

# Notice of meeting and agenda

## Planning Local Review Body (Panel 2)

**10.00 am Wednesday, 3rd May, 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.

### Contacts

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## **1. Appointment of Convener**

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

## **2. Order of Business**

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- 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**

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- 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**

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- 4.1 Minute of the Local Review Body (Panel 2) – 22 March 2023 – submitted for approval as a correct record 9 - 24

## **5. Local Review Body - Procedure**

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- 5.1 Note of the outline procedure for consideration of all Requests for Review 25 - 28



## 6. Requests for Review - Continued

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- 6.1** 45 - 47 Shandwick Place, Edinburgh - Change of use from Class 1 to Class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue - application no. 22/02672/FUL. 29 - 102

(a) Notice of Review and Supporting Documents

(b) Letters of Representation

(c) Additional Information

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

At the meeting on Wednesday 22 February 2023, it was agreed 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.

## 7. Requests for Review - New

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- 7.1** 30 Almond Green, Edinburgh - Change of use from residential to short term let (in retrospect). The entire property is currently used, and has been for the last 8 months, for short term lets - application no. 22/04846/FUL. 103 - 134

(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.

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|------------|--|-----------|
| <b>7.2</b> | 4A Cumberland Street North West Lane, Edinburgh - Retrospective change of use from flatted dwelling to short term let - application no. 22/04795/FUL.<br><br>(a) Notice of Review and Supporting Documents<br>(b) Letters of Representation<br><br>Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.               | 135 - 188 |
| <b>7.3</b> | 89 Holyrood Road (Flat 20), Edinburgh - Change of use from private residential to short term commercial letting - application no. 22/04909/FUL.<br><br>(a) Notice of Review and Supporting Documents<br>(b) Letters of Representation<br>(c) Further Reps<br><br>Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only. | 189 - 228 |
| <b>7.4</b> | 178 Pleasance, Edinburgh - Change of use from residential to short-term holiday accommodation - application no. 22/05431/FULSTL.<br><br>(a) Notice of Review and Supporting Documents<br>(b) Letters of Representation<br>(c) Further Reps<br><br>Note: The applicant has requested that the review proceed on the basis of an assessment of the review documents only.                | 229 - 276 |

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

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| <b>8.1</b> | Extracts of Relevant Policies from the Edinburgh Local Development Plan for the above review cases<br><br><a href="#">Local Development Plan Online</a><br><br>Edinburgh Local Development Plan Policy Des 1 (Design Quality) | 277 - 294 |
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and Context)

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 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)

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

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

## 9. Non Statutory Guidance

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9.1	<a href="#">The Relevant Scottish Planning Policy – Sustainable Development Principles</a>	295 - 332
	<a href="#">Guidance for Businesses</a>	
	- <a href="#">Guidance for Householders</a>	
	<a href="#">Listed Buildings and Conservation Areas</a>	

[The New Town Conservation Area Character Appraisal](#)

[The Old Town Conservation Area Character Appraisal](#)

[The Colonies Conservation Area Character Appraisal](#)

The Draft National Planning Framework 4

City Centre Shopping and Leisure Supplementary Guidance -  
Policy CC 4

Managing Change in the Historic Environment – Setting

Managing Change in the Historic Environment: Interim Guidance  
on the principles of listed building consent.

Managing Change in the Historic Environment - External Fixtures

Managing Change in the Historic Environment – Extensions

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 24, 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](http://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

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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)

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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

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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](mailto:blair.ritchie@edinburgh.gov.uk).

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to the Council's online [Committee Library](#).

Live and archived webcasts for this meeting and all main Council committees can be viewed online by going to the Council's [Webcast Portal](#).

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 March 2023

**Present:** Councillors Beal, Booth, Hyslop, McNeese-Mechan (items 5-9) and Mowat.

### 1. Appointment of Convener

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Councillor Mowat was appointed as Convener for item 4.

Councillor Hyslop was appointed as Convener for items 5 – 9.

### 2. Planning Local Review Body Procedure

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#### Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted)

### 3. Minutes

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To approve the minute of the Local Review Body (LRB Panel 1) of 22 February 2023 as a correct record.

### 4. Request for Review – 18 Spring Gardens, Edinburgh

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Details were submitted of a request for a review for the change of use from house to short stay commercial visitor accommodation at 18 Spring Gardens, Edinburgh. Application Number. 22/03161/FUL.

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 NPF4 Policy 30 Tourism.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 22 March 2023.

#### Assessment

At the meeting on 22 March 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 information and NPF4 Policy 30 comments.

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 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
- 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 the supporting information from the DPEA was in page 88 of the papers,
- Clarification was sought as to whether this being a retrospective application had a bearing on the deliberations of the Panel. It was explained that the premises had already been operating as short term let but the new licencing regime meant that applicant now required planning permission in order to obtain a licence. However, this should not influence the deliberations of the Panel.



- In respect of NPF4 Policy 30 and the supposed economic benefits that proposals would bring, clarification was sought as to whether the applicant had confirmed the economic benefits of the proposed use. It was advised that the applicant had indicated that there would be economic benefits, however it would be difficult to demonstrate what these would be. There would be paying guests who would bring benefits to the local economy and through the use of local facilities.
- This assumption was based on the applicant not leaving the property empty.
- Whether there were any precedents for potential economic benefits. It was confirmed but there were no studies available, but it could be assumed but people living in the property would also be contributing to the local economy.
- As the appeal to the DPEA concluded that was known material change of use, clarification was sought as to why the applicant needed planning permission. It was explained that it was the need for a licence that drove this application., To get a licence for a short term let, it was necessary to get planning permission.
- Clarification was sought as to the actual numbers of letters of objections and support for the proposals. It was confirmed that only those who made comment on the initial application, were permitted, in accordance with legislation, to comment on the Review. There might have been correspondence outwith that. In response to the Review, there were five letters in support and two letters of objection.
- It was explained but the number of days that the applicant would spend in residence was outlined in page 83 of the report. Additionally, the applicant intended to reside in the property, approximately 5 days to 2 weeks a month.
- One member had issues with the use of NPF4 Policy 30 as a reason for refusal, as the applicant claimed there was no loss of residential accommodation, as the applicant would be in residence when not letting out the property.
- As to there being any mechanism for Licencing or Planning to stop the property being used as full-time short-term accommodation, it was explained that if the applicant received permission for a short term let, then the premises could be used continually throughout the year. It was not possible for the Panel to limit the number of nights the premises could be used as short term let.
- The submission from the applicant asked if the Panel would consider three conditions for the short-term use, which were that this would be a personal permission, a maximum of 120 nights per year, and the consent would be for three years only. The Report of Handling indicated that personal consent would not be appropriate, and was it not the case that the planning system seemed to be reluctant to grant personal permission?
- It was confirmed that for planning permission went with the land not with the person. Applying a personal consent was complicated. Additionally, Scottish

Government legislation was moving away from personal consent. It would be possible for the Panel to impose conditions, but it was necessary to ensure that they would meet the statutory tests, that they would be enforceable, reasonable and appropriate.

- As the second condition was not enforceable, clarification was sought as to whether there was any other way the applicant could comply with that and was the three-year condition enforceable. It was explained that the number of nights for people in residence would be difficult to monitor, as would be the number of people. Regarding the three-year time limit, that was for Panel to consider if it was appropriate. The property had been operating for period of time already as a short term let.
- It was thought this case was finely balanced. There would be a negative impact on residential amenity. Shared space was a consideration and NPF4 Policy 30 was relevant. The possible economic benefits might not be particularly high, as the premises would not be used continually.
- It was difficult to see how that NPF4 policy 30 was relevant as there did not seem to be a loss of residential accommodation. If the Panel was to approve the application and the owner was to sell the property, then there might be a loss of residential accommodation. It might be possible to consider a personal consent. The key issues would be residential amenity and LDP Policy Hou 7. Some of the neighbours approved of the application and some were opposed to it.
- Personal consent was an option. Did this mean a loss of residential accommodation? If the panel was to agree that it did not, then it would be agreeing with the applicant. They would be taking a building in residential use and changing it to a short-term let, which was a change of use. If they were to sell the property this might have unforeseen consequences. This was quite a complex application, the arguments put forward by the applicant were more subtle, but the issues were black and white regarding the licencing and a planning regime.
- There was agreement with some of the previous statements. It was felt that this was a dual-purpose use and that if this was not the case, then there would be a loss of residential housing. Even if this was a case, it met the economic test and there was an inclination to take the applicant's case at face value as they had involved a professional body who compiled the statement. If people were living in the property, then there would be economic benefit. According to LDP Policy Hou 7, it was probably not the case that there was a loss of residential amenity. In this instance, the use of the property was acceptable.
- If this was a primary residence, a personal permission might be a possible solution, because when people were using the properties in a dual way, there should be some flexibility permitted. However, there should be a condition

placed on it for permission for three years only. The owners were planning to retire to this house and this case was unique to the owners of this house.

- As a residential area, any loss of this would definitely impact on the residential area. If the panel were to place conditions on this application, it would not be possible to enforce them. It had to be assumed this would be used as a short term let.
- It should be possible to take the applicant at their word that they would be increasingly spending more time in the house and the short term let usage would decrease.
- It was necessary to have an extant planning permission, so if there was a 3-year limit on it, the owners could not get it licenced at the end of three years, therefore, that would double enforce that three-year time limit.
- There was some sympathy with that line of argument, but within that three years the short term let permission could operate throughout the year.
- The panel should grant the application as there would be no loss of residential accommodation or negative impact on amenity, which would be contrary to LDP Policy Hou 7 or NPF4 Policy 30. There should also be a condition imposed that the consent permission should be personal to the applicant and for three years only.

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, subject to conditions, for the reasons that the proposal was not contrary to:

- 1) 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 not have a materially detrimental effect on the living conditions and amenity of nearby residents.
- 2) NPF 4 Policy 30 on Tourism, as the proposed use would not result in the loss of a residential unit.

### **Decision**

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

### **Reasons:**

The proposals were not contrary to Local Development Plan Policies:

- 1) 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 not have a materially detrimental effect on the living conditions and amenity of nearby residents.

- 2) Policy 30 of NPF4 on Tourism, as the proposed use would not result in the loss of a residential unit.

**Condition:**

1. Planning permission was granted on a personal basis for use by the applicant, Mr Michael Cran, only, and for a temporary period of 3 years from the date of this consent.

**Reason:**

1. In order to protect residential amenity and to ensure there was no unacceptable loss of residential accommodation.

(References – Planning Local Review Body (LRB) of Wednesday 18 January 2023 (item 8); 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 – 22 Coillesdene Crescent, Edinburgh**

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Details were submitted for a request to replace existing roof to form mansard, form storey-and-a-half extension to rear, build garden studio at 22 Coillesdene Crescent, Edinburgh. Application Number. 22/05269/FUL.

**Assessment**

At the meeting on 22 March 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 01-05, Scheme 1 being the drawings shown under the application reference number 22/05269/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 16 Quality Homes

- 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 thought that the proposed solar roof panels seemed to be upright.
- It was confirmed that they were in fact sloping. They were on an angle, but they would be visible from the street.
- How much percentage of the land would be covered by this building?
- It was explained that the footprint was quite similar to what was there at present. There was the proposed addition of an ancillary building with flue and an addition of hardstanding for ancillary building proposed, but there were already some ancillary buildings in the garden.
- It was thought that this application should be granted, it was in keeping with the character of the neighbourhood and it would re-purpose the building to modern living. The solar panels would also be a useful addition.
- The key issue was the impact on the surrounding neighbourhood. This proposal included the replacement of the roof at a 50-degree pitch, which would have a significant impact. The officer's decision was robust and the proposed solar panels were not relevant to the appeal.
- There was agreement with the above point of view as the proposed replacement of existing roof to form a mansard roof and form a storey-and-a half extension to rear, would change the height and appearance of the building. Therefore, the Panel should uphold the officer's decision.
- There was a degree of subjectivity to this case. There was sympathy with owner's wanting to improve their property. However, the proposals would have a significant impact on the character of the area and it would be possible for the applicant to install insulation, regardless of the works proposed in the application. Therefore, the officer's recommendations should be upheld.
- There was sympathy with the applicant trying to modernise a property. However, considering the buildings in the street, this was not the general pattern of development. It was not possible to agree with the applicant's comments. If

they were to change the pitch and increase the height of the roof, that would have a significant impact on the character of the area.

Having taken all the above matters into consideration, and although 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 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 were contrary to the non-statutory Guidance for Householders as the proposed bungalow roof development did not respect the original character of the bungalow or its original roof design.

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

### **Dissent**

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

## **6. Request for Review – 1A Cambridge Street, Edinburgh**

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Details were submitted for a request for a review for retrospective planning application for change of use from flat (sui generis) to short term let (sui generis) at 1A Cambridge Street, Edinburgh. Application Number. 22/01652/FUL.

### **Assessment**

At the meeting on 22 March 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 22/01652/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) Relevant legislation, namely:  
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):
- 2) The development plan, including the relevant policies of the NPF4 and Edinburgh Local Development Plan, principally:  
NPF4 Policy 30, part e): Tourism  
Edinburgh Local Development Plan Policy Del 2 (City Centre)  
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)
- 3) Relevant Non-Statutory Guidelines.  
Guidance for Businesses  
Listed Buildings & Conservation Areas  
Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent  
Managing Change in the Historic Environment – Setting  
West End Conservation Area Character Appraisal
- 4) The procedure used to determine the application.
- 5) 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:

- There was support for the officer's recommendations to refuse the application as the proposal to change the residential use to a short term let apartment was contrary to LDP Policy Hou 7 and NPF4 Policy 30 E.

- There was agreement with this as there was concern that this change of use to a short term let apartment might lead to people potentially enjoying a party atmosphere, which could cause noise.
- There was further agreement to uphold the officer's recommendations as the proposed development was in a quiet, residential area. This was quite a finely balanced case, but the proposed development could cause noise for the residents and loss of accommodation. It was contrary to NPF4 30 E.
- In the planning statement, it clearly stated that this was bought as a short term let property investment. What might have been of consideration was that it was once an office and then it became a flat. However, it was unclear whether it was used as traditional residential, long term or short long-term letting or if it was owned.
- It was clear in the supporting documentation that this was bought as an investment property and it was therefore a loss of residential property. This was not a particularly big flat and the courtyard would possibly not be a great outdoor space. From the supporting documentation, the proposal did not comply with NPF4 30 E.
- If the Panel was to add NPF4 30 E as a reason for refusal, would they be required to go back to the applicant?
- It was confirmed that this would not be necessary and it would be competent to add NPF4 30 E.
- It was agreed that the Panel should refuse the application and add NPF4 Policy 30 (part e) as an additional 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.

### **Decision**

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

### **Reasons for Refusal:**

The proposal was contrary to the development plan, specifically NPF4 Policy 30-part e in respect of Tourism, and LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short-term let would result in the loss of residential accommodation not outweighed by demonstrable economic benefits and would have an unacceptable impact on the living conditions and amenity of nearby residents.

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



## 7. Request for Review – 13 Farrer Grove, Edinburgh

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Details were submitted of a request for a review for loft conversion to include dormer and velux at 13 Farrer Grove, Edinburgh. Application Number. 22/03718/FUL.

### Assessment

At the meeting on 22 March 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 22/03718/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 16 Quality Homes
  - 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:

- Whether this was an end-terrace property?
- It was explained that the site of the property was an end-terraced property, located north of Fishwives Causeway and adjacent the train tracks. The section on the other side of the stone wall was public access.
- The guidance on dormers was clear, and stated that a dormer should not exceed one third of the roof plane and the proposal was significantly more than this. There were no mitigating circumstances. The location of the property meant that the property's primary elevation would be visible from public views,

particularly along Fishwives Causeway, which ran adjacent to the train tracks. Therefore, there were no reasons not to uphold the officer's recommendations.

- There was some sympathy for the applicant, due to the property's location, but it was visible for the railway. Fishwives Causeway was used as a footpath. Sometimes it was possible to allow some leeway with the guidance, but not on this occasion.
- That this was in clear breach of guidance as the dormer was significantly over the one third scale, detailed in the non-statutory Guidance for Householders, encompassing over 80% of the existing roofscape. The fact that the proposal would overlook a pedestrian area, Fishwives Causeway, was not relevant to determining the application. The proposals were contrary to NPF4 and LDP Policy Des 12 and the Panel should refuse the application.

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:**

The proposal was contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it was not an acceptable scale, form, or design; and was detrimental to the character of the neighbourhood.

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

## **8. Request for Review – 44 Jordan Lane, Edinburgh**

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Details were submitted of a request for a review for a Change of Use from a Flat (sui generis) to Short-term Let (sui generis) ( in retrospect) at 44 Jordan Lane, Edinburgh. Application Number. 22/02875/FUL.

### **Assessment**

At the meeting on 22 March 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 22/02875/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) Relevant development in Conservation Areas legislation, namely:  
Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997  
Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act)
- 2) The development plan, including the relevant policies of National Planning Framework 4 and Edinburgh Local Development Plan, principally:  
NPF 4 Policy 7 – Management of historic environment  
NPF4 Policy 30 (part e) - 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)
- 3) Relevant Non-Statutory Guidelines.  
The Relevant Scottish Planning Policy – Sustainable Development Principles  
Listed Buildings and Conservation Areas  
Guidance for Businesses  
The Morningside Conservation Area Character Appraisal
- 4) The procedure used to determine the application.
- 5) 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 the surface of Jordan Lane was tarmacked and that the pavement outside the property was slabbed.
- It was thought that the officer's position to refuse the application was sound as it was contrary to NPF4 Policy 30.

- There was agreement for this as the property was in a predominantly residential area. It was within the ground floor of a four-storey Victorian tenement and it should be refused as it was contrary to LDP Policy Hou 7 and NPF4 Policy 30.
- There was concern that as a neighbourhood flat, it was valuable residential accommodation and allowed people access who could not use stairs, as it was within the ground floor. The proposed development did not involve sharing stairs but would be sharing a common garden. Also, the locked door may have implications for use as a fire escape in terms of building standards. It was an intrusion onto people's space, which should be private space; it would also impact on residential amenity and would cause disturbance, therefore, it was contrary to LDP Policy Hou 7 and NPF4 Policy 30.
- It was agreed that the Panel should refuse the application as it was contrary to LDP Policy Hou 7 and NPF 4 Policy 30.

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**

The proposal was contrary to the development plan, specifically NPF4 Policy 30 (part e) in respect of Tourism, and LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short-term let would result in the loss of residential accommodation not outweighed by demonstrable economic benefits and would have an unacceptable impact on the living conditions and amenity of nearby residents.

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

## **9. Request for Review – 9 (1F1) Sciennes House Place, Edinburgh**

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Details were submitted of a request for a review to change residential one bedroom property into a self-catering outlet (in retrospect) at 1F1 9 Sciennes House Place, Edinburgh. Application Number. 22/03018/FUL.

### **Assessment**

At the meeting on 22 March 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/03018/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) Relevant legislation, including on development in Conservation Areas, namely:  
Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

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

- 2) The development plan, including the relevant policies of the NPF4 and Edinburgh Local Development Plan, principally:  
NPF4, Policy 30, (part e): 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)

- 3) Relevant Non-Statutory Guidelines.  
The Relevant Scottish Planning Policy – Sustainable Development Principles  
Listed Buildings and Conservation Areas  
Guidance for Businesses  
The South Side Conservation Area Character Appraisal

- 4) The procedure used to determine the application.

