Environmental Assessment (SEA). If a planning authority identifies a potential impact on a designated historic asset, it may consult Historic Environment Scotland, who act as statutory consultees in the planning process.

World Heritage Site status brings a commitment to protect the site's cultural significance and the Outstanding Universal Value for which the site is inscribed. This may include reference to aspects of setting.



Clava Cairns, Highland. An important Bronze-Age cemetery complex of burial cairns and standing stones. Intervisibility of elements of the complex is key to understanding the scheduled monument. © Crown copyright: Historic Environment Scotland. Licensor canmore.org.uk

Below: Fort Augustus lock flight, Caledonian Canal, Highland. Running from Inverness to Banavie, near Fort William, the scheduled Caledonian Canal represents the culmination of 18th-century canal construction in Scotland. The modern village of Fort Augustus developed along the locks, and views along the lock flight clearly reveal the relationships between the urban topography and the canal. © J. Malcolm



KEY ISSUES

1. Setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance. Planning authorities must take into account the setting of historic assets or places when drawing up development plans and guidance, when considering environmental and design assessments/statements, and when making decisions on planning applications.
2. Where development is proposed it is important to:
 - identify the historic assets that might be affected
 - define the setting of each historic asset
 - assess the impact of any new development on this
3. Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Both tangible and less tangible elements can be important in understanding the setting. Less tangible elements may include function, sensory perceptions or the historical, artistic, literary and scenic associations of places or landscapes.
4. If proposed development is likely to affect the setting of a key historic asset, an objective written assessment should be prepared by the applicant to inform the decision-making process. The conclusions should take into account the significance of the asset and its setting and attempt to quantify the extent of any impact. The methodology and level of information should be tailored to the circumstances of each case.
5. In the light of the assessment described above, finalised development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.
6. Advice on whether a planning application should include an assessment of the development's impact on setting should be sought from the planning authority.

1. WHAT IS 'SETTING'?

'Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced.

Monuments, buildings, gardens and settlements were almost always placed and orientated deliberately, normally with reference to the surrounding topography, resources, landscape and other structures. Over time, these relationships change, although aspects of earlier settings can be retained.

Setting can therefore not simply be defined by a line on a map, and is likely to be unrelated to modern landownership or to curtilage, often extending beyond immediate property boundaries into the wider area.

Baltersan Castle, South Ayrshire. A category A listed 17th-century tower house, viewed from the 15th-century gatehouse of the adjacent Crossraguel Abbey. The medieval burgh of Maybole lies beyond, marked by the bell tower of the tolbooth. These elements of the late medieval / early modern Maybole area have clear visual and spatial relationships. © J. Malcolm

2. WHAT FACTORS CONTRIBUTE TO SETTING?

The setting of a historic asset can incorporate a range of factors, not all of which will apply to every case. These include:

- current landscape or townscape context
- views to, from and across or beyond the historic asset or place
- key vistas (for instance, a 'frame' of trees, buildings or natural features that give the historic asset or place a context, whether intentional or not)
- the prominence of the historic asset or place in views throughout the surrounding area, bearing in mind that sites need not be visually prominent to have a setting
- aesthetic qualities



- character of the surrounding landscape
- general and specific views including foregrounds and backdrops
- views from within an asset outwards over key elements in the surrounding landscape, such as the view from the principal room of a house, or from a roof terrace
- relationships with other features, both built and natural
- non-visual factors such as historical, artistic, literary, place name, or scenic associations, intellectual relationships (e.g. to a theory, plan or design), or sensory factors
- a ‘sense of place’: the overall experience of an asset which may combine some of the above factors

Defining the setting of a historic asset or place is case-specific and will ultimately rely on informed judgement, based on a range of considerations, including those set out above.

Cullen Seatown, Moray. In this conservation area the layout of the buildings is closely linked to the landscape context: on the north side of the village, gables face the sea to maximise shelter; here, on the south side, the houses are aligned to maximise light. © N. Haynes



3. ASSESSING THE IMPACT OF CHANGE

There are three stages in assessing the impact of a development on the setting of a historic asset or place:

- **Stage 1: identify the historic assets** that might be affected by the proposed development
- **Stage 2: define and analyse the setting** by establishing how the surroundings contribute to the ways in which the historic asset or place is understood, appreciated and experienced
- **Stage 3: evaluate the potential impact of the proposed changes** on the setting, and the extent to which any negative impacts can be mitigated (see Section 4)

Stage 1: identify the historic assets

A desk assessment of historic environment records and other relevant material will provide the baseline information, identifying which assets will be affected and what is significant about them.

The initial approach should include all the potentially affected historic assets and places (including those relatively distant from the proposal) and their settings. It may be necessary to engage a suitably qualified historic environment consultant to undertake this identification and assessment.

Neist Point Lighthouse, Skye, Highland. The remote location and open views are important elements in the function and setting of the category B listed lighthouse. Seaward views are important, and views towards the lighthouse from shipping channels also form part of the setting.



Stage 2: define and analyse the setting

The setting of a historic asset comprises our present understanding and appreciation of its current surroundings, and what (if anything) survives of its historic surroundings combined with subsequent historic changes. Answering the following questions often helps define a setting:

- How do the present surroundings contribute to our ability to appreciate and understand the historic asset or place?
- How does the historic asset or place contribute to its surroundings? For instance, is it a prominent or dominant feature in the landscape?
- When the historic asset or place was developed or in use (both originally and subsequently):
 - how was it intended to be viewed? From a distance? From other sites, buildings or specific points in the landscape?
 - what views was it intended to have? Wide views over the landscape or seascape? Confined views? Narrow alignment(s)?

Key viewpoints to, from and across the setting of a historic asset should be identified. Often certain views are critical to how a historic asset is or has been approached and seen, or understood when looking out. These views were sometimes deliberately manipulated, manufactured and/or maintained, and may still be readily understood and appreciated today. Depending on the historic asset or place these could include specific points

on current and historical approaches, routeways, associated farmland, other related buildings, monuments, natural features, etc.

Sometimes these relationships can be discerned across wide areas and even out to distant horizons. In other cases they have a more restricted view, defined and enclosed by topographical or built features. For some historic assets and places, both immediate and distant points of visual relationship are crucial to our understanding of them.

Changes in the surroundings since the historic asset or place was built should be considered, as should the contribution of the historic asset or place to the current landscape. In some cases the current surroundings will contribute to a sense of place, or how a historic asset or place is experienced.

The value attributed to a historic asset by the community or wider public may influence the sensitivity of its setting. Public consciousness may place a strong emphasis on an asset and its setting for aesthetic reasons, or because of an artistic or historic association. Such associative values can contribute to the significance of a site, and to the sensitivity of its setting.

Whether or not a site is visited does not change its inherent value, or its sensitivity to alterations in its setting. This should be distinguished from the tourism, leisure or economic role of a site. Tourism and leisure factors may be relevant in the overall analysis of the impact of a proposed development, but they do not form part of an assessment of setting impacts.

In certain circumstances the value attributed to a historic asset by the community or wider public may influence the sensitivity of its setting. Public consciousness may place a strong emphasis on an asset and its setting for aesthetic reasons, or because of an artistic or historic association. Such associative values can contribute to the significance of a site, and to the sensitivity of its setting. However, it is important to emphasise that an asset has a setting whether it is visited or not.

Stage 3: evaluate the potential impact of the proposed changes

The impact of a proposed development on the setting of a historic asset or place can be a material consideration in determining whether a planning or other application is given consent, so thought must be given to whether new development can be incorporated

Aerial view of Kinross House (1684) and gardens and Lochleven Castle, Perth and Kinross. The category A listed house and gardens which feature on the Inventory of Gardens and Designed Landscapes, designed by Sir William Bruce as his main residence, used the castle and the island as a picturesque focal point in the landscape.
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sensitively. Depending on the nature of the historic asset or place, relatively small changes in the wider landscape may affect its setting.

Certain types of development require an Environmental Impact Assessment (EIA), which might include assessing the impact on the setting of a historic asset or place. Further information and advice about EIA can be found on our [website](#).

Factors to be considered in assessing the impact of a change on the setting of a historic asset or place include:

- whether key views to or from the historic asset or place are interrupted
- whether the proposed change would dominate or detract in a way that affects our ability to understand and appreciate the historic asset
- the visual impact of the proposed change relative to the scale of the historic asset or place and its setting

- the visual impact of the proposed change relative to the current place of the historic asset in the landscape
- the presence, extent, character and scale of the existing built environment within the surroundings of the historic asset or place and how the proposed development compares to this
- the magnitude of the proposed change relative to the sensitivity of the setting of an asset – sometimes relatively small changes, or a series of small changes, can have a major impact on our ability to appreciate and understand a historic asset or place. Points to consider include:
 - the ability of the setting to absorb new development without eroding its key characteristics
 - the effect of the proposed change on qualities of the existing setting such as sense of remoteness, current noise levels, evocation of the historical past, sense of place, cultural identity, associated spiritual responses
 - cumulative impacts: individual developments may not cause significant impacts on their own, but may do so when they are combined



Rosyth Castle, Fife. Once located on an island in the River Forth, the site was incorporated into the naval dockyards in the 20th century resulting in significant change to the scheduled monument's original setting. Any changes, including enhancement, need to be considered against the current setting.

Many Geographical Information Systems (GIS) packages support useful interpretative models, such as wireframes, viewshed analyses and digital terrain models. Graphic presentations such as photomontages, and landscape data-sets such as Historic Land-use Assessment (HLA), may also assist in reaching an understanding of a historic asset or place in the landscape and how development may affect it.

4. MITIGATION OF IMPACTS AND ENHANCEMENT OF SETTING

Where the assessment indicates that there will be an adverse impact on the setting of a historic asset or place, even if this is perceived to be temporary or reversible, alterations to the siting or design of the new development should be considered to remove or reduce this impact.

The most effective way to prevent impacts on setting is during site selection and early design. Any mitigation and enhancement proposals should be discussed as part of the pre-application process.

Burghhead Harbour, Moray. Early 19th century listed granaries line the quayside. Their even spacing, scale and relationship to the wet dock and to the grid-plan town are relevant to an understanding of the setting. © N. Haynes

Other mitigation measures include screening the development, for example with trees or bunding (enclosing structures). However, the screening itself needs careful consideration so that it does not cause an impact in its own right.

It is also important to bear in mind that vegetation such as trees are subject to environmental and other factors (e.g. wind blow, felling and seasonal changes which affect leaf cover) and cannot necessarily be relied upon to mitigate adverse impacts of a development. In some cases, there may be potential for improving the setting of a historic asset or place, for example by opening up views through removing vegetation.





The Inventory garden and designed landscape at Crathes Castle, Aberdeenshire. The formality of the late 18th and 19th century gardens contrasts with the farmland beyond. © N. Haynes

5. FURTHER INFORMATION AND ADVICE

Historic Environment Scotland is charged with ensuring that our historic environment provides a strong foundation in building a successful future for Scotland. One of its roles is to provide advice about managing change in the historic environment.

Information for designated heritage assets can be downloaded from Historic Environment Scotland's [spatial data warehouse](#) or viewed at [Pastmap](#).

The Hermitage. An 18th-century picturesque Inventory designed landscape, Perth and Kinross. Both William and Dorothy Wordsworth featured The Hermitage in their writing. Ossian's Hall (pictured) was placed to take advantage of views over the falls, and the sound created by them. These elements also contribute to an appreciation of the nearby woodland walks, and combine to form part of the setting.



Details of listed buildings and advice on the requirement for listed building consent, conservation area consent, building warrants and other permissions/consents should be sought from local authorities.

Most works at monuments scheduled under the Ancient Monuments and Archaeological Areas Act 1979 require scheduled monument consent. Where a structure is both scheduled and listed, the scheduling controls have precedence. Separate advice is available from Historic Environment Scotland's [website](#).

Planning authorities also have their own historic environment records and policies in local development plans and supplementary guidance.

Other sources of information

Mitigation measures in Environmental Impact Assessment (EIA) terms are explained in [Planning Advice Note \(PAN\) 1/2013](#):

Aerial photography and other records of the settings of historic structures or places can be obtained from Historic Environment Scotland, John Sinclair House, 16 Bernard Terrace, Edinburgh, EH8 9NX

Tel: 0131 662 1456,
Fax: 0131 662 1477
Email: info@rcahms.gov.uk
Web: www.historicenvironment.scot

The setting of heritage structures, sites and areas is the subject of the [ICOMOS Xi'an Declaration on the Conservation of the Setting of Heritage Structures, Sites and Areas \(2005\)](#)

Historic Land-use Assessment (HLA)

The HLA, developed by Historic Environment Scotland, is a GIS-based map that depicts the historic origin of land-use patterns, describing them by period, form and function. Its purpose is to enhance our knowledge and understanding of the historic dimension of the landscape and to inform management decisions relating to it. It highlights relict archaeological landscapes, aids understanding of the landscape context of individual sites and helps identify areas where further survey could be useful. It is available [here](#).