- 5) 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 proposed development was to change a residential one-bedroom property into a self-catering outlet (in retrospect) in a first floor flat within a 4-storey tenement, accessed through a shared communal stair.
- This was a small property and the decisions which have been taken by the officer and the reporter had been clear. Its location within a stair meant that it had an impact on residential amenity and there had been objections from

neighbours who said that this was a problem. So, there were no grounds to overturn the officer's decision. It was clear both on LDP Policy Hou 7 and NPF4 Policy 30 that there would be a loss of residential accommodation, so the Panel should uphold the officer's decision.

- There was agreement with the view stated. There was some sympathy with the applicant as they had tried to grow their business and intended to be a good neighbour. But the application had to be determined on planning grounds, which stated that this was a shared stair. Additionally, it would be contrary to LDP Policy Hou 7. Also, Policy 30 of NPF4 was clear on this.
- This would affect all the other people in the block. If the Panel gave planning permission for this, then it could be used for any sort of short-term let. It would probably not be acceptable to the people in the block who might have to contend with possible disturbance.
- It was agreed to uphold the officer's decision to refuse planning permission based on LDP Policy Hou 7 and NPF4 Policy 30.

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 the development plan, specifically NPF4 Policy 30 (part e) in respect of Tourism, and LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short-term let would result in the loss of residential accommodation not outweighed by demonstrable economic benefits and will have an unacceptable impact on the living conditions and amenity of nearby residents.

(References – 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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Pritchett Planning Consultancy.  
FAO: Phil Pritchett  
PO Box 8052  
Edinburgh  
EH16 5ZF

Santorinia Investments Limited.  
8 Margaret Rose Crescent  
Edinburgh  
EH10 7EZ

**Decision date: 30 September 2022**

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

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 EH2 4RG

**Application No:** 22/02672/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 17 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:-**

**Reason for Refusal:-**

1. The proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core.

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

Drawings 01-07, 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 regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it does not comply with Edinburgh Local Development Plan as the proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core. There are no other material considerations which would indicate that proposal should be approved. Therefore, the recommendation is to refuse planning permission.

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 Andrea Orellano directly at [andrea.orellano@edinburgh.gov.uk](mailto:andrea.orellano@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](http://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](mailto: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**  
**45 - 47 Shandwick Place, Edinburgh, EH2 4RG**

**Proposal: Change of use from Class 1 to Class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue.**

**Item – Local Delegated Decision**  
**Application Number – 22/02672/FUL**  
**Ward – B11 - City Centre**

## **Recommendation**

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

## **Summary**

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it does not comply with Edinburgh Local Development Plan as the proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core. There are no other material considerations which would indicate that proposal should be approved. Therefore, the recommendation is to refuse planning permission.

## **SECTION A – Application Background**

### **Site Description**

The site is a two storey terraced vacant retail unit on Shandwick Place located in the City Centre Retail Core.

The site lies within the New Town Conservation Area.

### **Description Of The Proposal**

The application proposes a change of use from Class 1 to Class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue.

## Relevant Site History

10/01422/FUL  
45 - 47 Shandwick Place  
Edinburgh  
EH2 4RG  
Installation of new shopfront  
Granted  
8 July 2010

10/00255/FUL  
45 - 47 Shandwick Place  
Edinburgh  
EH2 4RG  
Change of use from retail shop (Class 1) to restaurant (Class 3)  
Refused  
16 April 2010

## Other Relevant Site History

## Consultation Engagement

## Publicity and Public Engagement

**Date of Neighbour Notification:** 2 June 2022  
**Date of Advertisement:** 10 June 2022  
**Date of Site Notice:** 10 June 2022  
**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 harm the character or appearance of the conservation area?**

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

The proposed kitchen duct is located at the rear of the building so cannot be seen from the main streetscape. The proposal would have a neutral impact on the character and appearance of the conservation area.

### **Conclusion in relation to the conservation area**

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in that it would preserve the character and appearance of the conservation area.

### **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 Retail policies Ret 9 and Ret 11.
- LDP Design policies Des 1 and Des 12.
- LDP Environment policies Env 6.
- LDP Housing policy Hou 7.

The City Centre Shopping and Leisure Supplementary Guidance is relevant when considering LDP policy Ret 9.

### Principle

The principle of the proposal is assessed against LDP Policy Ret 9. The application is located within the City Centre Retail Core, so the City Centre Shopping and Leisure Supplementary Guidance is relevant, in particular Policy CC 4. The application must comply with both criteria a) and b) of Policy CC 4 to be considered acceptable.

By the applicants own analysis in the covering letter, they state: "At present of the 19 units on the south side of the street. 10 are in retail use which equates to 53% of units. 9 are in non-retail use. If the subject premises are permitted to change to class 3 use then the percentage will change to 47% being in non-retail use". However, if the change of use were permitted this would result in the loss of a retail unit equating to 53% of non shop uses along the frontage which is contrary to criteria a).



When assessing the application site, it was found that there are 19 units on the immediate street frontage but only 6 are currently operating as retail, so it is possible that the applicant included the three vacant sites (one being the site from the application) as retail units. These calculations would still result in more than half of the total number of units being in non-shop use. In this regard, the application is contrary to criteria a).

In terms of criteria b), the proposal complies with this part of the policy. As the site is currently vacant and has been in a vacant state since April 2021, the change of use to a restaurant would complement the character of the City Centre Retail Core. The proposal would not be detrimental to its vitality and viability.

Within the City Centre Retail Core, a strong, high quality retail offer is a key aspect of sustaining and enhancing the city centre. As the proposal fails to comply with criteria a) of the Supplementary Guidance, it is contrary to LDP Policy Ret 9.

### Scale, Form and Design

The proposed works would represent suitable additions that would be acceptable in this location. The proposed design and materials are also acceptable in that they would be congruous to the application site and the surrounding area. The proposal would not represent over development.

The application complies with LDP Policy Des 1 and Des 12.

### Amenity

There are a few residential properties located near the property.

Environmental Protection was consulted and requested an NIA in order to assess noise impact on nearby residential properties. Although there could be potential issues regarding noise, it would be inappropriate to ask for an NIA to be carried out as this would be a great cost to the applicant and the proposal is not acceptable in principle regardless of impact on amenity.

It cannot be concluded whether the proposal complies with LDP Policies Des 12, Hou 7 and Ret 11.

### **Conclusion in relation to the Development Plan**

The application does not comply with LDP Policy Ret 9 and Policy CC 4 in the City Centre Shopping and Leisure Supplementary Guidance. Therefore, the application does not comply with 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 does not comply with Paragraph 29 of SPP as it undermines the retail function of the defined centre.

#### 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 comments have been received.

#### **Conclusion in relation to identified material considerations**

There are no material considerations that outweigh the relevant policies in the Local Development Plan.

#### **Overall conclusion**

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it does not comply with Edinburgh Local Development Plan as the proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core. There are no other material considerations which would indicate that proposal should be approved. Therefore, the recommendation is to refuse planning permission.

### **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

**Reason for Refusal**

1. The proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core.

**Background Reading/External References**

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

**Further Information - [Local Development Plan](#)**

**Date Registered: 17 May 2022**

**Drawing Numbers/Scheme**

01-07

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Andrea Orellano, Student Planner  
E-mail: [andrea.orellano@edinburgh.gov.uk](mailto:andrea.orellano@edinburgh.gov.uk)

Appendix 1

## **Consultations**

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

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto: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      100611734-001

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:	<input type="text" value="Pritchett Planning Consultancy"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Phil"/>	Building Name:	<input type="text" value="PO Box"/>
Last Name: *	<input type="text" value="Pritchett"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="07901557484"/>	Address 1 (Street): *	<input type="text" value="8052"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
		Postcode: *	<input type="text" value="EH16 5ZF"/>
Email Address: *	<input type="text" value="phil@pritchettplanning.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"/>	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"/>	Building Number:	<input type="text" value="8"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Margaret Rose Crescent"/>
Company/Organisation	<input type="text" value="Santorinia Investments"/>	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="EH10 7EZ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="phil@pritchettplanning.co.uk"/>		

## 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="45-47 SHANDWICK PLACE"/>
Address 2:	<input type="text" value="NEW 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="EH2 4RG"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673585"/>	Easting	<input type="text" value="324585"/>
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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 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 EH2 4RG

## 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 attached written submission

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)

1 Refusal Decision Notice, 2 Report of Handling, 3 Covering Letter, 4 Commercial Agent Letter, 5 Application Form, 6 Location Plan, 7 Existing Ground Floor Plan, 8 Existing Upper Floor Plan, 9 Existing Rear Elevation, 10 Proposed Ground Floor Plan, 11 Proposed Part Rear Plan, 12 Proposed Rear Elevation Written Submission

## Application Details

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

22/02672/FUL

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

17/05/2022

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

30/09/2022

## 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 Phil Pritchett

Declaration Date: 23/12/2022



**Change of use from Class 1 to Class 3 with ancillary hot food take away  
and installation of rear mounted kitchen extract flue  
45 - 47 Shandwick Place Edinburgh EH2 4RG**

## **LOCAL REVIEW BODY SUBMISSION**

**PLANNING APPLICATION 22/02672/FUL  
for Santorinia Investments Limited**



## **CONTENTS**

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## 1.0 INTRODUCTION AND COMMERCIAL CONTEXT

- 1.1 This submission is lodged to the City of Edinburgh Council Local Review Body to reconsider a delegated decision by the Head of Planning in respect of application 22/02672/FUL. The refusal decision notice is document 1. The officer report of handling is document 2.
- 1.2 The planning application sought permission to change the use of a vacant retail unit at 45-47 Shandwick Place to a class 3 use which would allow a restaurant to trade. The application was refused with the only reason for refusal being:
- 1. The proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core.*
- 1.3 The policy is contained in the 2016 Local Development Plan which is now out of date. Scottish Planning Policy guidance requires developments to be considered against SPP where development plans are more than five years old. In respect of Shandwick Place there have been material changes in circumstances regarding the functioning of the street which is now a through route for public transport. It has not been a core retail street for many years, if it ever was. The last major retailer in Shandwick Place was Habitat which closed well over a decade ago. Retail policy has not been updated to take account of changing circumstances. Further justification and a response to the reason for refusal and an assessment of the Report of Handling will be considered in the next section.
- 1.4 The planning application was supported by a covering letter – document 3 as well as a letter from commercial agents who have been marketing the building for the last two years – document 4. The application form is document 5 and supporting plans documents 6-12. It should also be noted that the former Co-op store which is adjacent to the subject site has closed and is now the Lothian Buses Travel Hub. The Co-op was a convenience store and should have had relatively high footfall. It is telling that this store closed to be replaced by a ‘ticket office’. Whilst a ticket office is considered to be a ‘retail’ use and therefore no change of use is required, it is evident that the ticket office has very low footfall and has no active or attractive frontage. In fact the ticket office is only part of the use, with much of the floorspace given over to a café. The below photograph is the Lothian Buses ‘Hub’. The façade windows are blank with opaque glazing. There is no window activity. It is a ‘dead’ frontage.
-



Fig 1: Lothian Buses Ticket office

- 1.5 By contrast the class 3 operations in this area have very active frontages and have high footfall adding to the vitality of the street at all times of the day. The council's very blunt policy suggesting that it is only retail that creates vitality and viability for a city centre street is outdated and does not reflect modern commercial reality.



Fig 2: Class 3 Uses Nearby



### Current Commercial Context

1.6 Edinburgh City Centre planning policy relating to retail uses and the city centre core area have been changing over the last decade. Unprecedented external forces have also rapidly changed the function of town and city centres with the retail environment adjusting to the effects of the global pandemic and changing shopping habits. The Edinburgh LDP is now six years old and the supplementary planning guidance on the city centre retail core predates the pandemic. City of Edinburgh Council have also promoted and now succeeded in shifting the primary retail focus of the central area from Princes Street eastwards to Edinburgh St James. The western end of Princes Street has seen a marked shift away from anchor retail stores to none retail uses. Debenhams and House of Fraser have closed and are being redeveloped for exciting new non-retail uses with the Johnnie Walker experience in the former House of Fraser store and a new 208 bed hotel and ancillary bars and restaurants in the former anchor Debenhams store. Restaurants are also now beginning to appear in the west end of Princes Street to cater for the growing tourist and hotel accommodation and tourist and visitor attractions at the west end. There are also a host of serviced apartments and short term let accommodation in the west end of the city centre as well as a strong business sector and upcoming residential sector. The upper floors at the east end of Shandwick Place are also soon to be the subject of proposals for a large scale hotel conversion. The recent changes to the local commercial context therefore include:

- Co-op closing and becoming Lothian Buses Ticket hub and café
- House of Fraser closure becoming Johnnie Walker Experience
- Shandwick Place becoming car free and a busy public transport hub and public transport thoroughfare and interchange
- Hotel and class 3 uses being supported in Debenhams on Princes Street
- St James Centre opening resulting in major shift of retail core eastwards
- No pedestrian improvements on Shandwick Place thereby creating conflict between public transport users and shoppers/visitors
- No cars allowed on Shandwick Place and restricted parking locally
- No anchor stores anywhere near Shandwick Place with House of Fraser and Debenhams closing. Major anchors are non-retail uses.

1.7 Shandwick Place has never been a 'prime shopping street', but in terms of guidance it is regarded in the same hierarchy as the Edinburgh St James.

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The plan below is an extract from the supplementary planning guidance identifying the city centre core.



Fig 3: Core City Centre Plan

- 1.8 The suggestion in this plan is that Shandwick Place and Queensferry Street have similar roles to St James and Waverley Mall. This has never been the case and there is no assessment of footfall or roles in the supplementary guidance. From a simple assessment of footfall at the main entrance to St James and comparing this with Shandwick Place it is very clear that these two areas are materially different. Shandwick Place now has a very limited retail function and has no 'comparison' shopping element where retailers wish to congregate together. The retailers in Shandwick Place fulfil a convenience function. There are only so many convenience stores needed or viable in such an area. There is however a bustling restaurant atmosphere both in the street and in surrounding areas. The hotels and leisure uses in the area support these class 3 uses. They do not support a retail function.
- 1.9 City of Edinburgh Council has also physically changed the nature of the street. The street now has no through traffic or car parking which means that the footways are dominated by people queuing for buses and trying to walk through the area. The figures below provides an example of the conflict which exists with people queuing for buses on narrow pavements. The pavements are so narrow that bus shelters cannot be installed. There do not appear to be any proposals to widen the footways as the carriageway has to accommodate a large number of buses and stops as well as the two way tram route. These physical constraints result in a poor retailing environment.



Fig 4: Bus stop and shopper conflict



Fig 5: Narrow footways with no scope to introduce bus shelters

- 1.10 The footways are very narrow for such a busy street as the carriageway clearly takes priority to cater for trams, taxis, bus through routes and a large number of bus stops. This prioritisation by the council to create a public transport thoroughfare has had a significant adverse effect on maintaining a vibrant retail environment. The retail environment simply no longer exists. The number of retail units in the street on both north and south sides has reduced over the years as the retail footfall has reduced significantly. There is no longer a critical mass of retailing in the street with a smattering of convenience stores as well as service outlets such as opticians and e-cigarette shops. There are also charity shops. The council policy requiring half of all units to be in retail use is no longer fit for purpose and is out of date. The development plan policy therefore has to be considered against more up to date SPP policy which requires an assessment of sustainability and the efficient and effective use of scarce
-



resources. Vacant and underutilised buildings which are capable of reuse should be allowed to change to viable uses and for which there is a market.

- 1.11 There are now well established restaurants along the frontage which cater for tourists and local residents and also serve the hotel market in the area. The west end of Princes Street is now a hive of activity in the restaurant and bar sectors in close proximity to major hotels and tourist attractions. On the south side of the street in which this unit is positioned there are 19 commercial units with 10 in retail use and 9 in non-retail. The latest change of use was for Taco Bell which is an international restaurant chain which complements the other bars and restaurants along the frontage.

### **Subject Premises**

- 1.12 45/47 Shandwick Place is a 113sqm unit which was previously leased to Amplifon which was a hearing aid centre. Whilst technically a retail use, the operation was not a high footfall type use. The lease was due to end in 2022, but Amplifon decided that the location was no longer suitable for their business model and had been seeking to sub-let the building from April 2021. However, no occupier was found and Amplifon handed the unit back to the current owner. Orinson have been marketing the unit following on from Lambert Innes on behalf of Amplifon resulting in a marketing campaign that has been ongoing for a year with two different agents. During this time and despite no formal marketing as anything other than a retail unit the only serious interest has been from restaurant operators. The unit remains vacant.
- 1.13 The marketing campaign has made it clear to the commercial agents and owner that the unit is no longer suitable for leasing to long term and viable retail occupiers. Shandwick Place is no longer a retail pitch. The main convenience anchor store Co-op, has closed and this large unit has been turned into a ticket office. Whilst this is a retail use, the footfall generation is a fraction of that generated by Co-op. The reduction in footfall from genuine retail outlets and the rise in non-retail restaurant uses indicates the commercial reality of the street and its future as a supporting thoroughfare to the adjoining tourist related uses and hotels and apartments. Some convenience stores are likely to succeed given the number of transient people in the street using public transport, but the street is no longer a city centre shopping street which has been as a result of positive decisions taken by City of Edinburgh Council in allowing major retail anchor stores to change into non-retail uses. With these anchor stores no longer existing there is a requirement to allow the dynamic of the

street to continue to change to serve these new different commercial functions. Class 3 uses already serve this area and have been a qualitative addition improving the vitality and viability of the street.

- 1.14 The following section responds to the reason for refusal and the report of Handling

## 2.0 REVIEW OF DECISION MAKING

2.1 The application has been refused planning permission under delegated powers with a single reason. This states:

*1. The proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core.*

2.2 The justification for this reason is found in the report of handling. In the report the simple calculation is reiterated. No further assessment is provided other than the following sentence: *'Within the City Centre Retail Core, a strong, high quality retail offer is a key aspect of sustaining and enhancing the city centre. As the proposal fails to comply with criteria a) of the Supplementary Guidance, it is contrary to LDP Policy Ret 9'.*

2.3 As the development plan policy is now out of date, it is incumbent on the decision maker to fully assess whether the terms of the policy remain relevant and up to date. There is no assessment in the report of the quality of the retail offer in Shandwick Place. Had the officer considered the street in full detail it would have been concluded that there is no 'high quality retail offer' in the street. The change of use of this small unit will make no difference to the retail offering in the street as the council's own actions have affected the quality of the retail offering in the street but this is not reflected in any up to date policy. The fact that the supplementary guidance was produced prior to the pandemic and prior to House of Fraser closing are vitally important factors and these have not been commented at all in the officer assessment.