Gardens and designed landscapes

The Gardens Trust has [Planning Conservation Advice Notes](#) on Development in the Setting of Historic Designed Landscape (Number 11 2008) and Briefs for Historic Landscape Assessments (Number 13 2008)

Scottish Natural Heritage (SNH) has also produced [landscape guidance](#):

Wind energy development

The Scottish Government has produced [guidance for wind planning applications](#).

SNH has produced a [suite of documents](#) to assist in the process of assessing the potential impacts of wind farm proposals on Scotland's landscapes.

Historic Marine Protected Areas

Guidance is located [here](#).



Balfarg henge and standing stones, Fife. An example of a scheduled monument now surrounded by a 1970s housing development: the two photos show the site before and after redevelopment. Upper image © Crown Copyright: HES. Licensor canmore.org.uk. Lower image © K. Brophy



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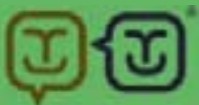
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MORNINGSIDE CONSERVATION AREA CHARACTER APPRAISAL



HAPPY TO TRANSLATE

مترجمين سعداء - مترجمين سعداء
සමූහයක් සතුටුදායකයි - 同業者の喜び

• EDINBURGH •
THE CITY OF EDINBURGH COUNCIL

*THE MORNINGSIDE CONSERVATION AREA
CHARACTER APPRAISAL WAS APPROVED BY THE PLANNING
COMMITTEE
ON 4TH OCTOBER 2001*

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INTRODUCTION

Conservation Areas

Section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, describes conservation areas as “... areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”. The Act makes provision for the designation of conservation areas as distinct from individual buildings, and planning authorities are required to determine which parts of their areas merit conservation area status. There are currently 38 conservation areas in Edinburgh, including city centre areas, Victorian suburbs and former villages. Each conservation area has its own unique character and appearance.

Character Appraisal

The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced.

A Character Appraisal is seen as the best method of defining the key elements that contribute to the special historic and architectural character of an area.

It is intended that Character Appraisals will guide the local planning authority in making planning decisions and, where opportunities arise, preparing enhancement proposals. The Character Appraisal will be a material consideration when considering applications for development within the conservation area and applications for significant new developments should be accompanied by a contextual analysis that demonstrates how the proposals take account of the essential character of the area as identified in this document.

NPPG 18: Planning and the Historic Environment states that Conservation Area Character Appraisals should be prepared when reconsidering existing conservation area designations, promoting further designations or formulating enhancement schemes. The NPPG also specifies that Article 4 Direction Orders will not be confirmed unless a character appraisal is in place.

Morningside Conservation Area

The Morningside Conservation Area lies to the south of The Grange Conservation Area and was originally designated in 1996.

The conservation area is situated some 4kms from the City centre and lies within the boundaries of Wards 46 and 51.

The southern boundary of the conservation area runs along the rear of the properties on the south side of Braidburn Terrace and Hermitage Drive, overlooking the Braid Burn and the Hermitage of Braid. The eastern boundary follows Midmar Drive to the north, overlooking the allotments on the slope of Blackford Hill. The boundary then crosses Cluny gardens and Cluny Avenue before following the boundary of the Astley Ainslie Hospital up to Canaan Lane. At this point the boundary turns westwards before turning south to Jordan Lane, running a short distance along the Lane before turning south again to run along the rear of the properties on Nile Grove, to meet up with Morningside Road. The boundary then runs southwards down Morningside and Comiston Roads before rejoining Braidburn Terrace.



HISTORICAL ORIGINS AND DEVELOPMENT

The Morningside Conservation Area partly covers an area that was formerly known as the Burgh Muir. This was common ground gifted to the City of Edinburgh by David 1 in the first half of the 12th century. At this time the dense forest of Drumselch lay to the south of the City and it was the major part of this forest that David gifted to the City. The forest stretched from the Meadows southwards to the lower slopes of the Blackford and Braid Hills.

The Burgh Muir stretched from Bruntsfield Place and Morningside Road on the west to Dalkeith Road on the east. The southern boundary was formed by the Pow, or Jordan Burn, flowing through the lowest point of Morningside Road.

Braid, lying to the south of Morningside, and therefore lying outside the Burgh Muir, was owned in the 12th Century by Sir Henry de Brade, sheriff of Edinburgh. His surname derives from the name of his Scottish estate, which is Gaelic for a throat, or gorge.

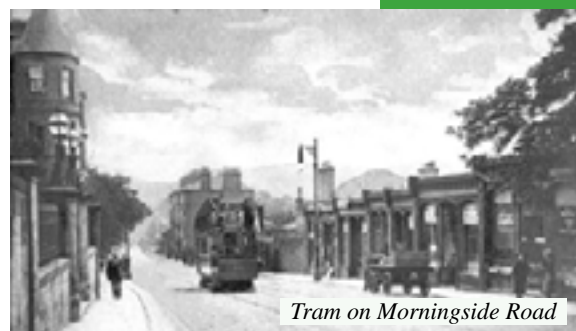
In 1585, Edinburgh was decimated by the plague. The authorities did everything possible to prevent the spread of the disease and make provision for the victims. This proved extremely costly and took the municipal treasury to the point of bankruptcy. In overcoming this financial disaster, the Town Council decided in 1586 to feu out the Wester Burgh Muir. From this decision the districts of Greenhill, Morningside, east Morningside and Canaan slowly emerged.



Morningside, located on the old road from Edinburgh to Biggar, became an agricultural village serving the population of the many neighbouring farms and estates. During the 1700s the village was represented by only a handful of houses. By 1880, the situation was beginning to change. Grant, in “Old and New Edinburgh” stated that Morningside was “once a secluded village, consisting of little more than a row of thatched cottages, a line of trees, and a blacksmith’s forge, from which it gradually grew to become an agreeable environ and summer resort of the citizens, with the fame of being the “Montpelier” of the east of Scotland.”

The gradual transformation of village to suburb was encouraged by the building of a proliferation of villas and mansions which increased the population dramatically. The Edinburgh Transport Act of 1871 permitted the Local Authority to construct, or own a tramway system, but the operation of the system was leased to private operators. This new emerging suburb in Morningside was

one of the first routes to be served with a tram service running from Register House, at the east end of Princes Street, to Morningside.



However, by far the biggest spur to new development was the opening, in 1885, of the Edinburgh Suburban and South Side Junction Railway with a station and goods yard located on Maxwell Street. Much of the planning of this successful suburban line was undertaken by Thomas Bouch, designer of the ill fated Tay rail bridge.

The construction of the suburban rail line encouraged increasing numbers of people to take up residence in Morningside and Braid. This was particularly evident in the 1930s when railway transport was at its peak, with this line providing a regular service to Waverley Station. The line was closed to passenger traffic in 1962 under the cuts implemented by Beeching.

For many centuries, Morningside and Braid road formed the main route linking Edinburgh to Biggar until 1830, when a new length of turnpike road, known as Comiston Road, was built to avoid the steep braes of Braid Road. Initially, with the coming of the railway in 1885, farm produce and livestock was brought down this road to the Maxwell Street goods yard for onward transmission to the City. However, by 1890s the northern end of Comiston Road, formerly known as Little Egypt, was being developed for housing. This farm with its biblical name, had given rise to a number of local associated names, such as Jordan, Canaan and Nile. The Braid Estate, owned by the Gordon family, was feued by Sir Rowand Anderson, with Nile Grove being the first street to be developed in 1881. Subsequent streets were named for Braid or other estates owned by the Gordon family. During the 1880s, Cluny Avenue and Gardens, built in 1884 and 1885 respectively, were followed by Cluny Drive, Terrace and Place in the 1890s. From 1900 onwards, Corrennie Gardens and Drive were built, closely followed by a series of streets beginning with Midmar.





Blackford Observatory

By 1910, the Braid Estate, feued by R. Rowand Anderson, had been fully developed up to Blackford Hill, which had been purchased by the Town Council in 1888 to provide the first municipal golf course in Scotland. In 1890, the Town Council sold three and a half acres on the east slope of Blackford Hill to the Government Office of Works to build an observatory.



R. Rowand Anderson



Hermitage of Braid and its estate forms the southern boundary of the conservation area and provides an important recreation area for the City. The house was designed by Robert Burn. Completed in 1785, it has mock battlements and corner turrets in memory of Braid Castle. In 1937, the estate of 42 acres, including the Hermitage, lodge and policies, with dell and valley, was purchased by John McDougal for £11,000. In 1938, John McDougal presented these properties to Magistrates of Edinburgh to be used as a public park, or recreation ground for the benefit of the citizens of Edinburgh.



Hermitage Lodge

ANALYSIS AND ESSENTIAL CHARACTER

Spatial Structure

The topography of the conservation area, sitting across a valley running west to east, originally formed by the Pow or Jordan Burn, divides the area into two distinct areas. This valley is now occupied by the south suburban rail line which carries freight only. Morningside Road, which forms the western boundary of the conservation area, runs down the south facing slope to meet the clock and the green “square” sitting at the foot of the road, in front of Morningside Parish Church. This south facing slope forms part of the heart of the original Morningside village.



Green Square

Once the rail line is crossed, Morningside Road changes to become Comiston Road which skirts the north west facing slope of the Braid Hills. The original main route of Braid Road separates off from Comiston Road at its southern end and climbs the steep north facing slope of the Braids. This southern junction forms the collection point for four separate roads.

Comiston and Morningside Roads form one of the major arterial routes from Edinburgh to the south west. Only one other road runs right through, but not beyond the conservation area on a north south axis, this being Woodburn Terrace, changing to Braid Avenue once the railway is crossed to the south.

The northern boundary of the conservation area zig zags between Jordan Lane and Canaan Lane. In this small area there is a small eclectic mix of buildings and periods, ranging over vernacular single storey buildings, to Georgian detached buildings and Victorian tenements. Part of this northern boundary is shared with the Grange Conservation Area at Astley Ainslie Hospital.

South of this enclave, the conservation area is characterised by solid, substantial, Victorian residential properties ranging over terraces, semi detached and detached houses, with tenements occurring on Comiston Road.

The southern boundary is formed by the rear gardens of Hermitage Drive which overlook the woodland park of Hermitage of Braid. Hermitage Drive forms a flat ridge line before descending the steep slopes of Hermitage of Braid. The eastern boundary is formed by Midmar Drive which is a single sided street overlooking extensive allotments, which in turn are overlooked by the mass of Blackford Hill lying to the east.



South Suburban Rail Line

The principal features of the urban fabric are characterised by a loose grid layout dividing the area into unequal rectangular perimeter blocks, which are lined by semi detached and detached houses to the east of Braid Road. The area from Braid Road to Comiston Road forms a long triangle with five separate roads penetrating between the two roads, giving good permeability. The effect of this is to create irregularly shaped perimeter blocks upto Braidburn Terrace.



Mature Tree

With the exception of Comiston Road, the overall density of the conservation area is low with individual front and rear gardens to the majority of the buildings within the conservation area. Generally, there are smaller gardens to the front and extensive gardens to the rear, both containing mature trees. The gardens are well tended and are particularly important in terms of greening the area and offering a mature landscape setting. Most gardens are defined by low stone walls and hedging.



Development at Braid Avenue

There are two recent developments, one being a brick built terrace on Midmar Drive and the other being an extensive block of flats turning the corner of Braid Avenue and Hermitage Drive. The latter site was developed after the original single villa was burnt down and now contains two large blocks of flats. Both of these developments respect the scale and general massing of the area. Their use of render with red pre-cast concrete margins to windows in one case

and particularly brick in the other, do not reflect the materials characteristic of the area.



Modern Terrace at Midmar Drive

Townscape

The primary north – south route through the area is Morningside Road, which acts as the main shopping street for the area. Once the railway line is crossed, the principal road becomes Comiston Road. The original main route of Braid Road separates off from Comiston Road at its southern end, rejoining Comiston Road at Buckstone.

The principal east – west through route is Cluny Gardens, which begins at the junction where Comiston and Braid roads separate. Cluny Gardens skirts round the northern foot of Blackford Hill before connecting with Mayfield.

Although the area has a diverse mix of styles and ages, the predominant character is made up of large Victorian houses sitting in large gardens, which give an air of spaciousness. These properties vary in height from three to three and half storeys and are constructed of stone with slated roofs. Morningside and Comiston Roads evidence a more traditional tenemental form. On Comiston Road, tenements are set back from the heel of the pavement with small front gardens. At the points where shops and offices occur, the front garden the building line of the tenement is carried through producing a wider pavement in front of the shops. Four churches feature in the area acting as focal points.

Views through the conservation area are important. Travelling from south to north views are given along streets towards Blackford Hill and the Braids giving an indication of wilderness areas. In the direction south to north, the skyline of Edinburgh is glimpsed, particularly from the ridge formed by Hermitage Drive, where the streets leading north are subtly aligned on the castle by slightly skewing the street blocks. A particularly fine townscape vista is offered down



Cluny Gardens



Victorian Villa

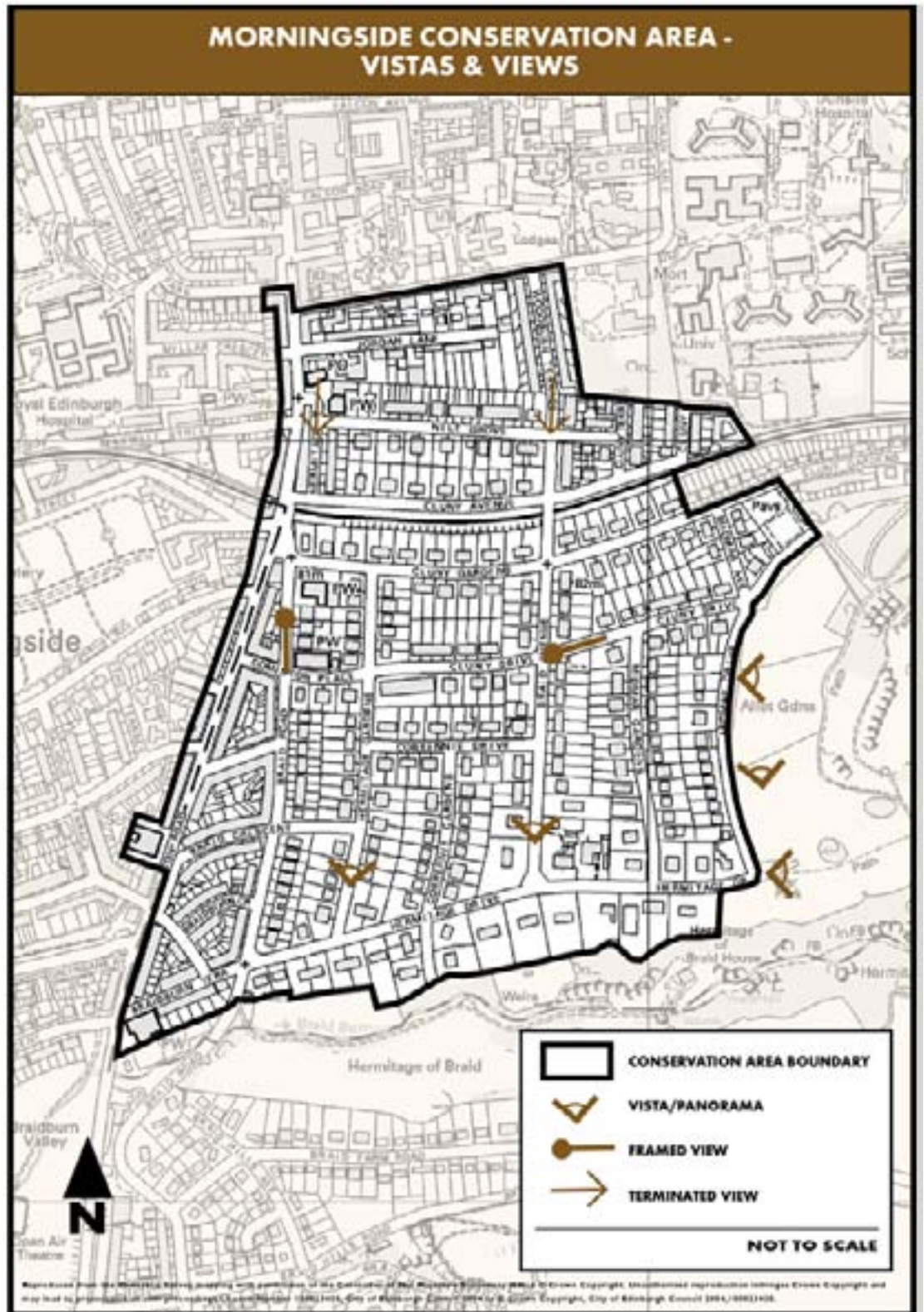


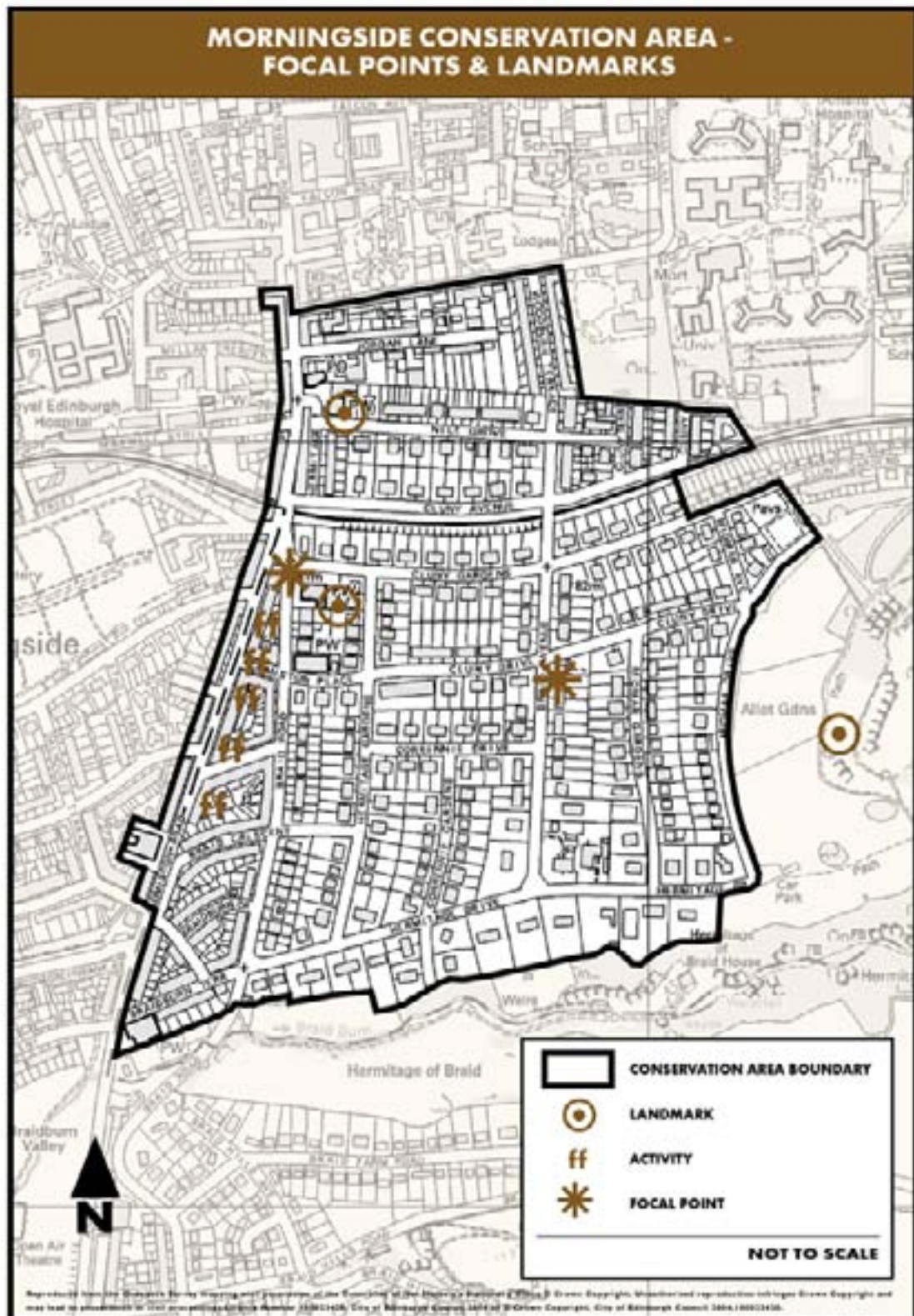
Tenement on Comiston Rd



View to Blackford Hill

Braid Avenue. A spectacular panoramic view is offered at the one sided Midmar Drive which immediately overlooks popular allotment gardens, with Blackford Hill in the immediate background and the City skyline to the north.





Essential Character: Spatial Structure and Townscape

- *The principal feature of the urban fabric is a subtle Victorian grid structure responding to the topography by setting up views to the castle and dividing the area into unequally sized rectangular perimeter blocks.*
- *Perimeter blocks are surrounded by substantial Victorian housing composed of individual, semi detached and terraced housing that exhibit continuity through their uniform heights, massing and use of stone and slated roofs.*
- *Gardens with mature trees predominate throughout the area, having a strong greening affect throughout the area.*
- *Northern views along streets to Blackford Hill and the Braids and southern views back to the City skyline are important.*



View down Braid Road

Architectural Character

The conservation area contains a total of 44 Listed Items. The architectural character is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas are in variety of architectural styles, unified by the use of local building materials. The northern part of the area within Jordan and Canaan Lanes contains a more varied architectural mix of buildings ranging over traditional village dwellings, Georgian villas and tenements.

The first phase of the development of the Braid estate from 1880 had Rowand Anderson and George Washington Browne as the main architects. Rowand Anderson remained the feuing architect of the extended scheme south of the railway line until the early 1900s.

Four churches provide focal points in the conservation area:

- The octagonal, Italianate Braid Church 1886 by George Washington Browne, lying on the corner of Hermitage Terrace and Nile Grove, forms part of the first phase of the Braid Estate, overlooking the open space fronting Hermitage Terrace.
- Cluny Parish Church 1889, is a red sandstone church lying on the grassy terraced corner of Braid Road and Cluny Gardens by Hippolyte J. Blanc in 1889. A tower at the north west corner was proposed, but never built.
- Cluny Church Centre 1890, on the corner of Cluny Drive and Braid Road is a confident, red sandstone, mixed gothic building by Rowand Anderson. Its square north west tower becomes more elaborate in stages. In the mid 1970s the interior was divided to form small rooms and offices on the ground floor.
- Greenbank Church, on the corner of Braidburn Terrace and Comiston Road, is a bland building built in the Gothic manner with red sandstone margins. Built in 1927, it was designed by A. Lorne Campbell. The hall to the east was built in 1900 and used as a temporary church until the main building was erected in 1927. More recently, a new entrance from Braidburn Terrace and a new multi purpose hall, by the Lee Boyd partnership, were erected in 2000.



Braid Church



Cluny Parish Church



Cluny Church Centre

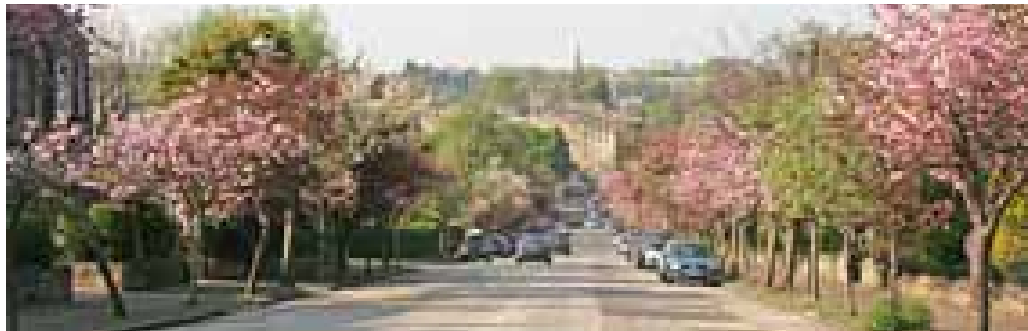


Morning Glory

Comiston Road starts with a giant red sandstone Renaissance block of 1889, including the richly sculpted, formerly named, Hermitage Bar, now called Morning Glory, all sitting at the southern join with Braid Road. Braid Crescent lying between Comiston and Braid Roads has the grandest two storey bay windows in Edinburgh, each crowned with an octagonal lead dome. The long airy roads of the Braid Estate, to the east, were controlled in design terms by the feuing architect Rowand Anderson, with the tree lined, Braid Avenue, running north south, being the grandest road in the estate.



Braid Crescent



Nile Grove and Hermitage Terrace formed part of the development of the Braid Estate from 1880 onwards, with Wardrop Anderson and George Washington Browne as the main architects. The Braid Estate was Edinburgh's answer to Bedford Park in London. Browne who had returned from London in 1883, after working on the Queen Anne development of Kensington Court, brought the Queen Anne style to the Braid Estate and with Rowand Anderson developed its Scottish, masonry based variant.



Queen Anne Style at Cluny Avenue

The houses on Cluny Place and Cluny Avenue formed a later phase (mid 1890s) in the development of the Braid Estate. Designed by Rowand Anderson, the Queen Anne style made way to a more wholehearted adoption of what became "stockbroker tudor".

Essential Character: Architectural Character

- *High quality stone built architecture of restricted height, generous scale and fine proportions.*
- *The significant degree of unity resulting from the predominant use of traditional building materials: local sandstone for buildings and boundary walls and Scots slate for roofs.*

Activities and Uses

Residential uses predominate throughout the area, producing a peaceful Victorian environment of high quality and high amenity. Intermixed in this quiet suburb there are four churches and a residential care home on Cluny Drive.

This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services. Comiston Road has less activity, which begins to fall off towards the south.