2.4 In the officer report when assessing the proposal against the second criteria in supplementary guidance it is stated *'In terms of criteria b), the proposal complies with this part of the policy. As the site is currently vacant and has been in a vacant state since April 2021, the change of use to a restaurant would complement the character of the City Centre Retail Core. The proposal would not be detrimental to its vitality and viability'.*

2.5 The purpose of the policy is to maintain the overall vitality and viability of the city centre function as a whole. The assumption in the policy is that any form of retailing will support the vitality and viability of the city centre. As this submission has shown, the overall physical nature of a street affects the vitality and viability. Shandwick Place is a public transport hub and has now been further adversely affected by the opening of a very

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large Lothian Buses Ticket office. This is a 'retail use' but has dead frontage and very poor footfall. It does not add to the vitality and viability of the street but detracts from it. In contrast the officer report considers that the class 3 use would not be detrimental to the vitality and viability of the street. Given that the policy is now out of date and the supplementary guidance has not been updated since the major physical changes have occurred in this part of the city centre, the officer should have addressed the material considerations that have been pointed out by the applicant. The reason for refusal is not therefore sound and takes no account of material considerations. These material considerations are reiterated below:

- There is no interest in the market place in operating the unit as a retail store in the long term
- Co-op has closed becoming Lothian Buses Ticket hub and café which detracts from the vitality and viability of the street
- House of Fraser closure becoming Johnnie Walker Experience has resulted in a major anchor retail store being lost
- Shandwick Place has become car free and is a busy public transport hub and public transport thoroughfare and interchange
- Hotel and class 3 uses have been supported in Debenhams on Princes Street
- Edinburgh St James Centre opening has resulted in major shift of retail core eastwards. Shandwick Place should not be considered under the same policy as the St James.
- No pedestrian improvements on Shandwick Place thereby creating conflict between public transport users and shoppers/visitors
- No cars allowed on Shandwick Place and restricted parking locally
- No anchor stores anywhere near Shandwick Place with House of Fraser and Debenhams closing. Major anchors are non-retail uses.

2.6 None of these issues have been addressed by the officer and as such there has been no assessment of material considerations which should be assessed especially where a policy is out of date.

## 2.0 PLANNING POLICY ASSESSMENT

- 3.1 The site is covered by policies in the Adopted 2016 Edinburgh Local Development Plan. There is also guidance contained in the 2020 approved Supplementary Guidance on Retailing and the City Centre.
- 3.2 Scottish Planning Policy sets out government policy and its approach to sustainable development and making best use of land where policies are out of date. The LDP is now out of date and its retail policies have not been updated to take account of rapidly changing circumstances.

### Planning Policy

- 3.3 Retailing and retail policy is rapidly changing as the pandemic and changing shopping habits have had fundamental effects on the manner in which people shop. Large department stores and chain stores have failed and large footprint stores are changing into different uses. The council has supported changing demands on city centre floorspace and recognised that retailing is not essential to support the vitality and viability of a vibrant and diverse city centre.
- 3.4 Shandwick Place is on the periphery of the city centre retail core area and uses are guided by the council's adopted supplementary planning guidance on city centre shopping and leisure. The guidance stated aims are to sustain the city centre as a shopping, entertainment, commercial leisure and tourism related centre and to improve the appearance, quality and attractiveness of all centres. Such vitality and viability in centres can only be achieved if ground floor units are in use and upgraded to serve the changing needs of operators, visitors and residents. Retail is not the only use which supports the vitality and viability of a centre.
- 3.5 Shandwick Place is within the city centre core but is not noted as a part of the city centre **retail** core which is centred on George Street, Princes Street, Rose Street and the perpendicular streets linking these principal streets. The policy seeks to ensure a healthy balance of uses with a sufficient proportion of retail units to ensure its vitality. The guidance has been updated to make it more flexible to allow alternative uses other than retail in the core retail areas. However the last update was prior to the pandemic and prior to House of Fraser and Debenhams closing. Such issues are therefore not addressed in planning policy. It should also be noted that even in the new Edinburgh St James, prime units are in alternative uses such as class 3 as the developer and council have recognised that class 3 units can drive footfall equally or more so than
-

- retail units. On Shandwick Place the street is very much a thoroughfare with the council designing the street as a public transport hub where bus stops predominate on footways that have not been widened. There is no space for bus shelters and no footway widening is planned. This introduces conflict between visitors to the street and those people using public transport. The streetscape is no longer conducive to shopping and this has been proven by the lack of interest in this particular unit from retail occupiers.
- 3.6 Shandwick Place is in the fourth tier of frontages in the city centre core with the policy suggesting that half of the total number of units on the street should be in retail use. At present of the 19 units on the south side of the street. 10 are in retail use which equates to 53% of units. 9 are in non-retail use. If the subject premises are permitted to change to class 3 use then the percentage will change to 47% being in non-retail use. There would therefore be no material difference to the make-up of the street with the change of this one unit from vacant retail to an active and beneficial use as a class 3 restaurant. The added benefit is that the applicant is the owner of the block which therefore means that an extract flue can be installed allowing a full kitchen to be installed. This is unusual in this street as the frontage units are normally separately owned than the floorspace above. The proposed use therefore allows for a full service restaurant to be operated which would be a positive addition to the street and would complement the existing commercial activities in the street.
- 3.7 In addressing the policy issues it should be noted that the Johnnie Walker experience and the removal of large retail anchor stores at the west end of Princes Street has significantly changed the commercial dynamics of this area. Johnnie Walker is forecast to be a major tourist attraction for many years with tourists adding this to their must see and do experiences in the city centre. Having this tourist attraction in close proximity has resulted in a change to the commercial attractiveness of the immediate surrounding area hence the need to consider the benefits of maintaining a rigid approach to unit numbers being in retail use when retailing covers uses as diverse as department stores to travel agencies, hairdressers and funeral parlours. A class 3 use in this area which would cater for the needs of tourists, residents, office workers and others would add to the attractiveness of the street and would accord with the aims of development plan policy. As noted earlier, a new hotel is also planned for Shandwick Place which would change the dynamics further still. The council has to take such market forces into account as the retail pitch in Edinburgh has shifted hugely in the last few years. This factor cannot be ignored.
-

## 4.0 CONCLUSIONS

- 4.1 The proposed class 3 use would not detract from the vitality or viability of Shandwick Place. This is agreed in the Report of Handling. Shandwick Place is not within the retail core of the city and has never been a prime shopping street. The last true comparison goods store, Habitat closed many, many years ago. The prime retail pitch of the city centre is now Edinburgh St James. Shandwick Place and Edinburgh St James have the same retail policy zoning which is unrealistic and bears no relation to the retail market demands in central Edinburgh. Retail policy as it relates to Shandwick Place is out of date.
- 4.2 Shandwick Place is of interest to class 3 occupiers as it is close to existing and proposed major hotels and attractions in the west end. There is an existing vibrancy created by class 3 uses and bars/restaurants with some convenience stores. There are no comparison goods stores in this area and this is not accounted for in policy. Scottish Planning Policy recognises that city centres require to be flexible to adjust to changing commercial demands. The material considerations in this case suggest that a class 3 use in the premises would enhance the vitality and viability of this street frontage which is the main purpose of city centre policies.
- 4.3 For the reasons set out in this submission and when considering the status of the development plan retail policies and other material considerations, the application can be supported and the reason for refusal set aside

*December 2022*

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EH16 5ZF

Santorinia Investments Limited.  
8 Margaret Rose Crescent  
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EH10 7EZ

**Decision date: 30 September 2022**

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

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 EH2 4RG

**Application No:** 22/02672/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 17 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:-**

**Reason for Refusal:-**

1. The proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core.



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

Drawings 01-07, 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 regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it does not comply with Edinburgh Local Development Plan as the proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core. There are no other material considerations which would indicate that proposal should be approved. Therefore, the recommendation is to refuse planning permission.

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 Andrea Orellano directly at [andrea.orellano@edinburgh.gov.uk](mailto:andrea.orellano@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](http://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](mailto: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  
45 - 47 Shandwick Place, Edinburgh, EH2 4RG**

**Proposal: Change of use from Class 1 to Class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue.**

**Item – Local Delegated Decision  
Application Number – 22/02672/FUL  
Ward – B11 - City Centre**

## **Recommendation**

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

## **Summary**

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it does not comply with Edinburgh Local Development Plan as the proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core. There are no other material considerations which would indicate that proposal should be approved. Therefore, the recommendation is to refuse planning permission.

## **SECTION A – Application Background**

### **Site Description**

The site is a two storey terraced vacant retail unit on Shandwick Place located in the City Centre Retail Core.

The site lies within the New Town Conservation Area.

### **Description Of The Proposal**

The application proposes a change of use from Class 1 to Class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue.

## Relevant Site History

10/01422/FUL  
45 - 47 Shandwick Place  
Edinburgh  
EH2 4RG  
Installation of new shopfront  
Granted  
8 July 2010

10/00255/FUL  
45 - 47 Shandwick Place  
Edinburgh  
EH2 4RG  
Change of use from retail shop (Class 1) to restaurant (Class 3)  
Refused  
16 April 2010

## Other Relevant Site History

## Consultation Engagement

## Publicity and Public Engagement

**Date of Neighbour Notification:** 2 June 2022  
**Date of Advertisement:** 10 June 2022  
**Date of Site Notice:** 10 June 2022  
**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 harm the character or appearance of the conservation area?**

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

The proposed kitchen duct is located at the rear of the building so cannot be seen from the main streetscape. The proposal would have a neutral impact on the character and appearance of the conservation area.

### **Conclusion in relation to the conservation area**

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in that it would preserve the character and appearance of the conservation area.

### **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 Retail policies Ret 9 and Ret 11.
- LDP Design policies Des 1 and Des 12.
- LDP Environment policies Env 6.
- LDP Housing policy Hou 7.

The City Centre Shopping and Leisure Supplementary Guidance is relevant when considering LDP policy Ret 9.

### Principle

The principle of the proposal is assessed against LDP Policy Ret 9. The application is located within the City Centre Retail Core, so the City Centre Shopping and Leisure Supplementary Guidance is relevant, in particular Policy CC 4. The application must comply with both criteria a) and b) of Policy CC 4 to be considered acceptable.

By the applicants own analysis in the covering letter, they state: "At present of the 19 units on the south side of the street. 10 are in retail use which equates to 53% of units. 9 are in non-retail use. If the subject premises are permitted to change to class 3 use then the percentage will change to 47% being in non-retail use". However, if the change of use were permitted this would result in the loss of a retail unit equating to 53% of non shop uses along the frontage which is contrary to criteria a).

When assessing the application site, it was found that there are 19 units on the immediate street frontage but only 6 are currently operating as retail, so it is possible that the applicant included the three vacant sites (one being the site from the application) as retail units. These calculations would still result in more than half of the total number of units being in non-shop use. In this regard, the application is contrary to criteria a).

In terms of criteria b), the proposal complies with this part of the policy. As the site is currently vacant and has been in a vacant state since April 2021, the change of use to a restaurant would complement the character of the City Centre Retail Core. The proposal would not be detrimental to its vitality and viability.

Within the City Centre Retail Core, a strong, high quality retail offer is a key aspect of sustaining and enhancing the city centre. As the proposal fails to comply with criteria a) of the Supplementary Guidance, it is contrary to LDP Policy Ret 9.

### Scale, Form and Design

The proposed works would represent suitable additions that would be acceptable in this location. The proposed design and materials are also acceptable in that they would be congruous to the application site and the surrounding area. The proposal would not represent over development.

The application complies with LDP Policy Des 1 and Des 12.

### Amenity

There are a few residential properties located near the property.

Environmental Protection was consulted and requested an NIA in order to assess noise impact on nearby residential properties. Although there could be potential issues regarding noise, it would be inappropriate to ask for an NIA to be carried out as this would be a great cost to the applicant and the proposal is not acceptable in principle regardless of impact on amenity.

It cannot be concluded whether the proposal complies with LDP Policies Des 12, Hou 7 and Ret 11.

### **Conclusion in relation to the Development Plan**

The application does not comply with LDP Policy Ret 9 and Policy CC 4 in the City Centre Shopping and Leisure Supplementary Guidance. Therefore, the application does not comply with 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 does not comply with Paragraph 29 of SPP as it undermines the retail function of the defined centre.

#### 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 comments have been received.

#### **Conclusion in relation to identified material considerations**

There are no material considerations that outweigh the relevant policies in the Local Development Plan.

#### **Overall conclusion**

The proposal is acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, it does not comply with Edinburgh Local Development Plan as the proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core. There are no other material considerations which would indicate that proposal should be approved. Therefore, the recommendation is to refuse planning permission.

### **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Reason for Refusal**

1. The proposal is contrary to LDP Retail Policy Ret 9 and the associated City Centre Shopping and Leisure Supplementary Guidance in that it would result in over 50% of non-shop uses within the block, thus undermining the retailing function of the City Centre Retail Core.

### **Background Reading/External References**

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

**Further Information - [Local Development Plan](#)**

**Date Registered: 17 May 2022**

### **Drawing Numbers/Scheme**

01-07

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Andrea Orellano, Student Planner  
E-mail: [andrea.orellano@edinburgh.gov.uk](mailto:andrea.orellano@edinburgh.gov.uk)



## Appendix 1

### **Consultations**

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

Head of Planning  
City of Edinburgh Council  
Waverley Court  
4 East Market Street  
Edinburgh, EH8 8BG  
2022

17 May 2022

Dear Sir/Madam

**Proposed Change of Use from Class 1 retail to Class 3 restaurant with  
sui generis take away function,  
45/47 Shandwick Place, Edinburgh**

This supporting letter is being submitted in respect of an application to change the use of a currently vacant retail store at 45/47 Shandwick Place, Edinburgh. The building owner has interest in the unit from operators who would like to open a full service restaurant with kitchen facilities and as such the application includes the details of a rear wall mounted kitchen extract flue at the rear of the building. The applicant owns the block with the upper floors in the ownership of the applicant. The upper floors are in low level use as storage and ancillary space and can only be accessed through the ground floor unit. No residential units would be affected.

**Current Commercial Context**

Edinburgh City Centre planning policy relating to retail uses and the city centre core area has been changing over the last decade. Unprecedented external forces have also rapidly changed the function of town and city centres with the retail environment adjusting to the effects of the global pandemic and changing shopping habits. City of Edinburgh Council have also promoted and now succeeded in shifting the primary retail focus of the central area from Princes Street eastwards to Edinburgh St James. The western end of Princes Street has seen a marked shift away from anchor retail stores to none retail uses. Debenhams and House of Fraser have closed and are being redeveloped for exciting new non-retail uses with the Johnnie Walker experience in the former House of Fraser store and a new 208 bed hotel and ancillary bars and restaurants in the former anchor Debenhams store. Restaurants are also now beginning to appear in the west end of Princes Street to cater for the growing tourist and hotel accommodation and tourist and visitor attractions at the west end. There are also a host of serviced apartments and short term let accommodation in the west end of the city centre as well as a strong business sector and upcoming residential sector.

Shandwick Place was previously a secondary shopping street leading into Princes Street with retail activity in convenience shopping but with a bustling

bar and restaurant culture. The changing nature of the street which now has no through traffic or car parking means that the footways are dominated by people queuing for buses and walking through the area. It is notable that the previously largest retail store in the street, Co-op has closed and is now operated by Lothian Buses as a ticket office. This is a major change in the dynamics of the street and makes it clear that the area is a public transport hub, rather than a shopping street.

The footways remain relatively narrow with the roadway being very wide to cater for trams and bus through routes, bus stops and taxis. The number of retail units in the street on both north and south sides has reduced over the years as the retail footfall has reduced significantly. There is no longer a critical mass of retailing in the street with a smattering of convenience stores as well as service outlets such as opticians and e-cigarette shops. There are also charity shops.

By contrast there are now well established restaurants along the frontage which cater for tourists and local residents and also serve the hotel market in the area. The west end of Princes Street is now a hive of activity in the restaurant and bar sectors in close proximity to major hotels and tourist attractions. On the south side of the street in which this unit is positioned there are 19 commercial units with 10 in retail use and 9 in non-retail. The latest change of use was for Taco Bell which is an international restaurant chain which complements the other bars and restaurants along the frontage.

### **Subject Premises**

45/47 Shandwick Place is a 113sqm unit which was previously leased to Amplifon which was a hearing aid centre. Whilst technically a retail use, the operation was not a high footfall type use. The lease was due to end in 2022, but Amplifon decided that the location was no longer suitable for their business model and had been seeking to sub-let the building from April 2021. However, no occupier was found and Amplifon handed the unit back to the current owner. Orinson have been marketing the unit following on from Lambert Innes on behalf of Amplifon resulting in a marketing campaign that has been ongoing for a year with two different agents. During this time and despite no formal marketing as anything other than a retail unit the only serious interest has been from restaurant operators. The unit remains vacant.

The marketing campaign has made it clear to the commercial agents and owner that the unit is no longer suitable for leasing to retail occupiers. Shandwick Place is no longer a retail pitch. The main convenience anchor store, Co-op has closed and this large unit has been turned into a ticket office. Whilst this is a retail use, the footfall generation is a fraction of that generate by Co-op. The reduction in footfall from genuine retail outlets and the rise in non-retail restaurant uses indicates the commercial reality of the street and its future as a supporting thoroughfare to the adjoining tourist related uses and hotels and apartments. Some convenience stores are likely to succeed given the number of transient people in the street using public transport, but the street is no longer a city centre shopping street which has been as a result of positive decisions

taken by City of Edinburgh Council in allowing major retail anchor stores to change into non-retail uses. With these anchor stores no longer existing there is a requirement to allow the dynamic of the street to continue to change to serve these new different commercial functions. Class 3 uses already serve this area and have been a qualitative addition improving the vitality and viability of the street.

## Planning Policy

Retailing and retail policy is rapidly changing as the pandemic and changing shopping habits have had fundamental effects on the manner in which people shop. Large department stores and chain stores have failed and large footprint stores are changing into different uses. The council has supported changing demands on city centre floorspace and recognised that retailing is not essential to support the vitality and viability of a vibrant and diverse city centre.

Shandwick Place is on the periphery of the city centre retail core area and uses are guided by the council's adopted supplementary planning guidance on city centre shopping and leisure. The guidance stated aims are to sustain the city centre as a shopping, entertainment, commercial leisure and tourism related centre and to improve the appearance, quality and attractiveness of all centres. Such vitality and viability in centres can only be achieved if ground floor units are in use and upgraded to serve the changing needs of operators, visitors and residents.

Shandwick Place is within the city centre core but is not noted as a part of the city centre **retail** core which is centred on George Street, Princes Street, Rose Street and the perpendicular streets linking these principal streets. The policy seeks to ensure a healthy balance of uses with a sufficient proportion of retail units to ensure its vitality. The guidance has been updated to make it more flexible to allow alternative uses other than retail in the core retail areas. It should also be noted that even in the new Edinburgh St James, prime units are in alternative uses such as class 3 as the developer and council have recognised that class 3 units can drive footfall equally or more so than retail units. On Shandwick Place the street is very much a thoroughfare with the council designing the street as a public transport hub where bus stops predominate on footways that have not been widened. This introduces conflict between visitors to the street and those people using public transport. The streetscape is no longer conducive to shopping and this has been proven by the lack of interest in this particular unit from retail occupiers.