Essential Character: Activities & Uses

- *The contrast between activity on Morningside and Comiston Roads and the general tranquillity in the residential hinterland of the conservation area.*
- *The peaceful Victorian environment of high quality and high amenity residential uses.*

Natural Heritage



Within the boundaries of the conservation area, the environment is predominantly residential and there are very few areas of public open space. Only two areas exist within the conservation area and these consist of; the small narrow area of grassed and railed open space sitting in front of Hermitage Terrace, which contains a number of mature trees; and the Braid Estate Recreation Ground consisting of tennis courts and a bowling club, sitting at the northern foot of Midmar Drive and spanning through to Cluny Gardens.



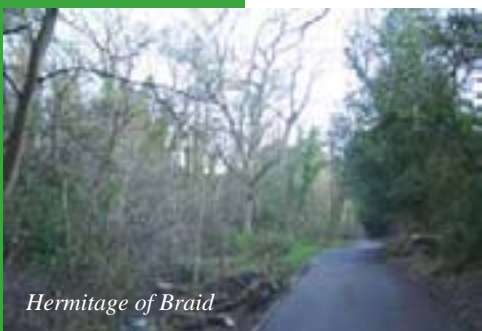
Despite this lack of public open space within the conservation area, the predominant townscape nature of substantial Victorian properties with their associated large gardens, containing many mature trees, provides an environment of lush greenery. These private gardens are particularly important in providing suitable habitats for bird and wildlife.

It is therefore important that where mature trees are removed due to disease, or old age, that they are replaced, not only to maintain the green character of the area, but also to sustain wildlife.



Lying immediately outwith the boundaries of the conservation area, to the east, is Blackford Hill which provides a visually dominant backcloth from many points within the area. Hermitage of Braid lies immediately to the south of the conservation area and while this area is not as visually prominent, it is of equal importance in terms of providing easily accessible recreational open space.

Both Blackford Hill and Hermitage of Braid form part of the Green belt, part of an extensive green wedge stretching into the countryside well beyond the city boundary to the south. They are also both classed as Areas of Great Landscape Value and Wildlife Sites, whilst also being classed as a Local Nature Reserve.



Blackford Hill is geomorphically important and is covered by an SSSI designation due to the presence of Agassiz rock, named after the Swiss geologist Louis Agassiz who determined in 1840 that the grooves in the rock were the result of glacial action. This

discovery was not only important in establishing an understanding the nature of glacial action generally, but also in understanding how the Hermitage valley and Blackford Hill had been formed. The allotments butting against Midmar Drive are a popular facility and extensively used. These too are covered by the Green Belt and AGLV designations.



Agassiz Rock

Essential Character: Natural Heritage

- *The predominance of large gardens with mature trees, being important in terms of their townscape value and their provision of a habitat for wildlife. It is important that where mature trees are removed then they should be replaced.*
- *The dominating nature of Blackford Hill providing significant views.*
- *The easy public access to Hermitage of Braid and Blackford Hill which both provide an important natural, recreational facility.*

Opportunities for Enhancement

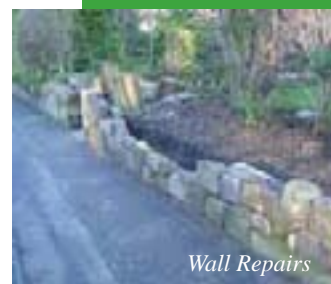
The scale, design and materials of new developments should reinforce and protect those features that give the conservation area its special character. Any development should take into consideration the spatial pattern, scale, proportions and design of traditional properties.

Any development, either within or outside the conservation area, should be restricted in height and scale in order to protect the key views of the conservation area. New development should protect the setting of individual buildings and the historic environment as a whole. Opportunities for introducing further trees and replacing trees that are lost to age should be considered throughout the area.

Traditional materials should be used in repair and new build. Modern substitutes generally fail to respect the character of the area. The stone boundary walls and railings are a key feature within the conservation area, and they should be repaired and reinstated where appropriate. Original architectural features should be preserved wherever possible.



Railings at Jordan Lane



Wall Repairs

The grassed area in front of Hermitage Terrace offers an opportunity for enhancement in terms of railing reinstatement and encouraging greater public use.

Role of the Public

It is essential that property owners accept their maintenance responsibilities. The emphasis should be on the repair rather than replacement of original features, as these contribute to the conservation area's character as a whole. Alterations or additions should be sympathetic to the original style and of an appropriate scale.

Boundary Changes

Boundary changes are proposed at the northern and western edges. It is proposed that the boundary to the north, which zigzags between Jordan Lane and Canaan Lane, moves to the rear of the tenements lining Morningside Road up to and including the tenements on the southern corner of Morningside Park. It is also proposed that the western boundary runs behind the tenements lining the western side of Morningside Road and Comiston Road. At present, the boundary runs down the middle of this main thorough fare where the buildings on the east side, which are within the conservation area, are largely mirrored by similar buildings on the western side. This thorough fare also provides the principal shopping street for the conservation area.



GENERAL INFORMATION

Statutory Policies

The Morningside Conservation Area is contained within The Central Edinburgh Local Plan adopted by the Council in 1997, which includes the conservation area within a broad 'Housing and Compatible Uses' or 'Urban Area' policy allocation, in which the primary concern is to safeguard existing residential character and amenities. Consequently, effect on residential amenity will be the determining consideration for all development proposals, including changes of use.

The Local Plan contains policy advice on a range of matters. In relation to proposals within the conservation area, for example, development will only be allowed where all features that contribute to the special character and appearance of the area are retained. Development proposals in the conservation area are required to take into account the area's special interest and how its character and appearance may be preserved or enhanced.

Blackford Hill and Hermitage of Braid, which both lie adjacent to the conservation area boundaries, are contained in the South East Local Plan adopted by the Council in 2005 which contains policies relating to their significance in terms of policies relating to:

- The Green Belt.
- An area of Great Landscape Value.
- A Wildlife Site.
- A Site of Special Scientific Value.

Supplementary Guidelines

The Council also produces supplementary planning guidance on a range of development control issues. These are contained within the Development Quality Handbook.

Implications of Conservation Area Status

Designation as a conservation area has the following implications:

- Permitted development rights under the General Development Order are restricted. Planning permission is, therefore, required for stonecleaning, external painting, roof alterations and the formation of hard surfaces. The area of extensions to dwelling houses which may be erected without consent is also restricted to 16m² and there are additional control over satellite dishes.
- Under Article 4 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, the planning authority can seek approval of the Scottish Executive for Directions that restrict permitted development rights. The Directions effectively control the proliferation of relatively minor alterations to buildings in conservation areas that can cumulatively lead to erosion of character and appearance. Development is not precluded, but such alterations will require planning permission and special attention will be paid to the potential effect of proposals. The Morningside Conservation Area is currently covered by the full range of Article 4 Directions:

Class 1	enlargement, improvement or other alteration to a dwelling house
Class 3	provision or alteration of buildings or enclosures within the curtilage of a dwelling house
Class 6	installation, alteration or replacement of a satellite dish
Class 7	construction or alteration of gates, fences, walls or other means of enclosure
Class 30/33	local authority development
Class 38	water undertakings
Class 39	development by public gas supplier
Class 40	development by electricity statutory undertaker

-
- Special attention must be paid to the character and appearance of the conservation area when planning controls are being exercised. Most applications for planning permission for alterations will, therefore, be advertised for public comment and any views expressed must be taken into account when making a decision on the application.
 - Buildings which are not statutorily listed can normally be demolished without approval under the Planning Regulations. Within conservation areas the demolition of unlisted buildings requires conservation area consent.
 - Alterations to windows are controlled in terms of the Council's policy.
 - Trees within conservation areas are covered by the Town and Country (Scotland) Act 1972, as amended by the Town and Country Planning (Scotland) Act 1997. The Act applies to the uprooting, felling or lopping of a tree having a diameter exceeding 75mm at a point 1.5m above ground level, and concerns the lopping of trees as much as removal. The planning authority must be given six weeks notice of the intention to uproot, fell or lop trees. Failure to give notice render the person liable to the same penalties as for contravention of a TPO.
 - Grants may be available towards the repair or restoration of historic buildings. The Council runs a conservation grant scheme, however, such grants are normally dependent on comprehensive repair and restoration of original features and priority is given to tenemental housing and prominent buildings.

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Produced by the City Development Department : Planning & Strategy





WEST END CONSERVATION AREA CHARACTER APPRAISAL

West End 市中心西區特色評估
ویسٹ اینڈ (West End) کی خصوصیت کا جائزہ
وےسٹ اینڈ - اےر بےشپٹیا تار مڈیا - نیرپا
(West End) تقییم ملامح منطقة ویسٹ اینڈ

*WEST END
CONSERVATION AREA
CHARACTER APPRAISAL WAS APPROVED BY THE
PLANNING COMMITTEE
9TH MARCH 2006*

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INTRODUCTION

Conservation Areas

Section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, describes conservation areas as "... areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance". The Act makes provision for the designation of conservation areas as distinct from individual buildings, and planning authorities are required to determine which parts of their areas merit conservation area status.

There are currently 39 conservation areas in Edinburgh, including city centre areas, Victorian suburbs and former villages. Each conservation area has its own unique character and appearance.

Character Appraisals

The protection of an area does not end with conservation area designation; rather designation demonstrates a commitment to positive action for the safeguarding and enhancement of character and appearance. The planning authority and the Scottish Executive are obliged to protect conservation areas from development that would adversely affect their special character. It is, therefore, important that both the authorities and other groups who have an interest in conservation areas, and residents are aware of those elements that must be preserved or enhanced.

A Character Appraisal is seen as the best method of defining the key elements that contribute to the special historic and architectural character of an area.

It is intended that Character Appraisals will guide the local planning authority in making planning decisions and, where opportunities arise, preparing enhancement proposals. The Character Appraisal will be a material consideration when considering applications for development within the conservation area and applications for significant new developments should be accompanied by a contextual analysis that demonstrates how the proposals take account of the essential character of the area as identified in this document.

NPPG 18: Planning and the Historic Environment states that Conservation Area Character Appraisals should be prepared when reconsidering existing conservation area designations, promoting further designations or formulating enhancement schemes. The NPPG also specifies that Article 4 Direction Orders will not be confirmed unless a character appraisal is in place.

West End Conservation Area

The West End Conservation Area lies immediately adjacent to the New Town on its south west boundary and the Old Town on its western boundary. The Conservation Area was originally designated in 1980 and amended in 1995.

The northern boundary of the West End Conservation Area touches the end gable of the Caledonian Hotel on Lothian Road before moving westwards to then follow the rear of the properties on Rutland Square. It then swings north westwards onto Canning Street, turning onto and following Athol Crescent Lane before exiting onto Shandwick Place. The boundary then follows the centre line of Shandwick Place and West Maitland Street down to Haymarket.

At this point it turns to the east along Morrison Street, before turning south east to follow the rear line of the properties on the west side of Grove Street. This line continues down to the bridge that crosses the West Approach Road, at which point it turns northeast following the northern edge of the Approach Road. It then crosses the road to continue along the rear and southern edge of Rosemount Cottages, before crossing Gardner's Crescent to turn north along the rear of the Georgian crescent to Morrison Street.

From this point the boundary runs eastwards along the centre line of Morrison Street arriving at Lothian Road, where it follows the centre line south before turning east onto East Fountainbridge. The buildings at the tip of Main Point on the corner of East Fountainbridge, High Riggs and Lauriston Street are included, after which the boundary follows the centre line of the West Port. From the West Port the boundary then turns down Lady Lawson Street to meet Castle Terrace, where the boundary turns northeast up to King's Stables Road, which it follows to Lothian Road and back to the Caledonian Hotel.

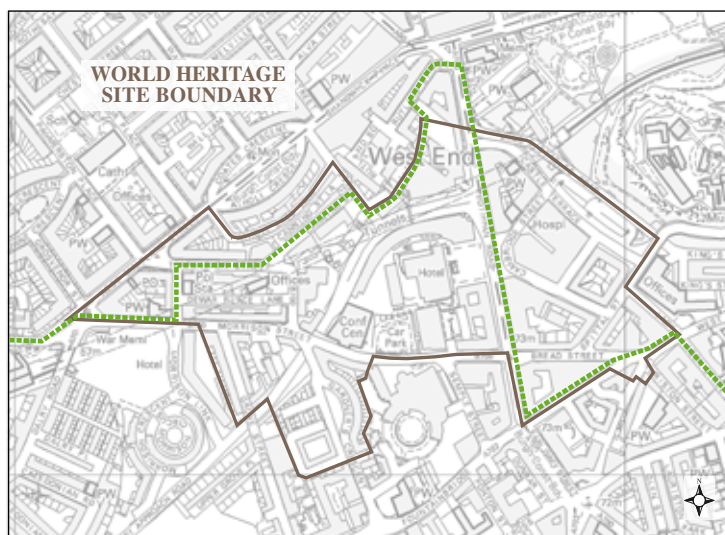
The Edinburgh World Heritage Site boundary overlaps the current West End Conservation Area. From Haymarket the boundary runs up Morrison Street to Torphichen Place, where it turns north to meet Torphichen Street and then turns east. After this, the boundary follows Canning Street Lane before skirting the rear of Rutland Square, moving onto Rutland Street up to Princes Street, skirting round the Caledonian Hotel and then following Lothian Road to meet East Fountainbridge. The boundary follows East Fountainbridge up to the West Port where it meets with and follows the boundary of the Old Town Conservation Area on Lady Lawson Street.



World Heritage Status

The area lying to the east of Lothian Road within the West End Conservation Area is included in The World Heritage Site. Inscription as a World Heritage Site brings no additional statutory powers. However, it does commit all those involved with the development and management of the Site to ensure measures are taken to protect and enhance the area for future generations. In furthering these aims the Council produced a World Heritage Site Manifesto, which is a material consideration in assessing planning applications.

In 1999, the Edinburgh World Heritage Trust was formed and this Character Appraisal should be read in conjunction with the Management Plan for the World Heritage Site.



HISTORICAL ORIGINS AND DEVELOPMENT

In the time of David 1 in the 1120s, the ground below the Castle was originally known as the King's Garden adjoining St Cuthbert's glebe. By the 1400s it is was known as Orchard Field and may have amounted to some 35 acres lying between St Cuthbert's glebe and Morrison Street (formerly the Linlithgow road) and stretching from Castle Terrace to Haymarket. A significant part of this land was purchased towards the end of the 18th century; half by the Grindlay brothers, tanners on King's Stable Road, and the remaining half by the Merchant Company. This area contained all the early roads leading westwards out of the Old Town to Glasgow, South Queensferry and Linlithgow.

Main Point at the junction of East Fountainbridge, High Riggs and Bread Street was the collection point of these former principal routes connecting the Grassmarket to the west. Just off the West Port lies Lady Lawson Street built in 1882 under the City Improvement Acts.

The development of the west end from the late 18th century onwards was influenced by various forms of transport being overlaid across it and reducing the importance of the early roads radiating out from the West Port. In 1783 the Town Council planned Lothian Road as a "transverse great road" to link the west end of Craig's New Town to the Midlothian road at Tollcross. The road was completed in 1785 (See map Kincaid 1784).



Kincaid 1784

From this point on, the existing patchwork of individual estates between the Castle Rock and Haymarket were identified as possible developments with many producing hopeful Georgian layouts. By 1804 (See map Ainslie 1804) development layouts had been produced for both the eastern and western sides of Lothian Road. However, uncertainty about the form and alignment of the New Western Approach to the Old Town, eventually built in 1836 and becoming known as Johnston Terrace, delayed these original proposals.



Ainslie 1804

Over this period the First New Town and its northern extensions became increasingly fashionable and this, allied to the delayed development, resulted in the area around Lothian Road becoming less fashionable. By 1823 (see map John Wood 1823) a new layout was proposed by William Burn. Although some schemes were started in this period, they were not completed, and it was only sites fronting main thoroughfares that were attractive. This sporadic building, left gaps that were completed by the Victorians under very different circumstances from the earlier Georgian period.

Following the completion of Lothian Road, other forms of transportation were successively proposed from the late 1700s that had a significant impact on the area. From 1797, various proposals to build a canal linking the Clyde with Leith were advanced. The connection to Leith proved financially unsound. However, a route proposed by Thomas Telford was agreed and completed in 1822, (See map John Wood 1823). Although the canal did not penetrate directly within

the boundaries of the conservation area, it determined the development pattern of Fountainbridge and Tollcross lying along the southern boundary, with new industries, new roads and three canal basins located nearby. The largest basin, Port Hopetoun, fronted directly onto Lothian Road south of Fountainbridge. The canal and its basins prompted a wave of new industries, including distilling, brewing, printing, rope-making, silk spinning, meat marketing and tanning.



John Wood 1823

The era of the canal was rapidly overtaken by the railway age with the Edinburgh and Glasgow Railway Company opening in 1842 with a terminus at Haymarket. In an attempt to fend off competition, the E & G company bought the Union Canal in 1845 to prevent the Caledonian Railway buying it and draining it to use the bed as a rail track.

Undeterred, the Caledonian Railway pressed on with its proposals, opening its terminus on Lothian Road in 1848. This was the end of the layout plans that had been produced for this area since 1804. From this point on, three railway termini were built with freight being distributed from Lothian Road. An extensive coal yard was located behind the main station. The Caledonian Hotel that was added to the terminus in 1903 is all that remains.



Lothian Road Goods Yard



Lothian Road Station

Through the early 1800s, proposed canal and railway developments, plus the uncertainty about the New Western Approach road to the Old Town, delayed the implementation of a number of development proposals. These factors, allied to the continuing residential expansion of the New Town northwards, significantly reduced the attractiveness of the West End Conservation Area as a fashionable extension of the New Town.

Shandwick Place and West Maitland Street were initially planned in 1805/6 as a new road to Glasgow connecting the New Town with the existing Glasgow Road, which passed through Haymarket from the West Port. It was some twenty years before development began on the east side of this street, with Torphichen Street being partially developed at the same time.

Apart from this marginal development, two further schemes were started at this time (1820s) which formed the beginning of two proposals that were never completed due to the canal and rail proposals that took place shortly after. The first of these schemes was Grove Street which started at Morrison Street in 1822 and was intended to connect to a large square that was never built due to the railway taking up the necessary ground. The second scheme was Gardner's

Crescent, constructed in 1826, which was originally meant to have a matching crescent facing it. This scheme too was clipped by the railway as well as having a canal basin, Port Hamilton, located immediately behind the existing crescent.

Once the canal and the railway had been built, the Victorians began to pick up on projects which had been started and abandoned some decades before. The road layout for William Burn's plan for the east side of Lothian Road began to be constructed in the 1860s and was closely followed by the construction of the tenemental street blocks defined in that layout. At this time, concerns were expressed about the cramped unsanitary conditions that existed around the West Port. However, it was not until the 1880s that these conditions were tackled under the City Improvements Act, resulting in clearance and the building of Lady Lawson Street.

The situation behind West Maitland Street and Atholl Crescent was similar to that on Lothian Road, with tenemental blocks being completed from the 1850s onwards. Two examples of model housing were developed to the front of Gardner's Crescent in 1853 and 1860, both promoted by James Gowans. Gowans also had a major impact on Castle Terrace with his idiosyncratic tenement in high Victorian gothic. This was matched in 1875 by his development for a new Theatre, Winter Garden and Aquarium on the vacant site between Cornwall Street and Cambridge Street. This building was demolished in the 1960s, creating a site which remained vacant for some thirty years.

In 1883, the Royal Lyceum theatre was built immediately behind Gowans' West End Theatre, and this was followed by the construction of the Usher Hall in 1914 on the site of a former Board School.

The canal and the railway lasted well into the twentieth century. However, by 1920, all commercial traffic to Edinburgh had ceased. In 1922, Ports Hamilton and Hopetoun were closed, drained and sold to Edinburgh Corporation. Port Hamilton, immediately behind Gardner's Crescent, was developed by St Cuthbert's Cooperative Society as a large bakery and milk depot (The Co-op having started in a corner shop on Fountainbridge in 1859).



Port Hopetoun



First Store



Princes Street Station

The Caledonian Station lasted until 1965, and was closed due to a combination of railway cuts in 1962 and its inability to compete with Waverley in terms of routes and accessibility. Once the rails were removed, the railway line was eventually turned into the Western Approach Road, in the late 1970s, for the relief of traffic through Gorgie and Dalry.

The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall.

The early 80s also saw development of the former railway site with the construction of the Sheraton Hotel, Festival Square and an office block adjacent to the Filmhouse. To prevent piecemeal development, the Council produced a development strategy for the area west of Lothian Road, lying between the Caledonian Hotel and including former railway ground and the area formerly occupied by the Co-op bakery and milk depot.

The thrust of the strategy was to relieve the demand for office accommodation in the City Centre by the provision of a new international financial office complex and an international conference centre. A Masterplan produced by Sir Terry Farrell was accepted in 1989 and on this basis development took place through the 90s.

The canal, which played a significant role in the development of the conservation area, although falling outside the southern boundary, is now itself the focus of a major regeneration exercise involving leisure, housing and office uses.

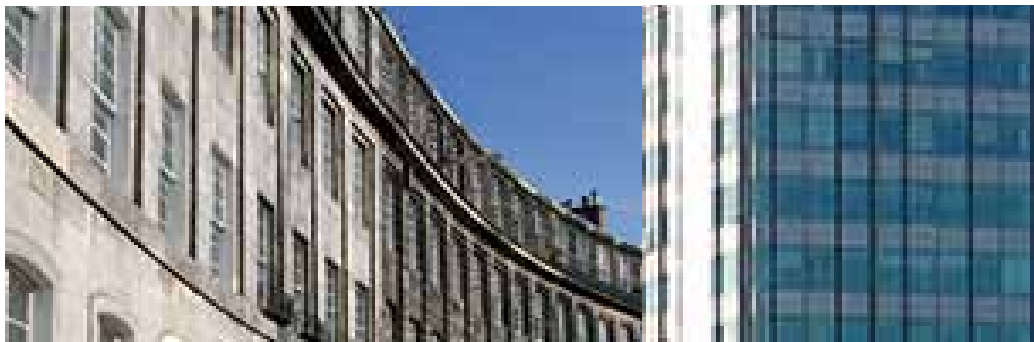
ANALYSIS AND ESSENTIAL CHARACTER

Site Context

The West End Conservation Area is a large diverse area with a rich mix of historical periods and stages of development. It stretches from the Castle to Haymarket, east to west and from the western end of Princes Street southwards to Fountainbridge. It lies on a gentle north facing slope, with the Western boundary abutting the World Heritage Site and the New Town Conservation Area boundaries. The eastern boundary abuts the Old Town Conservation Area boundary.

The topography of the area means that views to the east towards the Castle are particularly important and are visible from many points outwith the conservation area.

The area is characterised by mixed, residential commercial buildings with the Georgian and Victorian tenements being mainly 4-6 storeys, constructed of stone with pitched, slated roofs. In the central section of the conservation area, there is a major modern financial section consisting of modern offices, which spills over the conservation area to the south. This central section is more characteristic of big city commercial districts which are untypical in an Edinburgh City Centre context.



Large scale development has, and is taking place, on the margins of the conservation area. It is important that where there are development opportunities lying adjacent to the conservation area boundary, the design of new buildings should reflect the scale, massing and materials of the conservation area. Development opportunities both within and adjacent to the conservation area must respect views out of and into the conservation area. The West End Conservation Area is of importance as a buffer zone to the World Heritage Site in terms of new development.

Archaeology

Within the conservation area there are sites and areas that are of archaeological interest. In particular the area around the West Port and Portsburgh, which was a suburb of Edinburgh and lay on the main route out of the city to the south west. Similarly the area adjacent to the EICC may contain remains from the period when this was the terminal of the Union Canal.

Routes

There are three distinct periods that have overlaid traffic routes that are critical to the area.

The early medieval period established three routes connecting the Old Town to Glasgow, South Queensferry and Linlithgow. For centuries these were the principal routes coming into Edinburgh from the west. These routes still exist, as Morrison Street, Bread Street and High Riggs. With the exception of High Riggs, which has become a pedestrian only street lying primarily outside the area; the other two streets still play a significant role linking areas within the city, but have lost their importance as routes that connect Edinburgh to other towns and cities.

The Georgian period saw the construction of Lothian Road built to bypass the Old Town and link the eastern main routes with the emerging New Town. This route forms the principal spine running through the conservation area today. Shortly after the construction of Lothian Road, Shandwick Place and West Maitland Street were built, as the principal route linking the New Town, via Haymarket, with the west.



Lothian Road

Shandwick Place

West Maitland Street

Finally, the construction of the Western Approach Road in the 1970s on the former Caledonian Railway Line provided an inner city relief road to the city centre.

Lothian Road forms the spine of the area and acts as the “High Street” for the West End Conservation Area. Two of the three principal traditional routes into the Old Town, namely Bread Street and Fountainbridge, still link areas within the city.

The Western Approach Road provides an inner city relief road to the city centre.

Natural Heritage

The glacial topography has an important influence on the character of the conservation area as it gives rise to the ‘crag and tail feature’ of Castle Rock. The eroded remains of a volcanic plug, which now creates impressive views out from the conservation area to the east. This feature constitutes part of the area designated as a composite SSSI, which also includes Arthur’s Seat and Calton Hill; notified for geological and biological interests. The ice flow that created the glacial landscape created steep level changes at the rock’s base, which now provides the location for a car park of several storeys.



Other more recent changes in topography due to the excavation of transport routes, influence the character and create level changes that result in ‘left over space’. The area has relatively few open green spaces. Gardner’s Crescent is the largest designed public garden, which is important in providing a setting to the adjacent Georgian Buildings.



Other green open spaces include spaces adjacent to buildings and small gardens. These areas, even though few in number, play an important role in softening building edges, and providing areas of habitat. Examples include the steep slopes adjacent to the car park at the bottom of the Castle rock and the steeply sloped area adjacent to the Western Approach Road as it passes under Morrison Street.