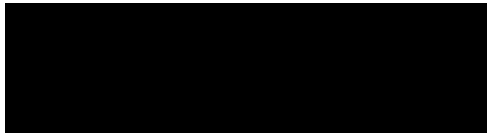
Shandwick Place is in the fourth tier of frontages in the city centre core with the policy suggesting that half of the total number of units on the street should be in retail use. At present of the 19 units on the south side of the street. 10 are in retail use which equates to 53% of units. 9 are in non-retail use. If the subject premises are permitted to change to class 3 use then the percentage will change to 47% being in non-retail use. There would therefore be no material difference to the make-up of the street with the change of this one unit from vacant retail to an active and beneficial use as a class 3 restaurant. The added benefit is that the applicant is the owner of the block which therefore means

that an extract flue can be installed allowing a full kitchen to be installed. This is unusual in this street as the frontage units are normally separately owned than the floorspace above. The proposed use therefore allows for a full service restaurant to be operated which would be a positive addition to the street and would complement the existing commercial activities in the street. The alternative is for the unit to remain vacant for the foreseeable future.

In addressing the policy issues it should be noted that the Johnnie Walker experience and the removal of large retail anchor stores at the west end of Princes Street has significantly changed the commercial dynamics of this area. Johnnie Walker is forecast to be a major tourist attraction for many years with tourists adding this to their must see and do experiences in the city centre. Having this tourist attraction in close proximity has resulted in a change to the commercial attractiveness of the immediate surrounding area hence the need to consider the benefits of maintaining a rigid approach to unit numbers being in retail use when retailing covers uses as diverse as department stores to travel agencies, hairdressers and funeral parlours. A class 3 use in this area which would cater for the needs of tourists, residents, office workers and others would add to the attractiveness of the street and would accord with the aims of development plan policy.

We trust the above information and submitted details allows the change of use and addition of an extract flue to be considered favourably.

Yours faithfully



**Phil Pritchett**  
Director

# ORINSEN

Edinburgh City Council  
Planning Department  
4 East Market Street  
Edinburgh  
EH8 8BG

7<sup>th</sup> August 2022

Dear Sir/Madam

## **RE: Proposed Change of Use - Planning Application - 45-47 Shandwick Place**

I write in connection with the above premises where we are currently acting on behalf of the landlords as letting agents. Our instruction started over a year ago in early July 2021, following a lease surrender with Amplifon. Prior to our involvement, Amplifone had closed the premises in early January 2021 and marketing the unit unsuccessfully through their property agents, Lambert Innes Property Consultants.

I am a highly experienced director in commercial property with over 15 years experience, covering all of Scotland and the UK. I help advise and support my clients with property leasing, acquisition, disposal and strategic asset management. My clients include major institutional investors, leading UK retailers, dynamic leisure operators and innovative developers. I work at Orinsen, an independent commercial property consultancy, advising and supporting clients with property leasing, acquisition, disposal and strategic asset management.

By way of background, there are many issues currently affecting the economy which have had a knock on effect on the commercial property market as a whole. In the UK, it is still facing serious challenges from a number of macro-economic factors but more prevalently the post Covid fallout and now the cost-of-living crisis. This is going to cause huge pressures on business margins and profitability going forward.

For nearly all retailers, the pandemic and Government forced lockdowns, have had a gigantic impact on their businesses. As the supply of vacant retail units has increased against that of a limited occupational demand backdrop, generally speaking, rental and freehold values have inevitably fallen. The retail market generally is in a state of flux as we move forward although perhaps Edinburgh as the capital city has fared better and continues to do so more than other towns and cities in Scotland, but even here market changes and patterns of retail pitches have changed particularly since Edinburgh St James has opened.

The demand for space from national retailers generally remains low. The current slowdown in the retail market has also had a knock-on effect on retailer demand, not only in Scotland, but across the UK.

When we were appointed as letting agents back in July 2021, we immediately pulled together a bespoke marketing campaign for the subject property. This included the following:

90A George Street, Edinburgh EH2 3DF  
T. 0131 374 1111 info@orinsen.com www.orinsen.com

Orinsen Limited  
Registered in Scotland SC647800, 19 Rutland Square, Edinburgh EH1 2BB

- Implementation of a targeted marketing campaign – identify occupiers who we are aware may consider representation in this location in Edinburgh.
- Implementation of a full marketing campaign, including circulation of marketing brochure to agents active in the market (Some 2,000 plus agents across the UK)
- Erection of not only a V-Angle marketing board, but also a full vinyl across the shop front.
- Web Based Advertisement – The particulars for the property have been made available on the following websites:
  - i. Orinsen's Company's website
  - ii. Realla
  - iii. CoStar
  - iv. Rightmove
  - v. Perfect Information Property
  - vi. LinkedIn

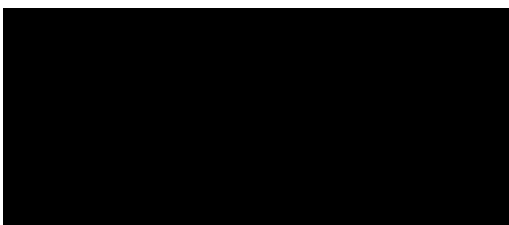
This element of web-based advertising has been the most important in ensuring we hit our target audience through a variety of different websites. We have used all modern marketing tools and means of selling to promote the product, alongside that of our own contacts relationships and knowledge of that specific sector and who to target. We even provided the client with a Matterport of the premises free of charge to try and promote the condition of the property further, but with no success.

To date we have had no meaningful interest from Class 1 occupiers, who all feel the premises does not fit their existing or ongoing requirements. There has been no other serious interest to date, other than that of Class 3 operators, who would be interested in this pitch and location. Shandwick Place is not considered to be a prime retail pitch with retailers as it is a thoroughfare dominated by public transport stops and narrow pavements which adversely affects retailer demand. In my opinion this is not likely to change in the foreseeable future and the unit will remain empty if a change of use cannot be secured.

In conclusion, we continue to work diligently on this instruction and continue to give it the best possible chance to be occupied by a Class 1 user, but unfortunately there is no demand for this use in this location and this is not a situation which is going to change.

I trust the above is helpful, but if you require anything further at this stage please do not hesitate to contact me further on my details below.

Yours faithfully,



**Tom J Forster**

Direct Line: 0131 374 1115  
Mobile: 07919 920126  
Email: [forster@orinsen.com](mailto:forster@orinsen.com)

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto: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 100566533-001

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.

## Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Change of use from class 1 to class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue

Is this a temporary permission? \*  Yes  No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*  Yes  No

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

## 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:	Pritchett Planning Consultancy		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Phil	Building Name:	PO Box
Last Name: *	Pritchett	Building Number:	
Telephone Number: *	07901557484	Address 1 (Street): *	8052
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH16 5ZF
Email Address: *	phil@pritchettplanning.co.uk		

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

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:		You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *		Building Number:	8
Last Name: *		Address 1 (Street): *	Margaret Rose Crescent
Company/Organisation	Santorinia Investments Limited	Address 2:	
Telephone Number: *		Town/City: *	Edinburgh
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	EH10 7EZ
Fax Number:			
Email Address: *	phil@pritchettplanning.co.uk		

## Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

45-47 SHANDWICK PLACE

Address 2:

NEW TOWN

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH2 4RG

Please identify/describe the location of the site or sites

Northing

673585

Easting

324585

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Site Area

Please state the site area:

113.00

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

vacant class 1 retail - Amplifon Hearing aid centre

## Access and Parking

Are you proposing a new 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 propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*  Yes  No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

**Water Supply and Drainage Arrangements**

Will your proposal require new or altered water supply or drainage arrangements? \*  Yes  No

Do your proposals make provision for sustainable drainage of surface water?? \*  Yes  No  
(e.g. SUDS arrangements) \*

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

**Assessment of Flood Risk**

Is the site within an area of known risk of flooding? \*  Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*  Yes  No  Don't Know

**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.

**Waste Storage and Collection**

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*  Yes  No

If Yes or No, please provide further details: \* (Max 500 characters)

occupier will be responsible for disposal of all commercial waste and recycling

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## 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: Phil Pritchett

On behalf of: Santorinia Investments Limited

Date: 17/05/2022

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

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) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

- |  |                              |   |
|--|------------------------------|---|
| A copy of an Environmental Statement. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Phil Pritchett

Declaration Date: 17/05/2022

## Payment Details

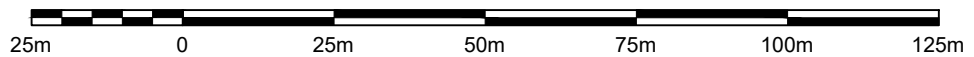


Created: 



**SITE LOCATION - (1:1250)**

1:1250



<u>CLIENT</u>	<u>PROJECT</u>	<u>DRAWING TITLE</u>
IMRAN URSHAD	45 / 47 SHANDWICK PLACE EDINBURGH	SITE LOCATION PLAN

**HK** surveying & design

<u>SCALE</u>	<u>DATE</u>	<u>DRAWN BY</u>	<u>STATUS</u>	<u>DWG NO</u>	<u>REVISION</u>
1:1250 @ A4	APIL 2022	BC	PLANNING	1173   PL100	-

0131 225 3597  
name@hksd.co.uk  
www.hksd.co.uk

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369 High Street  
Edinburgh  
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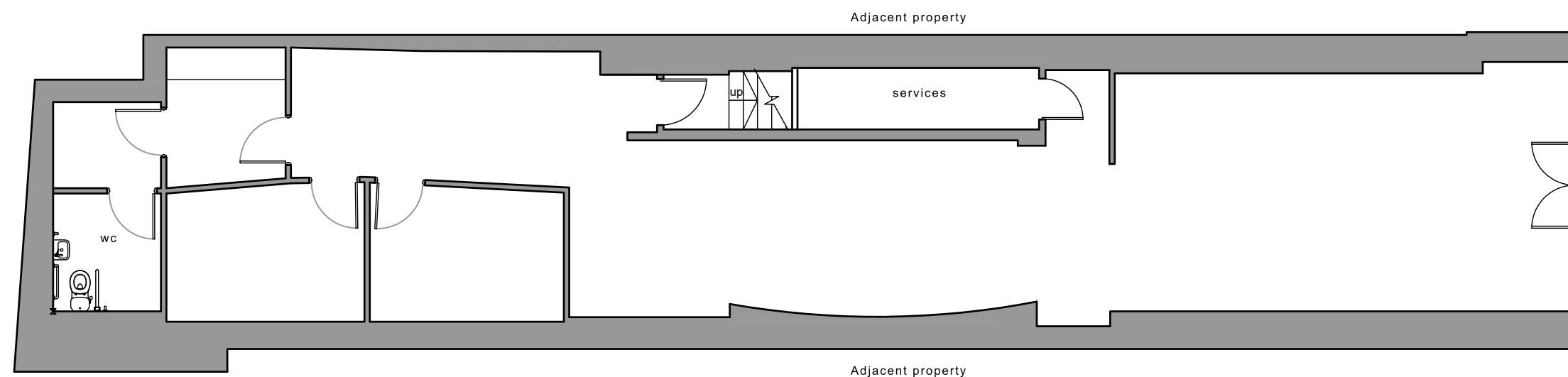
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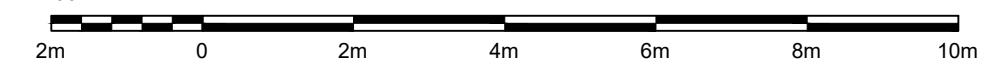
-  
-



**EXISTING GROUND FLOOR PLAN - (1:100 @ A3)**

AREA (EXCLUDING WC & LOBBY) = 113m<sup>2</sup>

1:100



CLIENT

IMRAN URSHAD

PROJECT

45 / 47 SHANDWICK PLACE  
EDINBURGH

DRAWING TITLE

EXISTING GROUND FLOOR PLAN

SCALE DATE

1:100 @ A3

APRIL 2022

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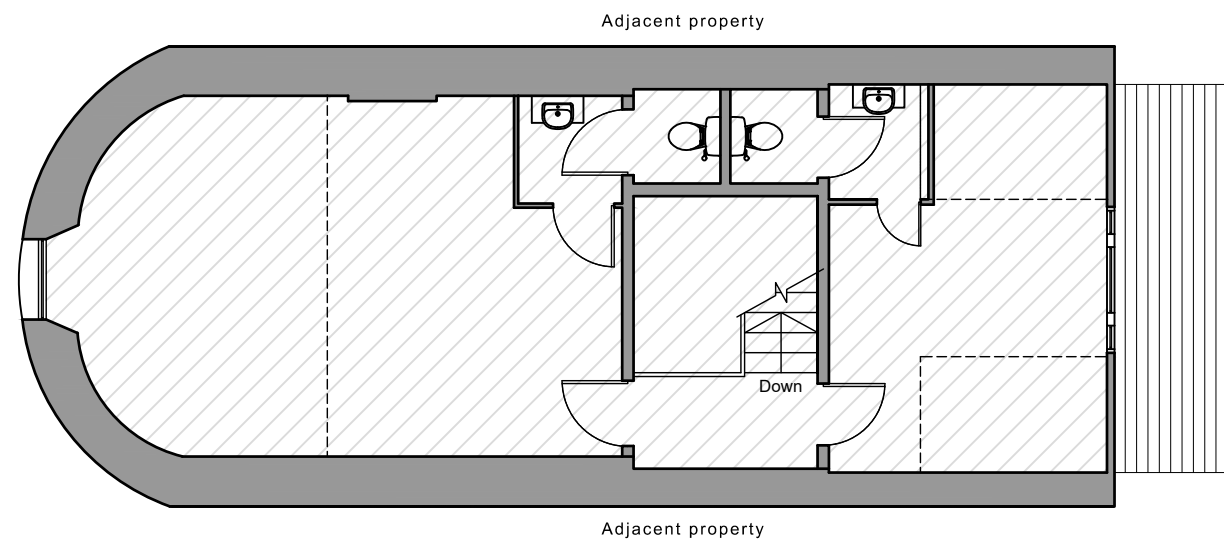
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ALL DIMENSIONS AND LEVELS TO BE CHECKED ON SITE

DISCREPANCIES TO BE REPORTED TO HK SURVEYING & DESIGN LLP BEFORE PROCEEDING

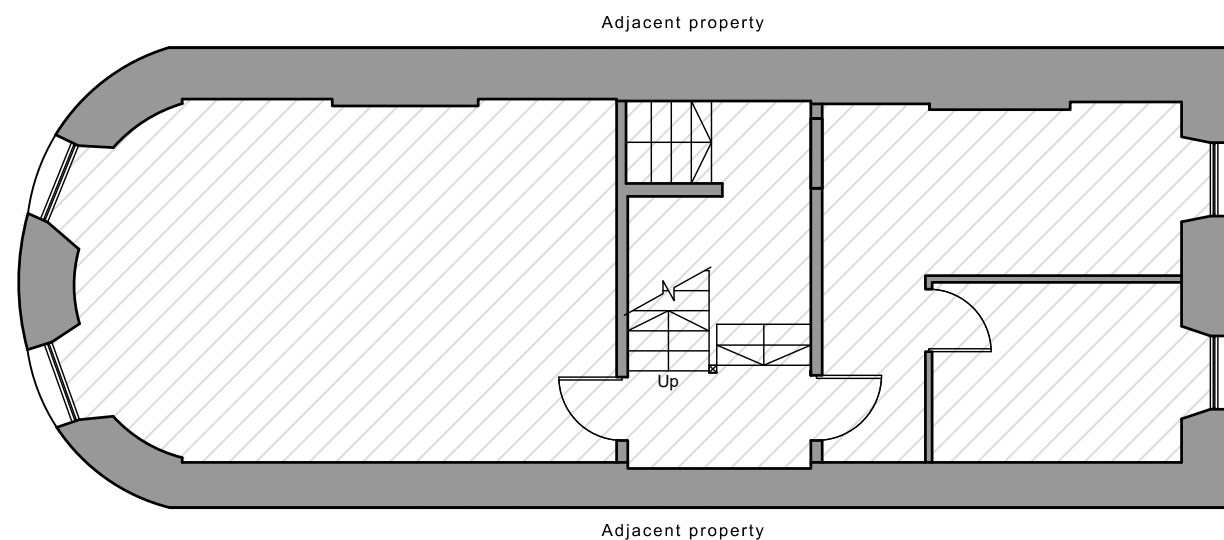
REVISIONS

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- 



**EXISTING SECOND FLOOR PLAN - (1:100 @ A3)**

VOID SPACE / UN-USED.



**EXISTING FIRST FLOOR PLAN - (1:100 @ A3)**

VOID SPACE / UN-USED.