Other spaces are softened by the use of a variety of different specimen trees. These are either in planters, shrub beds or set into the pavement and play an important part in contributing to the local environment.

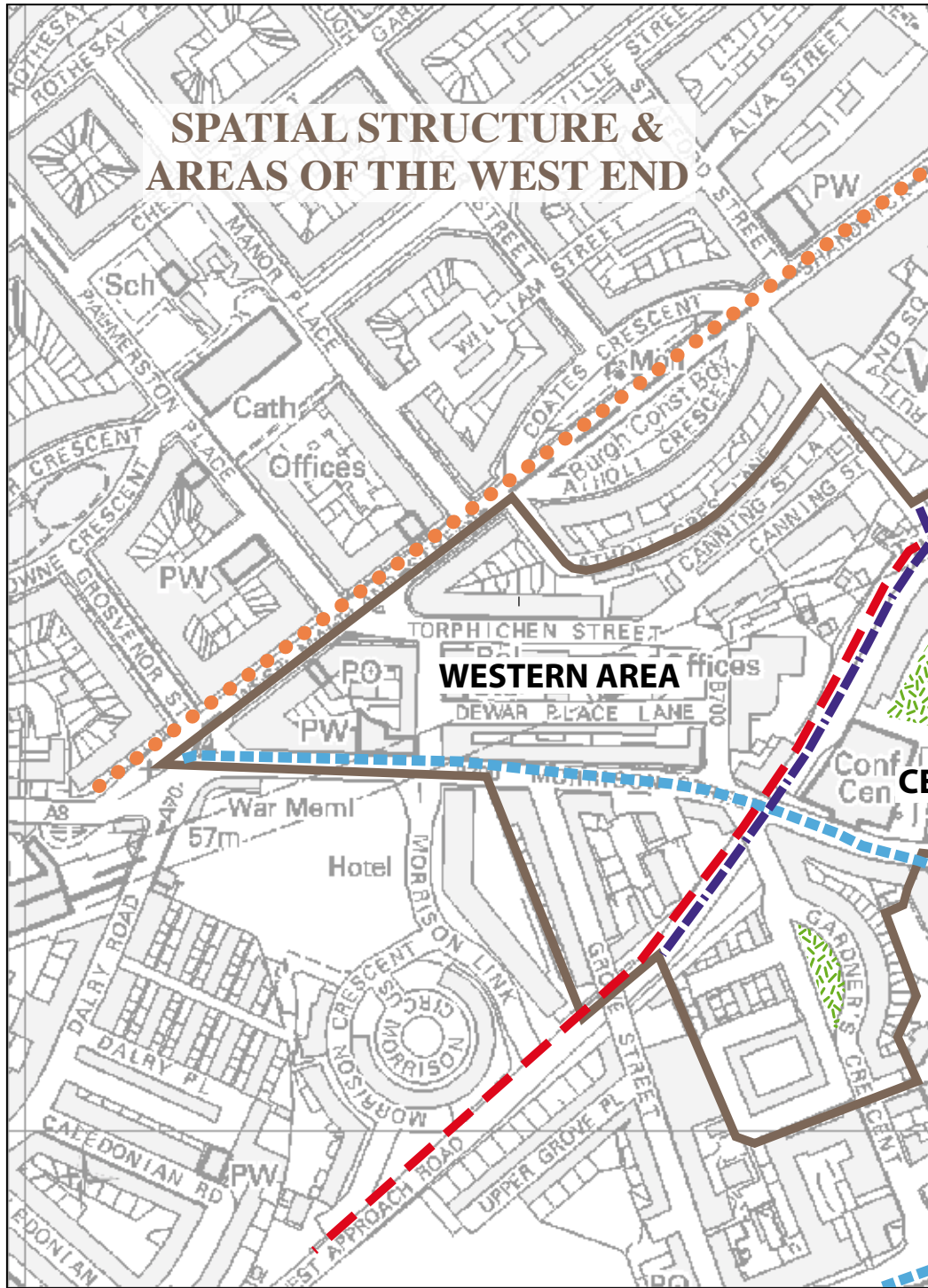


Spatial Structure

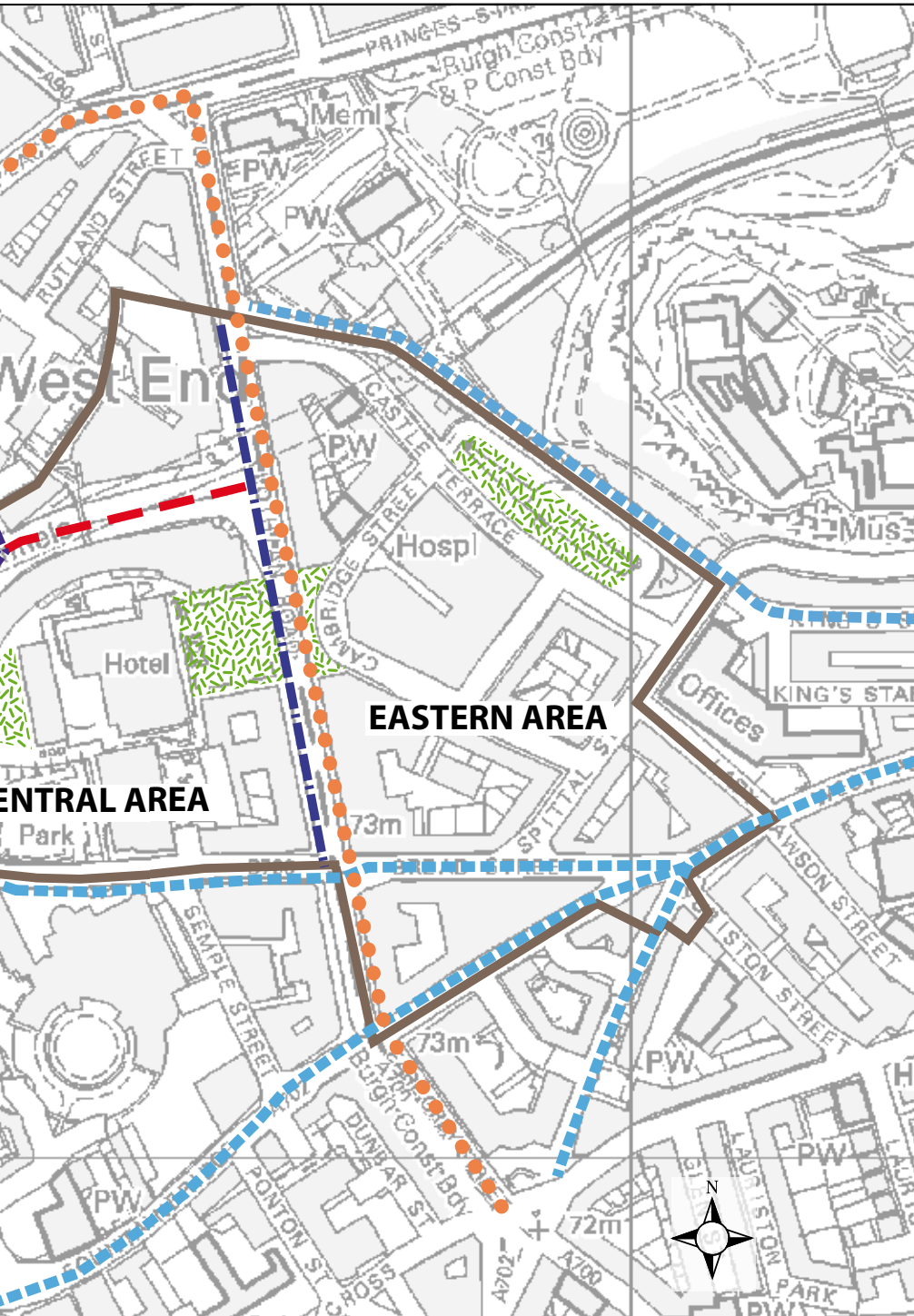
There are three distinct elements contained within the conservation area which are a result of the development in the Georgian period of the road and canal system, closely followed by the railway in the Victorian era. The canal, while not within the conservation boundary, had a significant impact on it.

The Caledonian Railway came right into the centre of the conservation area and absorbed substantial amounts of ground for its operations. The demise of the railway released ground for the construction of the Western Approach Road and latterly provided sites for modern office and hotel developments.