CLIENT  
IMRAN URSHAD

PROJECT  
45 / 47 SHANDWICK PLACE  
EDINBURGH

DRAWING TITLE  
EXISTING FIRST & SECOND FLOOR PLANS

SCALE 1:100 @ A3 DATE APRIL 2022

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DWG NO 1173 | PL-102 REVISION -

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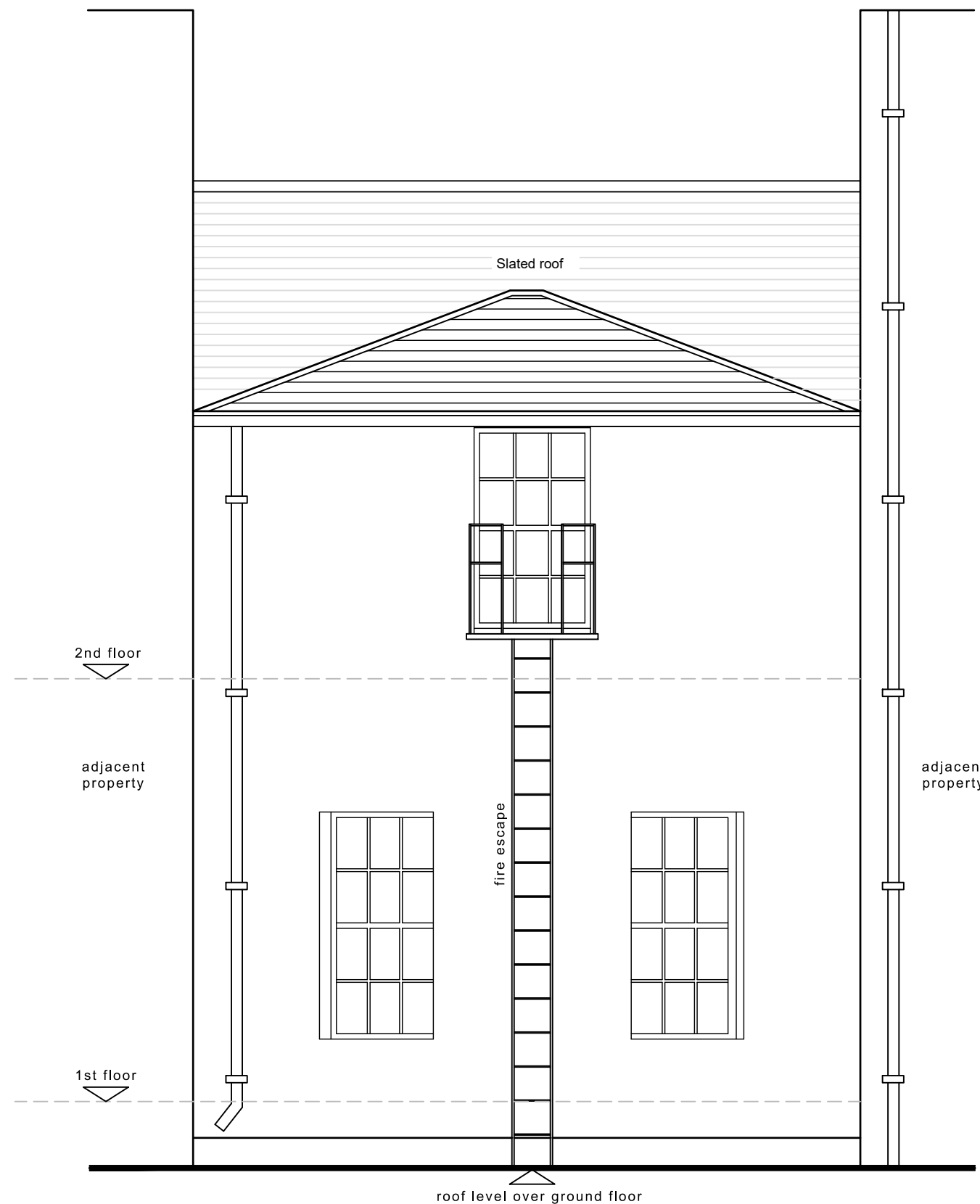
DO NOT SCALE FROM THIS DRAWING

ALL DIMENSIONS AND LEVELS TO BE CHECKED ON SITE

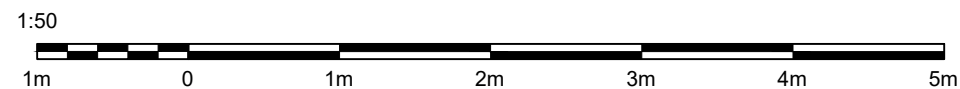
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EXISTING REAR ELEVATION - (1:50 @ A3)



CLIENT

IMRAN URSHAD

PROJECT

45 / 47 SHANDWICK PLACE  
EDINBURGH

DRAWING TITLE

EXISTING REAR ELEVATION

SCALE

1:100 @ A3

DATE

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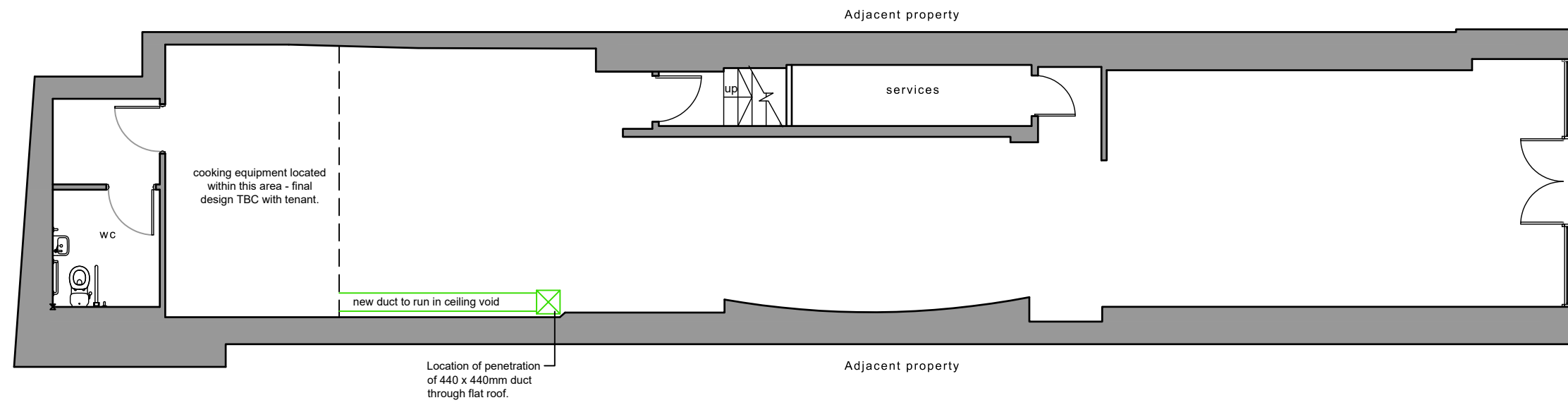
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**PROPOSED GROUND FLOOR PLAN - (1:100 @ A3)**  
AREA (EXCLUDING WC & LOBBY) = 113m<sup>2</sup>



CLIENT  
**IMRAN URSHAD**

PROJECT  
**45 / 47 SHANDWICK PLACE  
EDINBURGH**

DRAWING TITLE  
**PROPOSED GROUND FLOOR PLAN**

SCALE  
**1:100 @ A3**

DATE  
**APRIL 2022**

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**BC**

STATUS  
**PLANNING**

DWG NO  
**1173 | PL201**

REVISION  
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SURVEYING & DESIGN LLP BEFORE  
PROCEEDING

REVISIONS

-  
-



PROPOSED PART REAR PLAN - (1:50 @ A3)



CLIENT

IMRAN URSHAD

PROJECT

45 / 47 SHANDWICK PLACE  
EDINBURGH

DRAWING TITLE

PROPOSED PART REAR PLAN

SCALE 1:100 @ A3 DATE APRIL 2022

DRAWN BY BC STATUS PLANNING

DWG NO 1173 | PL202 REVISION -

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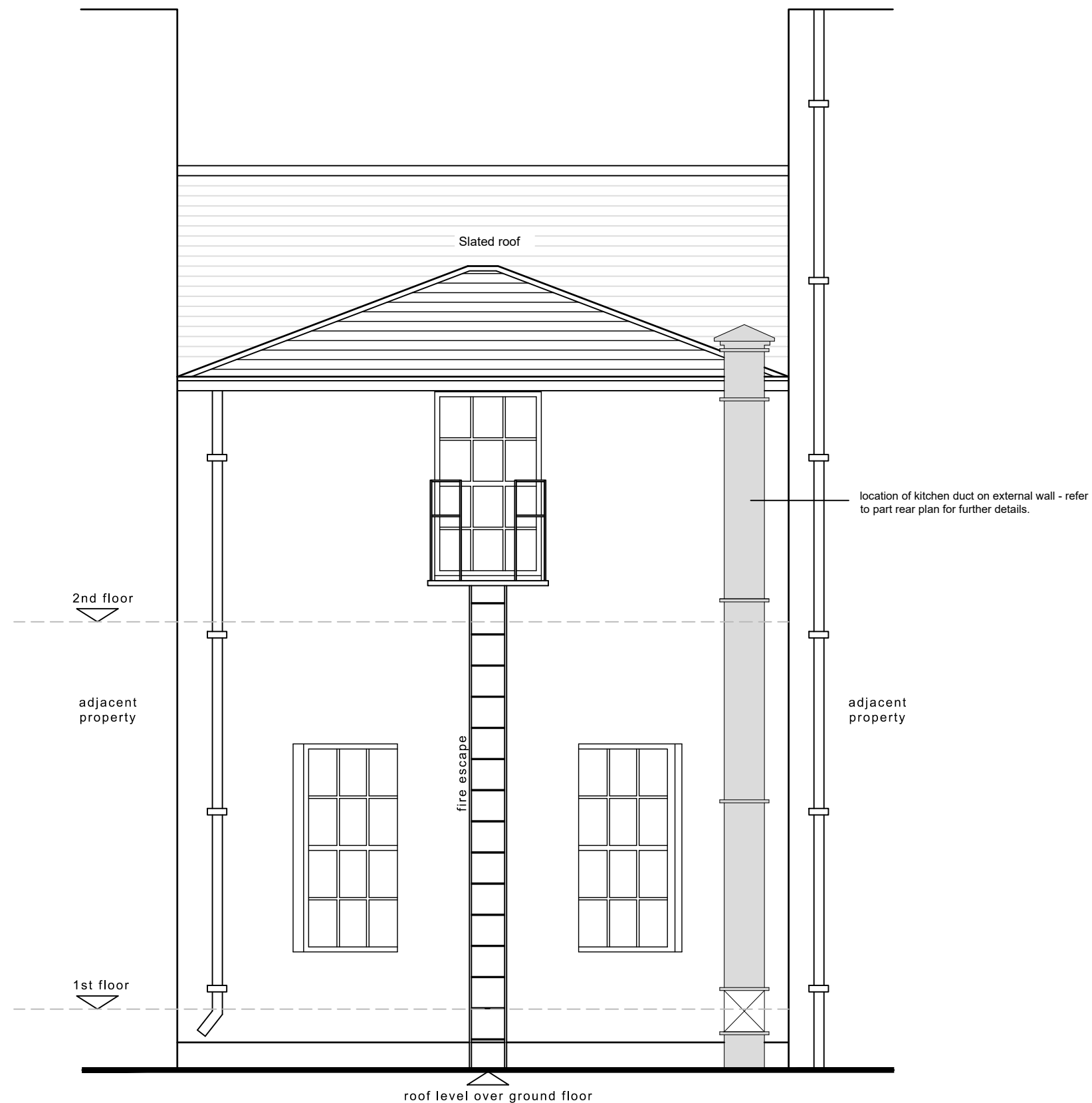
DO NOT SCALE FROM THIS DRAWING

ALL DIMENSIONS AND LEVELS TO BE CHECKED ON SITE

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- 
- 



PROPOSED REAR ELEVATION - (1:50 @ A3)



CLIENT

IMRAN URSHAD

PROJECT

45 / 47 SHANDWICK PLACE  
EDINBURGH

DRAWING TITLE

PROPOSED REAR ELEVATION

SCALE DATE

1:100 @ A3

APRIL 2022

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PLANNING

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1173 | PL203

-

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Edinburgh  
EH1 1PW

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## Sarah Forsyth

---

**From:** Phil Pritchett <phil@pritchettplanning.co.uk>  
**Sent:** 15 March 2023 12:02  
**To:** Gina Bellhouse  
**Cc:** Local Review Body; Blair Ritchie  
**Subject:** RE: APPLICATION NO 22/02672/FUL - REQUEST FOR REVIEW – 45 - 47 SHANDWICK PLACE, EDINBURGH  
**Attachments:** RE: Planning Application 22/02672/FUL  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good morning Gina

Please could you perhaps give me a call on this so that I am clear on the further information requested. I attach for your information a plan and email from the application process which informed the officer where the nearest residential properties are located. They are some distance away. From my experience I queried with the officer why it was necessary to undertake any form of noise assessment as there is no line of sight and no impact that could be assessed given the distance to the nearest residential neighbours. I had no response to this email and I am not clear as to whether the Environmental Protection officers were aware that there are no residential neighbours.

We also note the debate at the LRB relating to the upper floor of the property. In this regard it can be seen from the floor plans lodged that the only access into the upper floor is from the commercial unit below and this space can only be used for storage given its poor configuration and head height. It has never been used for any other purpose.

Can you let me know when the LRB would like to undertake a site visit and also let me know whether any further information is actually required relating to the proposed rear flue and noise issues as this would not appear to be a relevant or material planning issue.

Regards

**Phil Pritchett**

Pritchett Planning Consultancy  
PO Box 8052  
Edinburgh, EH16 5ZF  
M: 07901557484  
E: [phil@pritchettplanning.co.uk](mailto:phil@pritchettplanning.co.uk)

This email is intended only for the addressee named above and may contain confidential or privileged information. If you are not the named addressee or the person responsible for delivering the message to the named addressee please be kind enough to telephone us immediately. The contents should not be disclosed to anyone nor copies taken. If you contact us by email, we may store your name and address to facilitate communication. We take reasonable precautions to ensure that our emails are virus free. However, we accept no responsibility for any virus transmitted by us and recommend that you subject any incoming email to your own virus checking procedures.

---

**From:** Gina Bellhouse [mailto:[Gina.Bellhouse@edinburgh.gov.uk](mailto:Gina.Bellhouse@edinburgh.gov.uk)]  
**Sent:** 02 March 2023 19:35  
**To:** Phil Pritchett <phil@pritchettplanning.co.uk>  
**Cc:** Local Review Body <[LocalReviewBody@edinburgh.gov.uk](mailto:LocalReviewBody@edinburgh.gov.uk)>; Blair Ritchie <[Blair.Ritchie@edinburgh.gov.uk](mailto:Blair.Ritchie@edinburgh.gov.uk)>  
**Subject:** APPLICATION NO 22/02672/FUL - REQUEST FOR REVIEW – 45 - 47 SHANDWICK PLACE, EDINBURGH

Dear Mr Pritchett,

As you may be aware, at the meeting of the Local Review Body on 22 February 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 from the applicant regarding the potential impact of the proposals on the neighbouring properties in terms of noise and ventilation, to allow both the planning officer and the applicant/agent the opportunity to consider the proposals in regard to the policies 27 and 28 as set out in National Planning Framework 4 (NPF4), and to allow for a site visit to take place.’

On the basis of the above, I would be grateful if you could provide the requested information, ensuring you copy any responses to the Local Review Body and myself.

With regards to the site visit, I will liaise with the Panel and the Committee Clerk and come back to you with a suggested date, in the hope that you can provide the required access to the premises.

Many thanks,

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](mailto:gina.bellhouse@edinburgh.gov.uk) | [www.edinburgh.gov.uk](http://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.**

You can access our services at [www.edinburgh.gov.uk/planning-building](http://www.edinburgh.gov.uk/planning-building)

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# ROOF INSPECTION EDINBURGH

## Roof Inspection Report

### Abstract

Report from single site drone inspection compiled from detailed photographic evidence

#### Address

5 South Charlotte Street  
Edinburgh EH2 4AN

#### Email

[contact@roofinspectionedinburgh.com](mailto:contact@roofinspectionedinburgh.com)

## ROOF INSPECTION EDINBURGH

<b>Property address</b>	45-47 Shandwick Pl, Edinburgh EH2 4RG
<b>Intent</b>	Roof inspection of rear of commercial property to take pictures for planning purposes. No request was made to note buildings condition. Photography for planning intentions only.
<b>Prepared by</b>	David Redpath
<b>Date of inspection</b>	Tuesday 21 <sup>st</sup> March 2023

## 1. Findings

<b>Notes</b>	All requested images passed in their raw format. Access is difficult and the hotel kindly let us access their flat roof to the rear. Because the building of interest is recessed there was still not clear visibility without use of a drone.
--------------	--

## Overview



Rear Elevation





Flat Roof



Extreme Rear Wall



## 2. Terms & Conditions

This inspection report is based on remote photographic evidence collected on the stated day. Any faults or recommendations are made solely on this basis and that of the report author and do not always constitute that of tactile inspection methods.

### Application and Entire Agreement

1. These Terms and Conditions apply to the provision of the services detailed in our quotation (the **Services**) by ROOF INSPECTION EDINBURGH a subsidiary brand of SKY TECH LIMITED (the **Company, us**), a company registered in Scotland under number SC538107 whose registered office is 5 South Charlotte Street, Edinburgh EH2 4AN to the person buying the services (**you or Client**).
2. You are deemed to have accepted these Terms and Conditions when you accept our quotation of from the date of any performance of the Services (whichever happens earlier) and these Terms and Conditions and our quotation (the **Contract**) are the entire Agreement between us.
3. You acknowledge that you have not relied on any statement, promise or representation made by or given on our behalf. These Conditions apply to the contract (the **Contract**) to the exclusion of any other terms that you try to impose or incorporate, or which are implied by a trade, custom or course of dealing.

### Interpretation

4. A "business day" means any day other than a Saturday, Sunday or bank holiday in Scotland.
5. The headings of these Terms and Conditions are for convenience and do not affect their importance
6. Words imparting the singular numbers shall include the plural and vice versa.

### Our Services

7. We warrant that we will use reasonable care and skill to our perform the Services which will comply with the client quotation, including any specification in all material respects. We can make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary.
8. We will use our reasonable endeavors to complete the Services within the time agreed or as set out in the quotation, however, time shall not be of the essence in the performance of our obligations subject to weather, personal injury, illness or unforeseeable circumstances.
9. If a site survey is required prior to quotation, the cost will be agreed and invoiced accordingly.
10. All of these Terms and Conditions apply to the supply of goods and services unless we specify otherwise.

### Your Obligations

11. You must obtain any permissions, consents, licenses or otherwise that we need and must give us access to any, and all relevant information, materials, properties and any other matters which we need to provide the Services. The client must confirm in writing that it grants us permission to access the site and to operate drones there.
12. If you do not comply with the previous clause, we can terminate the agreement to provide the Services.
13. We are not liable for any delay or failure to provide the Services if this is caused by your failure to comply with the provisions of this section (**Your Obligations**).

### Fees and Payment Terms

14. The fees (Fees) for the Services are set out in the quotation and are on a time and materials basis based on the client brief. Quotation is subject to the Services, location, travel expenses duration and risk assessment.
15. The Client agrees to pay the total amount stated on their quotation to the Company on completion of the work.



16. In addition to the Fees, we can recover from you a) reasonable incidental expenses for geographically far away locations from our base of operation including, but not limited to, travelling expenses, accommodation costs, subsistence and any other associated expenses, b) the cost of services provided by third parties and required by us for the performance of the Services, and c) the cost of any materials required for the provision of the Services.
17. The Client must pay us for any additional services provided by us that are not specified in the quotation in accordance with our then current, applicable rate in effect at the time of performance or such other rate as may be agreed between us. The provision on the previous clause also applies.
18. A deposit of 20% the invoiceable total is required for sums over £1000.
19. We will invoice you for payment of the Fees either, a) when we have completed the Services, or b) on the invoice dates set out on the quotation.
20. The client must pay the Fees due within 30 days of the date of our invoice or otherwise in accordance with any credit terms agreed between us. In the case of work performed in phases the Company reserves the right to partially invoice in stages.
21. If you do not pay within the period set out above, we will charge you late payment interest at the rate of (Base Rate + 8%) to overdue accounts until payment is received in full in line with the Late Payment of Commercial Debts (Interest) Act 1998).
22. All payments due under these Terms and Conditions must be made in full without any deductions or withholding except as required by law and neither of us can assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.
23. If you do not pay within the period set out above, we can suspend any further provision of the Services and cancel any future services ordered by, or otherwise arranged with you.
24. Receipts for payment will only be issued by us only at your request
25. All payments must be made in GBP unless otherwise agreed in writing between us.

### Confidentiality

26. All enquiries will be treated in the strictest confidence.

### Cancellation and Amendment

27. We can withdraw, cancel or amend the quotation if it has not been accepted by you, or if the Services have not started, within a period of 5 days from the date of the quotation, unless the quotation has been withdrawn.
28. Either we or you can cancel an order for any reason prior to your acceptance (or rejection) of the quotation.
29. If you want to amend any details of the Services you must tell us in writing as soon as possible. We will use reasonable endeavors to make any required changes and additional costs may be included in the Fees and invoiced to you.
30. Cancellation fees are payable according to the following items: preparatory works, such as site survey visits, written documentation, time and travelling charges where costs have been incurred by the Company. These costs will remain due for payment in full, but pro rata to the overall agreed fees for the full Services.
31. Drone operations are subjective to weather conditions and the Company reserves the right to move booking dates to fit best weather conditions. If due to bad weather, rain, snow or strong winds we will arrange an alternative date to provide the Services.
32. If, due to circumstances beyond our control, including those set out in the clause below (**Circumstances Beyond a Party's Control**), we have to make any changes in the Services or how they are provided, we will notify you immediately. We will use reasonable endeavors to keep any such changes to a minimum.
33. If the Services cannot be performed or rescheduled, the Company will refund any advanced payments made. Costs incurred prior to prior to scheduled date of delivery or Services such as paid for site visits and meetings are excluded and remain due for payment. This Limitation of liability will also apply if any data is lost or damaged through equipment malfunction, or otherwise outside the fault of the Company.



34. If the Company cannot provide the Services due to reasons that only become evident once on site or for reasons that the Company was not advised of beforehand, then the full cost will remain due for payment. The Company may at its sole discretion, offer a discount to schedule a new booking.

### Use of Drones

35. Our drone services and safety considerations meet UK Civil Aviation Authority regulations for drone use under our Operational Authorisation granted by that authority. Our drone pilots will follow procedures set out in our Operations Manual for safe drone operations and be trained to GVC or equivalent qualification in drone competent use. We are committed to operating within changes to rules as and when they occur.
36. A pre-site survey will identify any nearby sensitivities such as airports and hazardous sites. Permissions may be required, and an audit log created between these interested parties. We will do our up most to meet requirements, but these parties may have the right to control or deny drone operations near their sites.
37. The drone pilot on the day of operations has the right to cancel or amend flight plans as seen fit to maintain safe operations.
38. Our drone operations are insured by Moonrock Drone Insurance to a public liability cover £1m. Our data interpretation covering inspection, survey and other means are insured by Hiscox indemnity cover of £1m.

### Sub-Contracting and Assignment

39. We can at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under these Terms and Conditions and can subcontract or delegate in any manner any or all of our obligations to any third party.
40. You must not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under these Terms and Conditions.

### Termination

41. We can terminate the provision of the Services immediately if you:
- commit a material breach of your obligations under these Terms and Conditions; or
  - fail to make pay any amount due under the Contract on the due date for payment; or
  - are or become, in our reasonable opinion, are about to become, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor; or
  - enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made its creditors; or
  - convene any meeting of your creditors, enter into a voluntary or compulsory liquidation, have receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part of them, any documents are filed with the court for the appointment of an administrator in respect of you, notice of intention to appoint and administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the insolvency Act 1986), a resolution is passed or petition presented to any court for your winding up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency

### Intellectual Property, Copyright Sharing and Usage

42. The parties agree that work performed for the Client shall be considered as work for hire as contemplated and defined by the United Kingdom Copyright, Designs and Patent Act 1988. Both parties acknowledge and agree that the Client will not hold any intellectual property rights to recordings or data from the project including, but not limited to copyright and trademark rights.

43. The Company has exclusive and complete ownership of the intellectual property of recording and data captured during the project. In addition, the client agrees that the Company shall maintain an exclusive, transferable, sub licensable, royalty-free, worldwide license to use the photography and/or video.
44. The Company actively promotes its media and reserves the right to use any Client image and video for our promotion. Respectful of our Privacy and GDPR obligations this will be done in a sensitive manner concealing identity and location as far as possible. The Client agrees and acknowledges the Company may reasonably use photography and/or video for promotional purposes.
45. Unless the client has agreed and contracted to buy, the Company retains the copyright of all photography, video and data content. The Client has full access to and use of the material, however the client does not have the legal authority to sell the material or allow third party companies to use it or edit it without express written agreement with the Company.

### **Limitation of Liability and Indemnity**

46. Our liability under these Terms and Conditions, and in breach of statutory duty, and in tort or misrepresentation or otherwise, shall be limited as set out in this section.
47. When operating in the outdoors successful delivery of the Services depends on weather conditions. The decision to proceed is normally delayed to the last practical time to maximize the chance of suitable weather.
48. If the work cannot be completed due to client reasons, for example, lack of access or unscheduled site activity etc., the client may be charged to recover costs and time.
49. The Company does not accept liability for errors resulting incomplete or inaccurate instructions from the client's written brief.
50. In the exceptional circumstances the Company can not fulfil or complete the Services, it will refund part or all of any deposit received and not accept any other liability.
51. The total amount of our liability is limited to the total amount of Fees payable by you under the Contract.
52. We are not liable (whether caused by our employees, agents or otherwise) in connection with our provision of the Services or the performance of any of our other obligations under these Terms and Conditions or the quotation for:
  - a) any indirect, special or consequential loss, damage, costs or expenses or;
  - b) any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; or
  - c) any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; or
  - d) any losses caused directly or indirectly by failure or your breach in relation to your obligations; or
  - e) any losses arising directly or indirectly from the choice of Services and how they will meet your requirements or your use of the Services or any goods supplied in connection with the Services.
53. You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) caused by you or your agents or employees.
54. Nothing in these Terms and Conditions shall limit or exclude our liability for death or personal injury caused by our negligence, or for any fraudulent misrepresentation, or for any other matters for which it would be unlawful to exclude or limit liability.

### **Data Protection and Privacy**

55. When supplying the Services to the Customer, the Service Provider may gain access to and/or acquire the ability to transfer, store or process personal data of employees of the Customer.
56. The parties agree that where such processing of personal data takes place, the Customer shall be the 'data controller' and the Service Provider shall be the 'data processor' as defined in the General Data Protection Regulation (**GDPR**) as may be amended, extended and/or reenacted from time to time.

57. The Company will usually retain back-up data for 12 months following delivery of Services. Beyond this time it accepts no responsibility nor has liability for maintaining archive copies of data without expressed written agreement to do so.
58. For the avoidance of doubt 'Personal Data', 'Processing', 'Data Controller', 'Data Processor' and 'Data Subject' shall have the same meaning as in GDPR.
59. The Service Provider shall only Process Personal Data to the extent reasonably required to enable it to supply the Services mentioned in these terms and conditions or as requested by and agreed with the Customer, shall not retain any Personal Data longer than necessary for the Processing and refrain from Processing an Personal Data for its own or for any third party's purposes.
60. The Service Provider shall not disclose Personal Data to any third parties other than employees, directors agents, sub-contractors or advisors on a strict need-to-know basis and only under the same (or more extensive) conditions as set out in these terms and conditions or to the extent required by applicable legislation and/or regulations.
61. The Service Provider shall implement and maintain technical and organizational security measures as are required to protect Personal Data Processed by the Service Provider on behalf of the Customer.
62. Further information about the Service Providers approach to data protection are specified in its Data Protection Policy, which can be found by emailing us. For any enquiries or complaints regarding data privacy please email us.

### **Circumstances Beyond a Party's Control**

63. Neither of us is liable for any failure or delay in performing our obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: persistent bad weather (rain, strong winds or snow), industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, act of war, governmental action or restrictions or any other event that is beyond the control of the party in question. If the delay continues for a period of 90 days, either of us may terminate or cancel the Services to be carried out under these Terms and Conditions.

### **Complaints**

64. Complaints should be raised in writing within 28 days of becoming aware of the matter and in any event within 28 days of receipt of data generated from the Services.

### **Communications**

65. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorized offer of that party).
66. Notices shall be deemed to have been duly given:
  - a) when sent, if transmitted by email or fax, and a successful transmission report or return receipt is generated;
  - b) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
  - c) on the fifth business day following mailing, if mailed nationally; or
  - d) on the tenth business day following mailing, if mailed internationally.
67. All notices under these Terms and Condition must be addressed to the most recent address, email or fax number notified to the other party.

### **Acceptance of Terms**

68. The client may not assign or transfer this Agreement of any of the rights granted hereafter. This Agreement is binging upon and inures the benefit of the Company, as well as their respective principals,

employees, representatives, and successors. The client and its principals, and employees are jointly and severally liable for the performance of all payments and other obligations hereunder.

69. No amendment or waiver of any items is binding unless outlined in writing and signed by the parties. Email and electronic signatures will be considered legal and binding. However, the invoice may reflect, and the Client is bound by, the Clients' oral authorization for any additional services and expenses, that could not be confirmed in writing due to immediate proximity of completing the Services.
70. This Agreement will be deemed to be a contract made under the laws of the United Kingdom, and for all purposes will be interpreted in its entirety following these laws.

### **No Waiver**

71. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy nor stop further exercise of any other right, or remedy.

### **Severance**

72. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / these provisions will be deemed severed from the remainder of these Terms and Conditions which will remain valid and enforceable.

### **Law and Jurisdiction**

73. This Agreement shall be governed by and interpreted according to the law of Scotland and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the Scottish courts.

Mr Lamont  
5 Craigmount Terrace  
Edinburgh  
EH12 8BN

**Decision date: 22 December 2022**

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

Change of use from residential to short term let (in retrospect). The entire property is currently used, and has been for the last 8 months, for short term lets.  
At 30 Almond Green Edinburgh EH12 8UA

**Application No:** 22/04846/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 26 September 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 Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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:

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. 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 Benny Buckle directly at [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://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](mailto: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  
30 Almond Green, Edinburgh, EH12 8UA**

**Proposal: Change of use from residential to short term let (in retrospect). The entire property is currently used, and has been for the last 8 months, for short term lets.**

**Item – Local Delegated Decision  
Application Number – 22/04846/FUL  
Ward – B03 - Drum Brae/Gyle**

## **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. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site relates to a three-bedroom house at 30 Almond Green. Access is gained via a private main door from a footpath from Easter Road. The property has access to a private garden.

### **Description Of The Proposal**

The application is for retrospective planning permission for the change of use from residential to short term let.

### **Supporting Information**

Planning Statement

### **Relevant Site History**

No relevant site history.



## Other Relevant Site History

No further relevant site history.

## Consultation Engagement

## Publicity and Public Engagement

**Date of Neighbour Notification:** 7 October 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:

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

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

### Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STCVA 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 STL properties, the economic benefits are a material planning consideration.

The application property is located on pedestrian path off of Almond Green. The character of the immediate area is entirely residential. Access to the property is gained via a private entrance. The property has access to a private front and rear. These gardens are in very close proximity to neighbouring properties.

The use of the property as a STL would introduce an increased frequency of movement to the house. The proposed short stay use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home. The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

The immediate proximity to neighbouring residential dwellings, creates a situation where such a use would bring additional noise and disturbance beyond what would be acceptable within a residential area. The properties rear private garden further increases the opportunity to which the neighbouring amenity could be detrimental effected.

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 off street car parking available within the site and no immediate on street parking, though the site does have access to off street and on street parking via the pedestrian footpath to Almond Green. The site is accessible by public transport via bus.

The proposals comply with the LDP 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.

#### **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 complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

##### 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 Cityplan 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

The application received no public representation.

## Overall conclusion

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;

### Conditions

### Reasons

#### Reason for Refusal

1. The proposal is contrary to Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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: 26 September 2022

### Drawing Numbers/Scheme

01 - 02

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Benny Buckle, Assistant Planning Officer  
E-mail: [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk)



Appendix 1

## **Consultations**

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

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto: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      100621104-001

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

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Alasdair	Building Number:	5
Last Name: *	Lamont	Address 1 (Street): *	Craigmount Terrace
Company/Organisation		Address 2:	
Telephone Number: *	[REDACTED]	Town/City: *	Edinburgh
Extension Number:		Country: *	United Kingdom
Mobile Number:		Postcode: *	EH12 8BN
Fax Number:			
Email Address: *	[REDACTED]		

## Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

30 ALMOND GREEN

Address 2:

BUGHTLIN

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH12 8UA

Please identify/describe the location of the site or sites

Northing

673805

Easting

318269

## 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 residential to short term let (in retrospect). The entire property is currently used, and has been for the last 8 months, for short term lets.

## 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 am seeking a review from the LRB - The reasons I am seeking a review are detailed in the supporting document (001 – Appeal Details). In summary the Decision was 1) based on a different property from the property detailed in the Planning Application. and 2) was based solely on personal opinion of the Planning Officer as no supporting information, data or evidence is possessed by the council as evidenced by an FOIAS request. These and other reasons are detailed in 001 – Appeal Details

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)

001 - Appeal Details 002 - Published Report 003 - Request for Information 004 - FOI Response

## Application Details

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

22/04846/FUL

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

26/09/2022

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

22/12/2022

## 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 Alasdair Lamont

Declaration Date: 15/03/2023

## **Appeal against Refusal Decision 22/04846/FUL**

### **(001 – Appeal Supporting Document)**

I am appealing against the refusal of my planning application (Change of use from residential to short term let (in retrospect) - 22/04846/FUL - which was decided by Local Delegated Decision.

It should be noted that the application was registered by the council on 26 September 2022 with a statutory target of 25 November 2022, which was significantly missed - – the Refusal decision arriving on 22 December 2022.

The Refusal Decision was based on the Planning Officers Published Report – ‘Report of Handling’. (Supporting Document: 002– Published Report).

A request for further information to the assigned planning officer resulted in only the Report of Handling and therefore it can be assumed that the decision was only based on the content of this report.

In regard to the report:

#### **Section A – Site Description**

This states:

*‘The application site relates to a three-bedroom house at 30 Almond Green. Access is gained via a private main door from a footpath from Easter Road’.*

**This is incorrect** – the Planning Application is for a two-bedroom property (1 x Double, 1 x single room for a maximum capacity of three (3) persons) and is located in East Craigs some 7 miles from Easter Road. A three bedroomed property with potentially six or more residents is significantly different– therefore any further evaluation by the council based on this is flawed.

Planning legislation (Town and Country Planning (Scotland) Act 1997) is clear that the Development (property) evaluated by the Local Authority must be that detailed in the Planning Application.

The Council have therefore failed in their Statutory Duty as a Local Authority, and may be in breach of my Human Rights, and therefore the content of the report and evaluation cannot be relied on to make a Decision.

#### **Section B – Assessment**

Paragraph a) - Principle of development

The report states that the Application does not comply with LDP policy Hou 7 and therefore refused, for the following reasons:

1. The use of the property as a STL would introduce an increased frequency of movement to the house.
2. The proposed short stay use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents.

3. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home.
4. The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.
5. The immediate proximity to neighbouring residential dwellings, creates a situation where such a use would bring additional noise and disturbance beyond what would be acceptable within a residential area.
6. The properties rear private garden further increases the opportunity to which the neighbouring amenity could be detrimental effected.

The information, data or other evidence used by the council to support and inform the above reasons for refusal was requested and initially rejected by the Planning Officer contrary to the Councils legal responsibility under the Freedom of Information (Scotland) Act (FOISA) – (see supporting document: 003 – Request for Information), A request to the Council's Information Rights Department for the information confirmed the Council has to provide this information, the response (Supporting Document - 004 – FOI Response) was that:

The information was “**not held or collected by the Council**”, and therefore does not appear to exist.

It is clear that the Council made the decision based on **NO** supporting information, data or evidence and therefore the only conclusion that can be ascertained is that this is **based solely on the personal opinion of the Planning Officer**. If Council decision is based on, and Edinburgh Council Policy allows that, personal opinion to be the sole basis of Council decisions then this calls in to question wider decision making and leaves the council open to legal challenge.

While it can only be ascertained from the report that the Planning Officer based his opinion on the property being close to Easter Road. In response to and to address the above points for the property in the Application:

There is no noise or disturbance issues at the property in the Application - this is supported by the facts - there has been:

- No reports of noise or disturbance related to the property following becoming a STL, a year ago, in February 2022 (or before this).
- The council cannot, when requested to, provide any evidence to supports that noise or disturbance will become an issue in the future, past indicators suggest the opposite.
- No neighbours/public representation were made. The opportunity was there to object or comment on the application, including any noise or disruption concerns. The planning officer took it on himself to ignore that there were no objections and appears to have manufactured reasons to fit his own agenda.
- The planning officer failed to contact neighbours (other than the legal required point above) if he felt that there was or likely to be any issues.
- The neighbour in the adjoining semi-detached house has stated they “are often unaware if there are guest in the property”, have our phone contact details to immediately inform of any issues and has never had the need to use these and have expressed no issue in it being an STL.

- We regularly discuss this with neighbours the running of the STL to ensure that noise, or other factors are never an issue. Feedback from them is that they seldom see guests but enjoy meeting them and providing information and advice in what to see in Edinburgh.

Addressing the Councils above points individually:

1. The frequency of movement to the house has significantly decreased since becoming a STL over one year ago. Prior to this, and for several years previous my wife's elderly (now deceased) parents resided in the property – they required significant care and medical attention – which meant that more than four visits each day by two carers plus additional regular visits by doctor and community nurses. Therefore, the Councils unsubstantiated opinion is simply not true pure fiction, and the council can provide no evidence to support this untruth.
2. It is not clear that STL residents would be “in a manner [that] is dissimilar to that of permanent residents” – the Council could not provide a basis, information or evidence for this statement when asked. It could be equally argued that STL residents are in fact similar – they leave in the morning to visit tourist sites, return in the evening to have a meal and retire to bed, Given the property is 6 miles from local tourist attractions (eg in the High Street) they are unlikely to return during the day, for example for lunch – this would be similar to a working resident. In fact, many of the STL guests are working people on temporary assignment in Edinburgh. In this case the Council's assertion is not evidence based and speculation.
3. See answer to 2 above, the Council response here is not based on any information data or evidence and is simple a council employee's unsubstantiated personal opinion. Given the property is distant from the city and other tourist attraction it is highly unlikely in STL guest frequency would be more than a permanent resident. (This may be more likely in Easter Road?? - but that's just my unsubstantiated opinion)
4. The accusation that my wife and I (who solely service the property) make increased noise and disturbances may be libellous. The entrance to the property is not visible to the neighbouring properties and in any event, we pass the property on our daily walk – therefore regardless of the residents (STL or permanent) the 'disturbance' level will be the same – the council objecting to my wife and I enjoying a public footpath may be a breach of our human rights. Inside the property the cleaning would be no more frequent than a permanent residence's home (at least our home). The only instance that this Council statement could be viable if I or my wife were to sound a trumpet on our approach to make neighbours aware of our presence, which we have no intention to do so.
5. The property is semi-detached and therefore the “immediate proximity to neighbouring residential dwellings” is only the adjoining house at No31 – by definition this suggested that the Council will only allow STL in detached properties as these are the only ones with a greater proximity from neighbours. Should properties with closer proximity to neighbouring properties e.g. Flats be granted planning permission this would be discriminatory and a risk to the Council of legal action.

6. The property having a rear garden causing increased disturbance with STL residents is just plain nonsense, a council worker personal opinion, and frankly clutching at straws (it should be noted that no supporting information could be provided under FOI by the Council to support this ridiculous claim). For example, it could be argued that permanent residents holding an outside party, due to the number of local guests, relations and family that they would invite, would cause considerable noise and disturbance in the rear garden compared with three STL residents who are unlikely to have other local guests available to attend. The Council's assertions in this regard are just laughable.

- 7.

### **Parking Standards**

The report states "There is no off street car parking available within the site..." while this may be the case in the Easter Road property the Planning Officer evaluated – the Application clearly includes the Parking Space in front of the property's private garage that is clearly shown on the map submitted as part of the Application.

While the report states that proposals comply with the LDP in this section, it does highlight the Council's incompetence in evaluating the Application and accompanying documents.

### **SPP - Sustainable development**

In this section the Council state – "The proposal complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development."

In the 'Overall Conclusion' section the Council state "It does not comply with the objectives of SPP, as it will not contribute towards sustainable development".