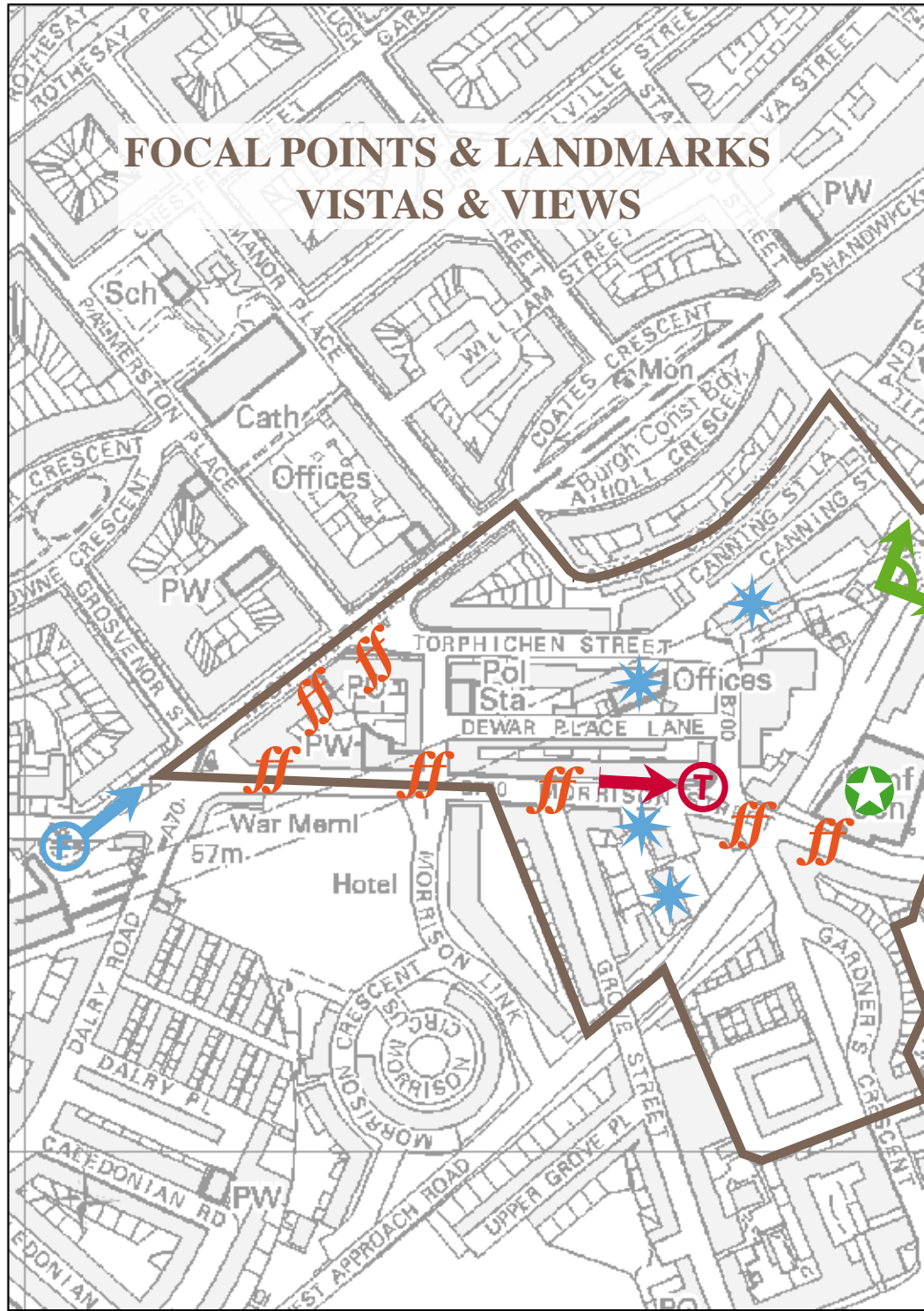




Conservation Area Boundary — Medieval Routes —
Areas of the West End —

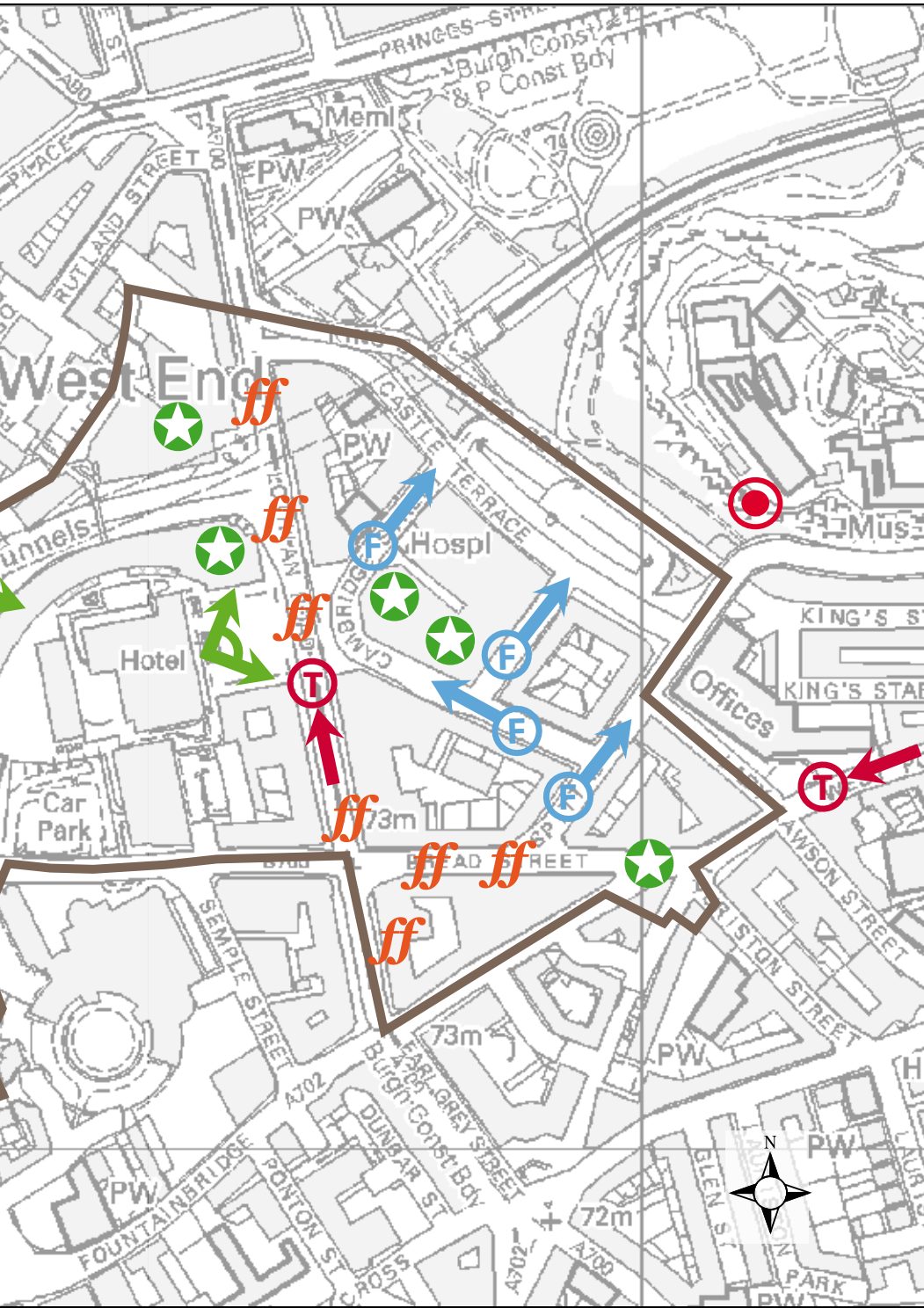


- West Approach Road — — — Squares/Open Spaces ▨ ▨ ▨
- Georgian Routes ● ● ● ●



**FOCAL POINTS & LANDMARKS
VISTAS & VIEWS**

- Conservation Area Boundary
- Vista/Panorama
↗
- Landmark Feature
- Terminated View
T



- Focal Points
- Activity *ff*
- Intrusive Feature
- Framed View

The Eastern Area

Spatial Structure

This area was not affected physically by the development of either the canal or the railway. The boundary lies to the east of Lothian Road and runs from King's Stable Road down to Fountainbridge. Here it turns east up to Main Point and the West Port, before turning down Lady Lawson Street. Reaching Spittal Street it turns east to reconnect with King's Stable Road. This area is also located within the World Heritage Site.

This area is characterised by six perimeter blocks closely following the original layout by William Burn of 1823. One of these blocks now forms the cultural hub of the City containing the Usher Hall, two theatres and Saltire Court.



The other blocks are residential tenements, some of which have been infilled containing the former Co-op department store, now the Point Hotel, and Lawson's timber merchants, which is now vacant.

Lothian Road, on the western boundary, is one of the main routes into the City Centre and cuts across the former medieval routes into the Old Town.

Townscape

This section of the conservation area is contained within the boundary of the World Heritage Site and is dominated on its eastern edge by the presence of the Castle.

Building lines vary within the area. Along Lothian Road, shop fronts generally project beyond the building line to the heel of the pavement. On the Victorian streets, the tenements come down on the heel of the pavement, but Castle Terrace,

Cambridge Street and Cornwall all have their buildings set back, with either small front gardens or basement areas.



Generally heights of buildings are between three and four storeys with all buildings of stone construction, or stone faced. New buildings erected in the 1980s respect the heights, materials and overall massing of the area and sit well in the shadow of the Castle.

The Castle forms a dramatic backcloth overlooking the eastern boundary. Two theatres and a concert hall form a significant cultural quarter in the city. The area is characterised by tenemental perimeter blocks, some of which have been infilled.



Public Realm

There are two important public spaces contained in this area.

The multi-storey car park on Castle Terrace is a discreet building nestling against the steep slope of Kings Stables Road, which fits well into its site at the foot of the Castle rock. The top deck of this car park forms the eastern pavement to Castle Terrace, facing Saltire Court and is approximately 10 metres in width. Currently it provides the location for the Farmers' Market. As a public space, facing onto the Castle rock, it has great potential. However, its current mix of concrete slabs, black top, trees and surface car parking fails to capitalise on its location.

The square in front of the Usher Hall is particularly important linking three of Edinburgh's primary cultural activities, namely the Traverse and Royal Lyceum Theatre and the Usher Hall. It also is adjacent to Festival Square, immediately across Lothian Road.



Architectural Character

This area is characterised by a rich diverse grouping of architectural styles and buildings, generally comprising tenemental blocks using stone and pitched, slated roofs. The area is harmonious in scale despite the presence of large cultural buildings.

Georgian development is found principally on Lothian Road, with the largest grouping occurring on the east side of Lothian Road between Bread Street and Fountainbridge. This constitutes a four storey, ashlar fronted tenement, with projecting Victorian shopfronts cast iron balconies on the upper floors. Georgian buildings tail off into Bread Street and Fountainbridge, where a transition occurs with Victorian buildings which tend to follow the layout, form, massing and use of materials established by William Burns layout.



Lady Lawson Street was developed under the City Improvement Acts and is in a typical baronial, tenemental style. In the 1890s the St. Cuthbert's Co-operative Association built a department store, which infilled the block between Bread Street and Fountainbridge. This was remodelled in the 1930s and given a simple glazed curtain wall. In the 1990s this building was adapted to become the Point Hotel.

The most singular picturesque tenement built in the Victorian era is that designed by James Gowans on Castle Terrace. It is a four and five storey building with a basement and finished by a pair of stone built crowned towers as the main centrepiece.

The Royal Lyceum Theatre of 1883 has a channelled stucco front with a pedimented centrepiece. A glazed extension to the foyer was added in the 1990s.



The Usher Hall, a notable Beaux-Art building of 1914, successfully occupies an awkward wedge at an oblique angle to Lothian Road. The curving facade of the Usher Hall is echoed in the entrance to the Traverse Theatre which forms part of a larger grouping with the office development of Saltire Court, which overlooks Castle Terrace. This is a high quality, well designed grouping that fits well into its context with modesty and discretion.



Despite the variety of architectural styles and periods, this area remains harmonious in scale, massing and materials.

The Central Area

Spatial Structure

The boundary lies to the west of Lothian Road, running from Kings Stables Road to Morrison Street, where it turns left to run down to the bridge over the Western Approach Road. From here it follows the Western Approach Road and then ties in with the conservation area boundary, running along the rear of Rutland Square that then turns east to reconnect with Lothian Road.

The exception in this area is the north western corner of Lothian Road, which is occupied by Georgian tenemental buildings, with a former church that closes this small tenement group on Lothian Road. The remainder of the area has been extensively developed over the last decade on former railway ground in a number of modern styles.

The layout consists of a large scale hotel fronting Festival Square overlooking Lothian Road, with the “entrance” to the West Approach Road flanked by similar office buildings for financial institutions. The southern most of these blocks forms the northern side of Festival Square and provides the starting point for a curved office block that follows and overlooks the line of the West Approach Road, ending in a further square partially closed by the Conference Centre. The overall layout of the modern developments was an urban rationale in creating two new squares linked by a pedestrian route.



The area is generally characterised by modern buildings linked by a curved block and anchored by a square at each end.

The Film House, occupying a converted church, complements and reinforces the cultural hub on Lothian Road.

Townscape

The Georgian buildings are generally between three and four storeys and constructed of stone. On Lothian Road, shop fronts come to the heel of the pavement, while on Morrison Street there are basements.

Landmarks include the office buildings flanking the entrance to the West Approach Road which are between nine and ten storeys, and splayed on their entrances. The Conference Centre on Morrison Street, designed as a drum, is approximately six storeys in height. The curved link block between Festival and Conference Squares is five storeys with a sixth floor set back.



Public Realm

Within this central area, there is a clear separation between pedestrians and vehicles, with car parks located under buildings and accessed from the West Approach Road and Morrison Street.

Pedestrian access through the area is good and linkages in a variety of directions are catered for. Both Festival Square and Conference Square are paved with high quality natural materials and the use of standard lighting is carried through into both squares.

Festival Square consists of a formally designed layout containing a mixture of caithness, granite and sandstone. It also contains a formal planting scheme of hedges and clipped trees. In an attempt to create activity, sculptured balls and a fountain have been located in front of the hotel entrance.



The main pedestrian link to Conference Square is all hard landscaping, with occasional colonnades. Stairs which overlook carparks at lower levels occur along this route, Conference Square itself is minimalist in the sole use of granite cubes as flooring material.

The Western Approach Road is almost completely car dominated, lying along a former rail line and crossed at intervals by bridges, which provide pedestrian linkages.



Festival Square would benefit from a more direct pedestrian link to the Usher Hall, Festival Square and Conference Square. The pedestrian route between them comprises a range of high quality, floorscape materials, which are unco-ordinated from one space to another.

Architectural Character

With the exception of the south west corner of this area, which consists of a typical Georgian tenement with ground floor shops turning the corner of Lothian Road and Morrison Street, designed by William Burn and executed in 1822; the remainder of the buildings all date from the 1980s.

The first modern building was the Sheraton Hotel, a stone faced, pedimented and corniced six storey building echoing a classical style. The positioning of the building creates a new urban square to its front overlooking Lothian Road and the square in front of the Usher Hall. This square is flanked to the south by Capital House, a six storey, stone faced office building.

The pressures for development in this area prompted the adoption of a masterplan for a new financial district, most of which has now been constructed.

Two landmark buildings now frame the entrance to the West Approach Road. Both take their height reference from the Caledonian Hotel and echo the dome of the Usher Hall and the Traverse Theatre, although the topmost features of the southernmost building resemble pagodas rather than domes. The buildings are faced with natural stone and have metal roof elements.



The north side of Festival Square is occupied by the Clydesdale Bank offices and has a crescent block leading to the west into the triangular space of Conference Square. This post modern styled block, reflects Atholl Crescent across the West Approach Road. Conference Square is part terminated by the large drum of the Conference Centre, with the new Health complex attached to the Sheraton Hotel forming the southern flank. The car park on Morrison Street forms a development opportunity, that once complete, will close the Square.



The area is harmonious stylistically and in its use of high quality materials, particularly stone. It is somewhat of a counter point to the rest of the conservation area. Further developments should carefully examine the historic context within which they are located, particularly in relation to heights.

The Western Area

Spatial Structure

The boundary to this area follows Canning Street from the West Approach Road and runs westwards up to Atholl Crescent Lane. It then runs along the back of Atholl Crescent, exiting onto Shandwick Place and following West Maitland Street down to Haymarket, where it turns to the east onto Morrison Street. The boundary then runs along the rear of the properties on the west side of Grove Street up to the bridge over the West Approach Road, where it turns to follow the West Approach Road for a short distance, crosses it and incorporates Rosemount Cottages and Buildings. The boundary then crosses Gardner's Crescent, and runs to the rear of this Georgian block before rejoining Morrison Street and running back to the West Approach Road.

Morrison Street, one of the original medieval routes leading to the Old Town, cuts through this area, linking with West Maitland Street, the Georgian route to Glasgow, at Haymarket. The West Approach Road cuts through the area at Gardner's Crescent and forms the eastern boundary over the remainder of the area. The original Georgian planning for this area was significantly altered with the introduction of the canal system followed by the railway.

The area is generally characterised by irregularly shaped tenemental blocks, comprising buildings from a variety of periods, some with mews to the rear. Haymarket forms one of the most significant junctions in the city, a major entry point into the World Heritage Site.



Townscape

Georgian buildings are generally confined to West Maitland Street and the margins of Morrison Street and Torphichen Street, consisting of three storey tenements, some with basements. The exceptions are Grove Street which has a residue of two storeys, with basement, housing and Gardner's Crescent, which is an exceptional four storey Georgian tenemental crescent with a basement.