This would appear to be contradictory and call in to question the competence of the report and the author who from the name on the report appears to be an inexperienced assistant planning officer who joined in May 2023 and had under 6 months experience following graduating from University when the application was submitted – note this reflects on the lack of supervision and support of the assistant planning officer and not on him personally. Overall, the report appears hurried, evaluates the wrong property, unlikely to have been peer reviewed and lacks any quality control – a poor reflection on the Council. Given I have paid a £600 fee for a fair evaluation, which I clearly have not received, the Council and Councillors should be embarrassed and is likely to be of public interest.

In conclusion the property while used as a STL not only supports tourists it is also used frequently by workers to the area in particular the Gyle, Edinburgh Park, the airport (including air crew) and more generally companies in the west of Edinburgh. The loss of which will impact the development and city growth, increasing costs to employers due to the alternative of high-cost hotels or travel from STL properties in West Lothian and Fife, as already being explored by employers/workers who use our STL. It should be noted that such use and increased travel from outside of the city would increase vehicle congestion, emissions and pollution levels in and around the city conflicting with council and Sustran objectives.

Given the above I believe that the Local Delegated Decision process, in this case, has failed, as the points above to support the Refusal has been based solely on an inexperienced Assistant Planning Officer's opinion, with zero information to support the report as evidenced by the FOIAS response. I appeal to the LRB to rectify these errors and grant planning permission.

# Report of Handling

**Application for Planning Permission  
30 Almond Green, Edinburgh, EH12 8UA**

**Proposal: Change of use from residential to short term let (in retrospect). The entire property is currently used, and has been for the last 8 months, for short term lets.**

**Item – Local Delegated Decision  
Application Number – 22/04846/FUL  
Ward – B03 - Drum Brae/Gyle**

## **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. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site relates to a three-bedroom house at 30 Almond Green. Access is gained via a private main door from a footpath from Easter Road. The property has access to a private garden.

### **Description Of The Proposal**

The application is for retrospective planning permission for the change of use from residential to short term let.

### **Supporting Information**

Planning Statement

### **Relevant Site History**

No relevant site history.

## Other Relevant Site History

No further relevant site history.

## Consultation Engagement

## Publicity and Public Engagement

**Date of Neighbour Notification:** 7 October 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:

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



The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

### Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STCVA 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 STL properties, the economic benefits are a material planning consideration.

The application property is located on pedestrian path off of Almond Green. The character of the immediate area is entirely residential. Access to the property is gained via a private entrance. The property has access to a private front and rear. These gardens are in very close proximity to neighbouring properties.

The use of the property as a STL would introduce an increased frequency of movement to the house. The proposed short stay use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home. The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

The immediate proximity to neighbouring residential dwellings, creates a situation where such a use would bring additional noise and disturbance beyond what would be acceptable within a residential area. The properties rear private garden further increases the opportunity to which the neighbouring amenity could be detrimental effected.

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 off street car parking available within the site and no immediate on street parking, though the site does have access to off street and on street parking via the pedestrian footpath to Almond Green. The site is accessible by public transport via bus.

The proposals comply with the LDP 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.

#### **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 complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

##### 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 Cityplan 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

The application received no public representation.

## Overall conclusion

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;

### Conditions

### Reasons

#### Reason for Refusal

1. The proposal is contrary to Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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: 26 September 2022

### Drawing Numbers/Scheme

01 - 02

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Benny Buckle, Assistant Planning Officer  
E-mail: [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk)



Appendix 1

## **Consultations**

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

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**Re: Decision Notice for Application No 22/04846/FUL**

1 message

**Calum Lamont** <calum.lamont@gmail.com>

17 January 2023 at 12:20

To: Benny Buckle &lt;Benny.Buckle@edinburgh.gov.uk&gt;, informationrights@edinburgh.gov.uk

Benny,

Thank you for your email, however I find your response unsatisfactory. Providing the requested information should be relatively straightforward given its recent use to inform the council's report and planning decision.

The information I requested falls under the Freedom of Information (Scotland) Act (FOISA), you will be aware that requesters do not have to mention the Act or direct their request to a designated member of council staff. I have copied the council's Freedom of information team in to ensure visibility of the information request.

I look forward to receiving the requested information within the statutory 20 working day period from the date of you receiving my request, failure by the council to do so may result in an appeal to the Scottish Information Commissioner.

Kind regards

Alasdair Lamont  
On Mon, 16 Jan 2023 at 08:39, Benny Buckle <[Benny.Buckle@edinburgh.gov.uk](mailto:Benny.Buckle@edinburgh.gov.uk)> wrote:

Hi Calum

I appreciate that the information that you require is not within the report and that is disappointing to you. We do not however provide further feedback or consultation beyond the report to specific cases. If you have any general questions about the appeal process you may email the planning support help desk at: [Planning Response \[Planning.Response@edinburgh.gov.uk\]\(mailto:Planning.Response@edinburgh.gov.uk\)](mailto:Planning.Response@edinburgh.gov.uk)

Many thanks

**Benny Buckle**

Planning Officer

**Working Monday – Friday (Hybrid)**Email: [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk)

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**From:** Calum Lamont [REDACTED] >  
**Sent:** 09 January 2023 12:59  
**To:** Benny Buckle <[Benny.Buckle@edinburgh.gov.uk](mailto:Benny.Buckle@edinburgh.gov.uk)>  
**Subject:** Re: Decision Notice for Application No 22/04846/FUL

Benny,

Thank you for the report you sent, however it does not address the request for information I have made in my earlier email i.e. Bullet 2.

Following review of the report sent, and confirmation that the refusal is primarily based on council only concerns of increased noise. I require the information used by the council to determine and support their decision and this is not provided in the report. Therefore the information requested in Bullet 2 can be summarised as follows:

1. Provide copies of the data, information or other evidence used by the council to determine that the current use of the property as a STL has increased the frequency of movement to/from the property in comparison to its previous use as longer term residential property, and evidence that this movement pattern is likely to change in the future
2. Provide the supporting evidence, information or data that the council used to determine that the arrival and stay to the property, in this planning application, significantly differs from its previous residential use, and what information data etc the council has used to determine that the frequency of movement to/from the property in this planning application has significantly changed from longer-term residential use in the past to that as a STL over 2022.
3. Provide copies of the information or data used to determine the council's supposition that "additional servicing in operating the property as an STL" over the last year has increased disturbances compared to that of its previous residential use.
4. Provide information used to support the council's supposition that the proximity of the semi-detached property as an STL creates or has created a situation of additional noise and disturbances to that that could be caused by longer term residents.
5. Provide information, data or evidence that supports the council's view that STL residents cause increased noise or disturbance in comparison to longer term residents when in a back garden.

In short the report provides the council's opinion that the planning proposal would increase noise or disturbance that would have a detrimental effect, to local residents, but does not provide any supporting information on how this opinion has been arrived at. The council must have used information, evidence or other data to arrive at this opinion, for this planning proposal, I therefore require copies of the information used by the council to determine and support their opinion for my Appeal.

Kind regards

Alasdair Lamont

[REDACTED]

On Wed, 4 Jan 2023 at 13:28, Benny Buckle <[Benny.Buckle@edinburgh.gov.uk](mailto:Benny.Buckle@edinburgh.gov.uk)> wrote:

Hi Alasdair

Thank you for your email. Please find attached the report of handling. It details in more depth the position of the council.

Many thanks

**Benny Buckle**

Planning Officer

**Working Monday – Friday (Hybrid)**

**Email:** [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk)

Planning and Building Standards | The City of Edinburgh Council | Waverley Court, **G.2**, 4 East Market Street, Edinburgh, EH8 8BG

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**From:** Calum Lamont [REDACTED] >  
**Sent:** 03 January 2023 17:02  
**To:** Benny Buckle <[Benny.Buckle@edinburgh.gov.uk](mailto:Benny.Buckle@edinburgh.gov.uk)>  
**Subject:** Fwd: Decision Notice for Application No 22/04846/FUL

Mr Buckle

I have received the attached refusal for planning permission and intend to appeal against this decision. I require some specific information regarding the decision as follows:

- Provide details of the amenities and living conditions identified by the council which will have a detrimental effect, (ie causing harm or damage), to nearby residents as a result of the planning proposal;
- Provide details and copies of the evidence used by the council to inform and support this decision, and which is specifically related to the amenities/living conditions identified.

Kind regards

Alasdair Lamont

----- Forwarded message -----  
**From:** <[planning.support@edinburgh.gov.uk](mailto:planning.support@edinburgh.gov.uk)>  
**Date:** Thu, 22 Dec 2022 at 14:17  
**Subject:** Decision Notice for Application No 22/04846/FUL  
**To:** <[REDACTED]>



Please See Attached

\*\*\*\*\*

This email and files transmitted with it are confidential and are intended for the sole use of the individual or organisation to whom they are addressed.  
If you have received this eMail in error please notify the sender immediately and delete it without using, copying, storing, forwarding or disclosing its contents to any other person.  
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**EIR Request Response (EDIR:40579)**

1 message

**Information Rights Officer 2** [redacted] >  
To: [redacted]

6 February 2023 at 15:31

Alasdair Lamont

Our ref: 40579

Dear Alasdair Lamont

Environmental Information (Scotland) Regulations 2004 - Release of Information

Subject: Decision Notice for Application No 22/04846/FUL

Thank you for your request for information of 09/01/2023 where you asked the following:

Following review of the report sent, and confirmation that the refusal is primarily based on council only concerns of increased noise. I require the information used by the council to determine and support their decision and this is not provided in the report. Therefore, the information requested in Bullet 2 can be summarised as follows:

1. Provide copies of the data, information or other evidence used by the council to determine that the current use of the property as a STL has increased the frequency of movement to/from the property in comparison to its previous use as longer term residential property, and evidence that this movement pattern is likely to change in the future
2. Provide the supporting evidence, information or data that the council used to determine that the arrival and stay to the property, in this planning application, significantly differs from its previous residential use, and what information data etc the council has used to determine that the frequency of movement to/from the property in this planning application has significantly changed from longer-term residential use in the past to that as a STL over 2022.
3. Provide copies of the information or data used to determine the council's supposition that 'additional servicing in operating the property as an STL' over the last year has increased disturbances compared to that of its previous residential use.
4. Provide information used to support the council's supposition that the proximity of the semi-detached property as an STL creates or has created a situation of additional noise and disturbances to that that could be caused by longer term residents.
5. Provide information, data or evidence that supports the council's view that STL residents cause increased noise or disturbance in comparison to longer term residents when in a back garden.

In short the report provides the council's opinion that the planning proposal would increase noise or disturbance that would have a detrimental effect, to local residents, but does not provide any supporting information on how this opinion has been arrived at. The council must have used information, evidence or other data to arrive at this opinion, for this planning proposal, I therefore require copies of the information used by the council to determine and support their opinion for my Appeal.

Your request has been processed and considered under the Environmental Information (Scotland) Regulations 2004 (EIRs). Our response is provided below.

The information regarding the specific statistics requested are not held or collected by the Council. Please note therefore, that the Council is relying on the exception under regulation 10(4)(a) of the EIRs and this constitutes a formal notice under regulation 13 in regard to information not held.

Under the Regulations, a request for information can be refused where one or more exceptions apply. Information to substantiate and support the councils position can be found publicly at <https://democracy.edinburgh.gov.uk/mgConvert2PDF.aspx?ID=42696>. Therefore, In this instance, the Council is claiming an exception under regulation 6 because the information is already publicly available and easily accessible.

To promote transparency and accountability, it is the Council's policy to publish all request details and responses made under the freedom of information legislation. This information is available at the following link: <https://www.edinburgh.gov.uk/homepage/10467/freedom-of-information-foi-disclosure-log>.

Your right to seek a review

If you are unhappy with the way we have dealt with your request, you can ask us to review our actions and decisions by writing to the:

Information Compliance

The City of Edinburgh Council

Waverley Court Business Centre 2:1

[4, East Market Street](#)

Edinburgh

EH8 8BG or;

Email: [information.compliance@edinburgh.gov.uk](mailto:information.compliance@edinburgh.gov.uk)

Please note that your request must be in a recordable format (email, letter, audio tape etc.), and that you have 40 working days upon receipt of this letter to ask for a review. You will receive a full response to your review request within 20 working days of its receipt. Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the review, you can ask the Scottish Information Commissioner to review our decision. You must submit your complaint to the Commissioner within 6 months of receiving our review response. The Commissioner can be contacted at:

The Office of the Scottish Information Commissioner

Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Information Rights Officer

Information Governance Unit

Level 2:1, Waverley Court, Edinburgh EH8 8BG Tel 0131 200 2340

[informationrights@edinburgh.gov.uk](mailto:informationrights@edinburgh.gov.uk) [www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

\*\*\*\*\*

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The Council has endeavoured to scan this eMail message and attachments for computer viruses and will not be liable for any losses incurred by the recipient.

\*\*\*\*\*

Manson Planning.  
FAO: Ross Manson  
25 Ainslie Place  
Edinburgh  
EH3 6AJ

Mr Marchant  
4 Cumberland Street North West  
Lane  
Edinburgh  
EH3 6RG

**Decision date: 15 December 2022**

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

Retrospective change of use from flatted dwelling to short term let.  
At 4A Cumberland Street North West Lane Edinburgh EH3 6RF

**Application No:** 22/04795/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 23 September 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 Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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:

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

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. 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 Benny Buckle directly at [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://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](mailto: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

4A Cumberland Street North West Lane, Edinburgh, EH3 6RF

**Proposal: Retrospective change of use from flatted dwelling to short term let.**

## Item – Local Delegated Decision

Application Number – 22/04795/FUL

Ward – B11 - City Centre

## Recommendation

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

## Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

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. There are no material considerations that outweigh this conclusion.

## SECTION A – Application Background

### Site Description

The application site relates to a three-bedroom flat at 4A Cumberland Street North West Lane. Fronting Cumberland Street North West Lane on the ground floor level. Access is gained via a private entrance from Cumberland Street North West Lane. The property also has access via a shared communal access.

The flat is within an A listed building (28614), listed on 1/1/2003.

The property is located within the New Town conservation area and the New Town Edinburgh World Heritage Site

### Description Of The Proposal



The application is for retrospective planning permission for the change of use from residential to short term let.

## **Supporting Information**

Planning Statement

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No further relevant site history.

### **Consultation Engagement**

No consultations.

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 7 October 2022

**Date of Advertisement:** 14 October 2022

**Date of Site Notice:** 14 October 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: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

### **Conclusion in relation to the listed building**

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals harm the character or appearance of the conservation area?**

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation appraisal states *"The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, world-class, neo-*

*classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

### **Conclusion in relation to the conservation area**

The proposals are acceptable with regard to Sections 59 and 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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy Del 2

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

### Listed Building and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved.

The proposal complies with the objectives of 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 proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

#### Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STCVA 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 STL properties, the economic benefits are a material planning consideration.

The application property is located on Cumberland Street North West Lane. The character of the immediate area is entirely residential, with the level of amenity reflecting this character.

The use of the property as an STL would introduce an increased frequency of movement to the flat. The proposed short stay use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home. The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

The property's primary access is via a private entrance. A private access does mitigate some of the negative effects that are associated with STLs towards local residential amenity. However, this proposal is introducing an inappropriate use within a residential area contrary to Local Development Plan. The activity associated with STL is likely to have a material impact on neighbouring amenity. The immediate proximity to neighbouring residential flats, creates a situation where such a use would bring additional noise and disturbance beyond what would be acceptable within a residential area.

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 off street car parking available within the site and no immediate on street parking available nearby. The site is accessible by public transport via tram, train and bus.

The proposals comply with the LDP 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.

#### **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 complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

#### 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 Cityplan 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

The application received no public representations.

### **Overall conclusion**

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;

### **Reason for Refusal**

1. The proposal is contrary to Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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: 23 September 2022**

### **Drawing Numbers/Scheme**

01 - 02

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Benny Buckle, Assistant Planning Officer  
E-mail: [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@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](mailto: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 100600304-004

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:	Manson Architects + Planners		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Ross	Building Name:	
Last Name: *	Manson	Building Number:	25
Telephone Number: *	0131 225 2958	Address 1 (Street): *	Ainslie Place
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH3 6AJ
Email Address: *	ross.manson@mansonplanning.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="Paul"/>	Building Number:	<input type="text" value="4"/>
Last Name: *	<input type="text" value="Merchant"/>	Address 1 (Street): *	<input type="text" value="Cumberland Street North West Lane"/>
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="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH3 6RG"/>
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="4A CUMBERLAND STREET NORTH WEST LANE"/>
Address 2:	<input type="text" value="STOCKBRIDGE"/>
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 6RF"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="674592"/>	Easting	<input type="text" value="325067"/>
----------	-------------------------------------	---------	-------------------------------------

## 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 flatted dwelling to short term let at 4A Cumberland Street North West Lane Edinburgh EH3 6RF

## 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.

Appeal Statement provided separately in '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)

The matter of the Appellant's address is a material consideration in the determination of this application and subsequent appeal. It was available to the Local Authority at the time of determination because it was noted in the application forms. The matter is not strictly new information but the Appellant does not believe the close proximity between the application site and the Appellant's address was given due consideration or weighting in the determination of the application.

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)

Appeal Statement, Supporting Statement, Location Plan, Floor Plan, Decision Notice, Report of Handling.

## Application Details

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

22/04795/FUL

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

23/09/2022

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

15/12/2022

## 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 Ross Manson

Declaration Date: 15/03/2023

**RETROSPECTIVE CHANGE OF USE FROM  
RESIDENTIAL TO SHORT-TERM LET  
*4A CUMBERLAND STREET NORTH WEST LANE  
EDINBURGH EH3 6RF***

12 September 2022

Applicant: Mr P Merchant

REF: COU\_NWCSL\_PS\_0922

# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET *4A CUMBERLAND STREET NORTH WEST LANE*

## **Contents**

Introduction  
Purpose  
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Scottish Planning Policy  
Edinburgh LDP 2016 Context  
Material Consideration : Guidance for Businesses (November 2021)  
Recent Decisions and Appeals  
Summary  
Conclusion  
Appendix A: Site Photographs

Revision:  
Date: 12.09.2022

Prepared by: Ross Manson MRTPI  
Contact: ross.manson@mansonplanning.co.uk

# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET 4A CUMBERLAND STREET NORTH WEST LANE

## 1.0 Introduction

- 1.1 Section 26B(5) of the Town and Country Planning (Scotland) Act 1997, as amended allowed for Scottish Ministers to approve short-term let control areas through new regulations, which in turn enabled Local Authorities to propose and enforce “control areas”.
- 1.2 The Town and Country Planning (Short-Term Let Control Area) (Scotland) Regulations 2021 (“the regulations”) were brought into force on 1st April 2021.
- 1.3 Since the regulations were brought into force, City of Edinburgh Council has designated the entirety of the Local Authority geographic area as a Short-Term Let Control Area. The control area came into force on 5th September 2022, following the approval of Scottish Ministers on 27th July 2022. This means the majority of secondary lettings used for the purposes of short-term letting require planning permission.
- 1.4 A licence to operate a short-term let property was brought into force by the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2021. Planning permission or lawful use of the property as a short-term let is a pre-condition of the licence to operate. Therefore, to be granted a licence and operate a STL lawfully, planning permission must be obtained.
- 1.5 All properties being operated as a short-term let property must be licensed by 1st July 2024, and existing hosts must submit their licence application before 1st April 2023.
- 1.6 This retrospective planning application is for the change of use from a residential flatted dwelling (sui generis) to short-term let use (sui generis) as a result of the regulatory changes described above.