The rest of the area is primarily Victorian, again tenemental, but four storeys in height. There are also Victorian mews on the lanes of Canning Street and Dewar Place.

The Georgian and Victorian buildings are cohesive in scale, massing and use of materials, and are constructed of natural stone with slated roofs.

Torphichen Street and Canning Street have modern office blocks dating from the 1960 - 70s. Some of these buildings are unsympathetic in terms of scale and massing with the rest of the area. At the rear of Canning Street, there are electricity sub stations which through the use of lighting have been turned into "public art". These buildings, while overlooking the streets at ground floor level, do not provide activity and hence the streets have a feeling of emptiness.



Public Realm

The public realm consists of busy streets affected by one way systems to ease the flow of traffic around and approaching Haymarket. Consequently, footways are constrained by pedestrian barriers, traffic signs, route signs and other street furniture.



Haymarket provides a convergence point for three major vehicular routes as well as a busy railway station. This major meeting point is currently dominated by vehicular traffic, resulting in constrained pedestrian movement and does not reflect its importance as a gateway into the World Heritage Site. The insertion of the tram linking Princes Street with Haymarket presents an opportunity for removing street clutter and improving the public realm. Great care will have to be taken in order to minimise any adverse environmental impact.



Architectural Character

This area reflects a number of architectural periods. Georgian tenemental architecture turns the corners from West Maitland Street into Torphichen and Morrison Street and presents a trickle of domestic buildings on Grove Street. One of the finest pieces of Georgian architecture is found on Gardner's Crescent, consisting of a four storey and basement tenement, which was originally meant to be mirrored with a matching facing crescent. Instead, it overlooks two fine examples of working class model housing.

The first of these is Rosemount Cottages, built by James Gowans in 1853 and comprising six blocks of flatted cottages for "the better class of mechanics." The ground floor flats are entered on one side and the upper flats by outside

stairs on the other. These “model houses” acted as a prototype for the colonies developments that occurred throughout the City. They are two storey stone built with pitched slated roofs.



Rosemount Buildings constructed in 1860 is a three storey quadrangle of red and yellow brick consisting of ninety six flats. This is one of the first housing schemes to break with the strong Edinburgh tradition of stone building.



Morrison Street consists of a mix of Georgian, Victorian and pre-Second World War tenements, most with shops at ground level. St. David’s Terrace and St. David’s Place are occupied by two brick buildings, one comprising offices and the other housing.

There are three buildings of interest - the Victorian school on Torphichen Street, which has been converted for office use; the former electricity offices and depot, and Conference House, a late 90s office building perched on the bridge next to the International Conference Centre overlooking the West Approach Road.



ACTIVITIES AND USES

The West End Conservation Area is extremely diverse in terms of its activities and uses ranging over city wide cultural activities, small offices and major headquarter offices, conference facilities and a wide variety of shops and restaurants.

The Eastern Area

This area forms a significant cultural hub within the city with two theatres, a concert hall and a film theatre. The cinema also lies just outside the conservation area boundary to the south. This area also contains one of the city's premier hotels, The Point, a converted department store on Bread Street.



The east side of Lothian Road is a solid wall, at ground floor, of shops, pubs and clubs with shops filtering into the side streets to the east and a number of restaurants occurring on Grindlay Street.

The Central Area

This financial district contains a significant number of banking and insurance company offices along with the International Conference Centre and the Sheraton Hotel, all built within the last twenty years. There is a coffee bar, restaurant, and health club located in this area.



The Western Area

The mix in this area is similar to the eastern area with some modern office accommodation interwoven into the shops and a small office presence. One

characteristic is that the former Georgian residential properties along West Maitland Street and Torphichen Street are largely given over to office use.

The conservation area has a very wide mix of activities contained within it.

A Shop Front Initiative in the 1990s produced some improvement, particularly around the Conference Centre. However, shop fronts throughout the conservation area are generally poor.



OPPORTUNITIES FOR ENHANCEMENT

The Character Appraisal emphasises the more positive aspects of character in order that the future can build on what is best within the Conservation Area. The quality of urban, architectural and landscape design needs to be continuously improved if the character of the Conservation Area is to be enhanced. The retention of good quality buildings and open spaces, allied to the sensitive interpretation of traditional spatial structures in securing appropriate new development, are of particular importance.

The West End Conservation Area east of Lothian Road is wholly contained in the Edinburgh World Heritage Site. The rest of the conservation area acts as an important buffer zone to the World Heritage Site. Consequently this Character Appraisal stands alongside the World Heritage Site Management Plan. Both documents compliment and reinforce each other. The latter document sets out those elements of significance that make up the Outstanding Universal Value of the World Heritage Site.

In considering action to mitigate risks and improve the area, it is important that both documents do not solely focus alone on a narrow range of conservation policies, but recognise the balance between the Council's strong conservation

and heritage policies and those policies to maintain the City Centre as a viable economic entity, including the regionally important City Centre shopping area. The area must respond to the challenges of a capital city centre.



The aims are set out in Edinburgh City Centre - Charting a Way Forward:

Selective redevelopment opportunities will be clearly defined and promoted to encourage the creation of additional high quality retail floorspace. At the same time an effective balance between shopping, leisure, living and working within the city centre needs to be maintained.

Improved pedestrian linkages will be forged between different parts of the city centre to enhance geographical connectivity, social integration, and connection between different activities.

Continuing investment in the public realm will be secured to preserve that unique sense of place, create the conditions for a vibrant yet safe street life, and encourage continuing private sector developments and improvements. Commitment to a rigorous and exacting maintenance regime needs to be agreed by all parties, along with funding.

Trouble-free accessibility of the city centre from other places by various modes will continue to be pursued - new and integrated public transport facilities, new walking and cycling routes, more welcoming transport interchanges, and improved car parking arrangements.

Moreover, these aims are entirely consistent with sustainability - car dependency reduced, encouragement to use public transport, renewal of the heart of the city - and with environmental protection - safeguarding our most precious asset, our world class environment.

General

The presumption of retaining and reusing buildings of merit within the area must continue, allied to priority being given to restoring and regenerating buildings through a process of high quality repair.

New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively, but others have failed to integrate well with the rest of the conservation area.

Public Realm

The square in front of the Usher Hall is an important public space, linking three of Edinburgh's primary cultural activities, and lying adjacent to Festival Square across Lothian Road.

The top deck of the multi storey car park on Castle Terrace forms a ten metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme is programmed for this space in the near future, which will greatly improve this space.



The public realm should be of the highest quality in terms of the materials used. Transport requirements should respect the original street layout and should follow the guidelines contained in the “Edinburgh Standards for Streets.” Temporary layouts using cheap materials should be avoided.

Street furniture and road markings can detract substantially from the public realm. Strong efforts should be made to reduce the clutter that currently exists and future proposals should be guided by the “Edinburgh Standards for Streets.”

Where new developments occur, the pavement area should adopt a simple palette of natural quality materials which is co-ordinated with adjacent buildings.

Shop Fronts

Encouragement should be given to improving the quality of the shop fronts in the area, particularly those shop fronts which are particularly poorly or inappropriately designed or badly maintained.

Natural Heritage

In development sites in the area, the opportunity should be taken to introduce large scale street trees in soft planting areas to improve the local environment.

The garden at Gardner's Crescent has some low quality materials and missing railings, trees and grass. The garden should be part of an enhancement scheme that would create a quality green space to complement the character of the Georgian Buildings.



Control of New Development

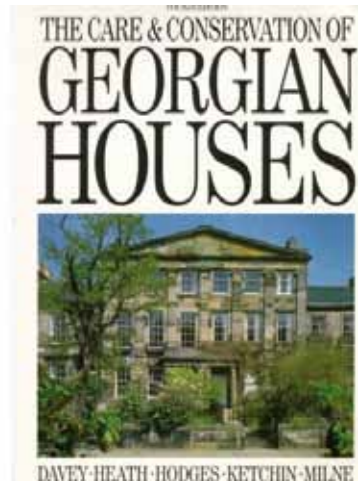
The local authority should continue to insist that new development within the area is of the highest design quality. New development should fit within and complement the urban grain and massing characteristics of the area they are located in.

Development should use the existing historic palette of building materials, particularly natural stone. It should also retain and reinforce the standard plot widths and height of street elevations, avoiding long single elevations, even where larger land packages have been assembled.

Role of the Public

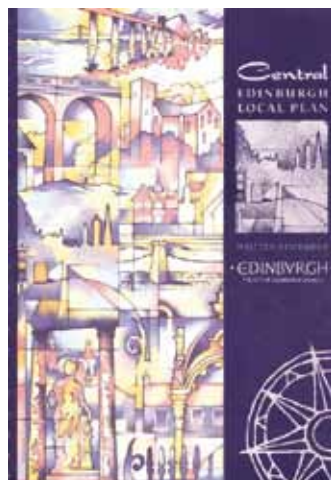
It is essential that property owners accept their maintenance responsibilities. The emphasis should be on the repair rather than replacement of original features, as these contribute to the conservation area's character as a whole. Alterations or additions should be sympathetic to the original style and of an appropriate

scale. A significant reference for maintenance is “The Care and Conservation of Georgian Houses” by Davey, Heath, Hodges, Ketchin and Milne.



STATUTORY PLANNING POLICES

The West End Conservation Area lies wholly within the area covered by the Central Edinburgh Local Plan (adopted in May 1997). This conservation area contains Edinburgh’s city centre and as such there are a significant number of policies contained in the plan.



- Conservation Area

Within the Conservation Area, the existing architectural character, historic and landscape character is to be preserved and enhanced.

- **Mixed Activities**

The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.

- **Shopping**

Lothian Road from Kings Stable Road up to Morrison Street and West Maitland Street from Torphichen Street to Haymarket are classed as District Shopping Centres where the policy states that new shopping development will be encouraged.

- a) in the defined District shopping centres
- b) in locations where it will consolidate defined shopping centres or complement the speciality shopping areas, visitor activities and entertainment areas;
- c) generally in areas where it will improve local convenience.

The Council is currently preparing the Edinburgh City Local Plan, which will eventually supersede the current adopted Central Edinburgh Local Plan.

Supplementary to the Central Edinburgh Local Plan is the World Heritage Site Conservation Manifesto and the Edinburgh World Heritage Site Management Plan. The objective of the Manifesto is to assist in preserving the historic fabric of the World Heritage Site and ensure that changes complement and enhance its special character. The Management Plan is a requirement of UNESCO and identifies the outstanding universal values of the site, what the threats are to those values and how they might be mitigated.

Supplementary Guidelines

The Council also produces supplementary planning guidance on a range of development control issues. These are contained within the Development Quality Handbook.

Implications of Conservation Area Status

Designation as a conservation area has the following implications:

- Permitted development rights under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 are restricted. Planning permission is, therefore, required for stonecleaning, external painting, roof alterations and the formation of hard surfaces. The area of extensions to dwelling houses, which may be erected without consent, is also restricted to 16m² and there are additional controls over satellite dishes.
- Under Article 4 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, the planning authority can seek approval of the Scottish Ministers for Directions that restrict permitted development rights. The Directions effectively control the proliferation of relatively minor alterations to buildings in conservation areas that can cumulatively lead to erosion of character and appearance. Development is not precluded, but such alterations will require planning permission and special attention will be paid to the potential effect of proposals. The West End Conservation Area is currently covered by the full range of Article 4 Directions:

- Class 1 enlargement, improvement or other alteration to a dwelling house
- Class 3 provision or alteration of buildings or enclosures within the curtilage of a dwelling house
- Class 6 installation, alteration or replacement of a satellite dish
- Class 7 construction or alteration of gates, fences, walls or other means of enclosure
- Class 38 water undertakings
- Class 39 development by public gas supplier
- Class 41 development by tramway or road transport undertakings
- Class 40 development by electricity statutory undertaker

- Special attention must be paid to the character and appearance of the Conservation Area when planning controls are being exercised. Most applications for planning permission for alterations will, therefore, be advertised for public comment and any views expressed must be taken into account when making a decision on the application.

- Buildings, which are not statutorily listed, can normally be demolished without approval under the Planning Regulations. Within conservation areas the demolition of unlisted buildings requires conservation area consent.
- Alterations to windows are controlled in terms of the Council's policy.
- Trees within conservation areas covered by the Town and Country (Scotland) Act 1972, as amended by the Town and Country Planning (Scotland) Act 1997. The Act applies to the uprooting, felling or lopping of a tree having a diameter exceeding 75mm at a point 1.5m above ground level, and concerns the lopping of trees as much as removal. The planning authority must be given six weeks notice of the intention to uproot, fell or lop trees. Failure to give notice renders the person liable to the same penalties as for contravention of a TPO.
- Edinburgh World Heritage administers grants for the external repair of buildings within the World Heritage Site and enhancement of the Site's public realm.

REFERENCES

“By the Three Great Roads, A History of Tollcross, Fountainbridge and the West Port” edited by Drew Easton. Aberdeen University Press.

“The Buildings of Scotland - EDINBURGH” by Gifford, McWilliam and Walker. Penguin Books.



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