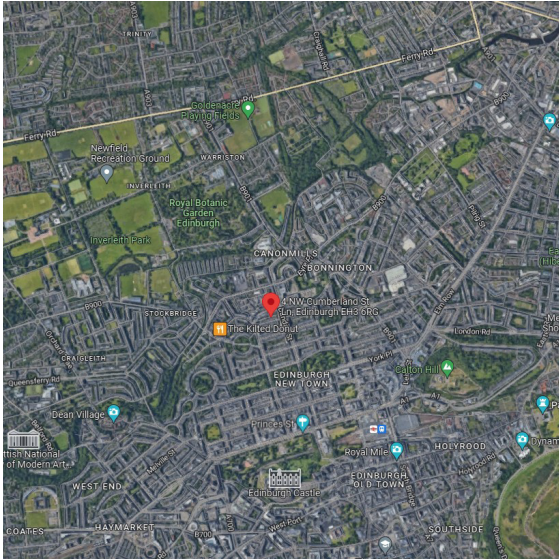
## 2.0 Purpose

- 2.1 This Supporting Statement has been submitted on behalf of Mr P Merchant (“the Applicant”) to support a planning application to change the use of 4a Cumberland Street North West Lane from residential to short-term let.
- 2.2 The purpose of this application is to retrospectively apply for a change of use from residential (Class 9 / sui generis) to Short-Term Let (sui generis). The document provides information deemed necessary to assess the application, however should additional information be required this should be requested through the Applicant’s agent.



# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET 4A CUMBERLAND STREET NORTH WEST LANE

## 3.0 Location and Description



- 3.1 The property is situated to the north of the city centre boundary, approximately 1.2km north of Edinburgh Waverley Station and 500m from Stockbridge. The property is on the basement floor of a category A-Listed Georgian tenement facing North West Cumberland St Lane.
- 3.2 The application property is in the New Town Conservation Area (Second New Town of Edinburgh).
- 3.3 It is also within the Old Town/New Town World Heritage Site (Northern New Town) and the New Town Gardens Historic Garden/Designed Landscape.
- 3.4 There are no alterations proposed to the interior or exterior of the building.
- 3.5 The property is accessed from Cumberland Street North West Lane at ground level through it's own main door. It has 3 bedrooms; extends to 145sqm, and has capacity for a maximum of 6 guests. The property has a small private garden which is north facing and is primarily used for access.
- 3.6 The building itself is constructed with sandstone and has traditional white sash and case windows and is arranged over 5 storeys.
- 3.7 The property is situated in the inner city with levels of background noise that are not characteristic of a quiet residential setting.
- 3.8 The majority of the parking on the surrounding streets and on Cumberland Street North West Lane is for permit holders only, but given the adjacency to the city centre it is not envisaged that guests would need a vehicle if visiting for business or leisure.

# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET 4A CUMBERLAND STREET NORTH WEST LANE

## 4.0 Development Plan

- 4.1 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-” In the case of this planning application the development plan is the Edinburgh Local Development Plan 2016 (“LDP”) and the Strategic Development Plan SESplan 2013.
- 4.2 SESplan has six member authorities in total and is the Strategic Plan that sets out the spatial strategy for growth in the south east of Scotland. The Strategic Plan recognises Edinburgh as the main growth area and driver of the Scottish economy.
- 4.3 Edinburgh is identified as the heart of the ‘regional core’ in the SDP and is the main catalyst of the Scottish economy.
- 4.4 Edinburgh City Centre is the largest centre in SESplan 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. These functions are supported by visitor accommodation that enables Edinburgh to maintain it’s status as the regional core and attract visitors throughout the year, whether the visit is for business or tourism.
- 4.5 Paragraph 220 of the Edinburgh LDP recognises that tourism is the third biggest employment source in Edinburgh, providing jobs for over 31,000 people. The supply of short-term visitor accommodation therefore supports a large proportion of the Edinburgh job market and there is an economic benefit to maintaining STLs.
- 4.6 The Council does not currently have planning policy that specifically addresses the control of Short Term Lets. The most relevant policy is Hou 7: Inappropriate Uses in Residential Areas and this is primarily used to assess proposals for conversions from houses or flats to houses in multiple occupancy.
- 4.7 Edinburgh Council’s Guidance for Businesses (November 2021), provides some guidance on non-residential uses in residential areas and states that consideration will be given to the character of the wider area, size of the property, pattern of use, and the nature and character of services provided. The guidance goes further to clarify that properties for commercial use will generally only be acceptable where there is a private access from the street.

# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET

## 4A CUMBERLAND STREET NORTH WEST LANE

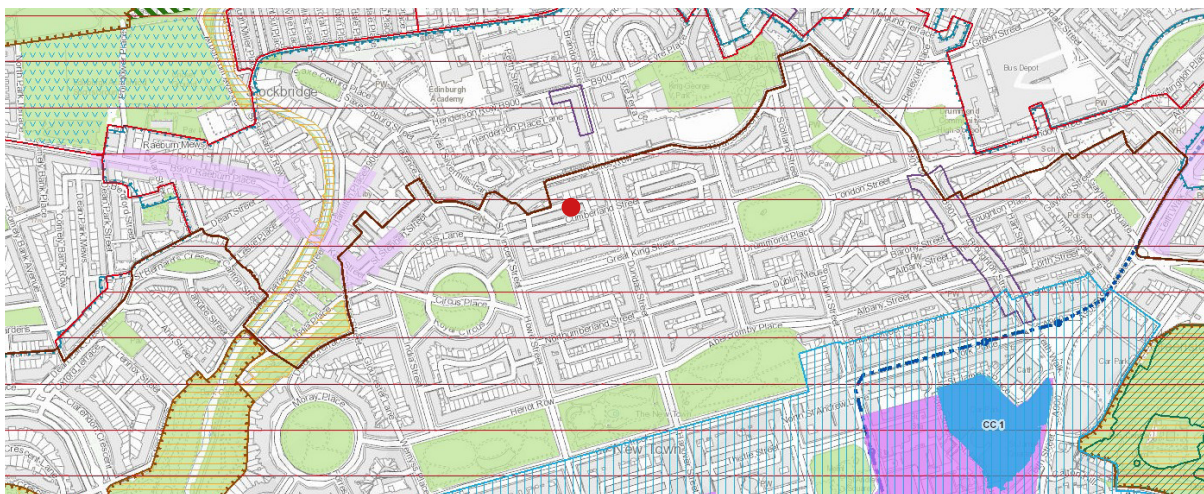
4.8 **The Edinburgh Tourism Strategy 2020 (adopted 2012) set out clear and ambitious plans to develop and promote the tourism economy.** The primary goals of the strategy were; increase tourism visits by one third; increase average visitor expenditure by 10% in real terms; and reduce seasonality by attracting more visitors in the off-season. **Short-term visitor accommodation, particularly in high-quality, controlled environments close to or in the city centre are supporting the vitality and viability of Edinburgh's tourism economy.**

### 5.0 Scottish Planning Policy

5.1 Scottish Planning Policy 2014 is a statement from the Scottish Government on how land use planning matters should be addressed. SPP introduces a presumption in favour of development that contributes to sustainable development, which must be given due consideration by planning authorities, albeit the development plan should be the starting point for determining planning applications in Scotland.

5.2 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. It will contribute to the local tourism, leisure, and restaurant economy, which is vitally important as local businesses recover from the Covid-19 pandemic.**

### 6.0 Edinburgh LDP 2016 Context



- World Heritage Sites: Old and New Towns World Heritage Site
- Designated Conservation Area: New Town
- Historic Garden Designed Landscape Inventory Site: New Town Gardens and Dean
- Urban Area



# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET 4A CUMBERLAND STREET NORTH WEST LANE

## 7.0 Material Consideration : Guidance for Businesses (November 2021)

- 7.1 The non-statutory guidance provides some indication of how applications for short-term let properties will be assessed. The guidance states that regard will be given to the following;
- the character of the new use and of the wider area,
  - size of the property,
  - 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.
- 7.2 The guidance continues and elaborates in respect of flatted properties. If flatted properties are proposed for commercial use or in this case, short-term let then a “change of use in flatted properties will generally only be acceptable where there is a private access from the street”.
- 7.3 4A Cumberland Street North West Lane has ground floor main door access and is not accessed through a communal stair, which is considered to result in a greater risk of disturbance to residential neighbours.
- 7.4 The guidance is useful in the assessment of applications and will certainly result in a reduction in the number of STL properties in Edinburgh with the potential to adversely affect the amenity of and setting of residential areas, but in this case none of the reasons why an application would be refused are applicable.

## 8.0 Recent Decisions and Appeals

- 8.1 The Council recognise there have been a number of recent decisions, particularly appeals, which have informed the assessment process of short-term let application. These appeals and decisions have also helped the Council to start developing new short-term let guidance. Until such time as the new guidance is formally approved and published, the recent appeals and decisions are material considerations and can form the basis on which new applications can be assessed.
- 8.2 The main determining issues in these cases related 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;

# **RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET**

## ***4A CUMBERLAND STREET NORTH WEST LANE***

- 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.
- 8.3 In recent decision and appeal cases (PPA-230-2367) a Scottish Government Reporter dismissed claims made by the Council that an inner city street was characterised as a quiet residential areas. When compared the Edinburgh's sub-urban areas such as Blackhall, The Grange, or Cramond, the city centre and inner city areas have a higher level of ambient noise and disturbance is generally expected. It should therefore not be assumed that a mixed or predominantly residential area is quiet.
- 8.4 The property at 4a Cumberland Street North West Lane benefits from main door access, and both the Council and Scottish Government Reporters have recognised that short-term lets without main door access are generally not supported.
- 8.5 By virtue of the property location, size, character of the surrounding area, and access arrangements, it is considered to be suitable for a change of use from residential to short-term let and complies with LDP policy Hou 7 and the Guidance for Businesses.

# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET 4A CUMBERLAND STREET NORTH WEST LANE

## 9.0 Summary

### **Is the flat accessed through a communal entrance?**

No, the flat is access from through a main door at ground floor.

### **How long has the property been in continuous use as a short term let as of the submission?**

27 months

### **Has the Applicant or letting agent received complaints regarding the use from third parties?**

No

### **Has City of Edinburgh Council taken enforcement action against the current property owner?**

No

### **What size is the property?**

3 bedrooms

145sqm Gross floor area

Guest capacity is 6

### **Do guests have access to a garden**

Yes. Small private garden primarily used for access to the property.

### **Are there restricted hours of arrival / departure to the property as a STL?**

Arrival between 3pm and 10pm. Departure before 11am

### **Minimum stay period**

2 nights

### **Are there any proposed alterations to the property**

No

### **Is the property professional managed as a short-term let i.e letting agency?**

Yes

### **Is the property in a quiet residential area?**

No

# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET *4A CUMBERLAND STREET NORTH WEST LANE*

## **10.0 Conclusion**

- 10.1 The application for a change of use complies with the provisions of the local development plan and guidance. There are no concerns relating to neighbouring amenity by virtue of the central location and main door access.
- 10.2 The proposal does not include any internal or external alterations to the property and therefore has no adverse impact on the character and setting of listed buildings or conservation areas.
- 10.3 In determining the planning application it should be assessed against the local plan. There are no compelling material considerations that would suggest the application should be refused.

# RETROSPECTIVE CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET 4A CUMBERLAND STREET NORTH WEST LANE

## Appendix A: Site Photographs



Main door entrance

Gate access through private garden



Dear sirs,

With reference to the above application for a change of use, we wish to log a formal appeal to decline the application for the change of use to a short term let.

The reasons for declining the application were as I read are shown briefly below;

'The proposal is contrary to Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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 feel it entirely reasonable to challenge these comments for the reasons outlined below.

When we purchased the property, we rented the property out on a short assured tenancy, which worked well. Since changing to the private residential tenancy we have experienced tenants who have not paid the rent and fail to maintain the external appearance of communal areas. Upkeep of algae on stones, missing bin days leading to rats etc.

Numerous occasions of multiple months of rent arrears, without the ability to help tenants to pay their rent on time. This has led to late mortgage payments and fines, whilst with interest rates rising, I have been unable to cover the cost of increases. Without the need to upgrade or refurbish or to move in myself, I was left with the only option to sell something that I had worked my entire life to purchase.

Short term rentals came as an option to look after the property, the upkeep externally and to offer accommodation to businesses and occasional tourists, also supporting the local independent businesses I recommend.

I am the neighbour directly above and to the side of the property. The main impact of any additional footfall is on myself. Being on the adjoining walls, I can easily tackle any issues.

I have hosted a range of families travelling on business, tenants needing re housed for insurance works, theatre artists working on Lion King and a wonderful selection of people coming to the City to enjoy Edinburgh.

We comply with all safety requirements, we have installed heat, moisture and noise alarms for disturbances (which there has been not one).

There is a significant number of short lets on the Street, both above and to the side which have not been taken into account and for which you will have applications in for. These must be considered, as well as the shops on Cumberland Street, pubs at each end and garages to the rear.

Since retiring, the income from the property has allowed my disabled wife and I to 'work' locally on the upkeep of the property and still make an income to survive.

I understand that there has been no neighbour objection to the application and the reason for the refusal looks like a blanket reason for all applications in the area without full consideration of each property. As such it seems an unreasonable fee to take from each property owner for each property and disproportionate to the time spent on the consideration.

*Yours sincerely*

A thick black horizontal bar redacting the signature of the sender.

Further comments to be added regarding 44A Cumberland Street Edinburgh EH3 6RG

We understand that you class this area as solely residential, however please find listed below a list of the many commercial establishments operating in adjacent streets that are between 2 and 5 minutes walk from the above properties:

Cumberland Street North West Lane:

12 commercial parking bays

120 commercial under ground parking

11 main door flats in the street with 3 owned, 4 airnb and 4 rental properties

Cumberland Street:

Designer dressmaker

Chiropodist

Dog groomer

Property consultancy

Printers

Tattoo Shop

Architect

St Vincent Street

Playfair Church used for training purposes, dance, theatre and all types of further education

St Vincent Bar

Opticians

Architects

Supermarket

Café and plant shop

Cumberland South West Lane

Property management car park for 8 vehicles

Parking for 8 vehicles – various businesses

Dundas Street

Vet

Locksmith

2 x Bridal shop

3 x restaurants

2 x Antique shop

Alteration shop

Massage and beauty salon  
4 x Art galleries  
2 x Property letting agents  
Bakery  
2 x Wine bar  
Local supermarket  
2 x Cafes  
3 x Hair dressers  
Pasta shop  
3 x Take aways  
Charity shop  
Tesco supermarket  
Yoga shop

Also adjacent within these streets, we also have:

Howe Street

Paint shop  
Upholstery shop  
3 x Property agencies  
Design shop  
Estate agency  
Restaurant

Eyre Place

Chemist  
Kitchen design shop  
2 x Restaurants  
1 Chemist  
Doctors surgery

Henderson Row

2 x Take aways  
Cake making shop  
Royal London HO  
Edinburgh Academy  
Dentist

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto: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 100600304-001

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.

## Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Retrospective change of use from flatted dwelling to short term let.

Is this a temporary permission? \*  Yes  No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*  Yes  No

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

## 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:

Ref. Number:

You must enter a Building Name or Number, or both: \*

First Name: \*

Ross

Building Name:

Last Name: \*

Manson

Building Number:

25

Telephone Number: \*

0131 225 2958

Address 1  
(Street): \*

Ainslie Place

Extension Number:

Address 2:

Mobile Number:

Town/City: \*

Edinburgh

Fax Number:

Country: \*

United Kingdom

Postcode: \*

EH3 6AJ

Email Address: \*

ross.manson@mansonplanning.co.uk

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

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:

Mr

You must enter a Building Name or Number, or both: \*

Other Title:

Building Name:

First Name: \*

Paul

Building Number:

4

Last Name: \*

Marchant

Address 1  
(Street): \*

Cumberland Street North West Lane

Company/Organisation

Address 2:

Telephone Number: \*

Town/City: \*

Edinburgh

Extension Number:

Country: \*

United Kingdom

Mobile Number:

Postcode: \*

EH3 6RG

Fax Number:

Email Address: \*

## Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

4A CUMBERLAND STREET NORTH WEST LANE

Address 2:

STOCKBRIDGE

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH3 6RF

Please identify/describe the location of the site or sites

Northing

674592

Easting

325067

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Site Area

Please state the site area:

145.00

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Short term let

## Access and Parking

Are you proposing a new 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 propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*  Yes  No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

**Water Supply and Drainage Arrangements**

Will your proposal require new or altered water supply or drainage arrangements? \*  Yes  No

Do your proposals make provision for sustainable drainage of surface water?? \*  Yes  No  
(e.g. SUDS arrangements) \*

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

**Assessment of Flood Risk**

Is the site within an area of known risk of flooding? \*  Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*  Yes  No  Don't Know

**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.

**Waste Storage and Collection**

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*  Yes  No



If Yes or No, please provide further details: \* (Max 500 characters)

Public on street collection.

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## 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

Are you able to identify and give appropriate notice to ALL the other owners? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] 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;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Ms Susie Doherty

Address:

4, Cumberland Street North West Lane, Edinburgh, United Kingdom, EH3 6RG

Date of Service of Notice: \*

20/09/2022

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: \*

Signed: Ross Manson

On behalf of: Mr Paul Marchant

Date: 20/09/2022

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

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) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

Yes  N/A

A Design Statement or Design and Access Statement. \*

Yes  N/A

A Flood Risk Assessment. \*

Yes  N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). \*

Yes  N/A

Drainage/SUDS layout. \*

Yes  N/A

A Transport Assessment or Travel Plan

Yes  N/A

Contaminated Land Assessment. \*

Yes  N/A

Habitat Survey. \*

Yes  N/A

A Processing Agreement. \*

Yes  N/A

Other Statements (please specify). (Max 500 characters)

Supporting Statement

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Ross Manson

Declaration Date: 22/09/2022

## Payment Details

Manson Planning.  
FAO: Ross Manson  
25 Ainslie Place  
Edinburgh  
EH3 6AJ

Mr Marchant  
4 Cumberland Street North West  
Lane  
Edinburgh  
EH3 6RG

**Decision date: 15 December 2022**

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

Retrospective change of use from flatted dwelling to short term let.  
At 4A Cumberland Street North West Lane Edinburgh EH3 6RF

**Application No:** 22/04795/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 23 September 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 Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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:

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

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. 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 Benny Buckle directly at [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://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](mailto: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

4A Cumberland Street North West Lane, Edinburgh, EH3 6RF

**Proposal: Retrospective change of use from flatted dwelling to short term let.**

## Item – Local Delegated Decision

Application Number – 22/04795/FUL

Ward – B11 - City Centre

## Recommendation

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

## Summary

The proposal is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

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. There are no material considerations that outweigh this conclusion.

## SECTION A – Application Background

### Site Description

The application site relates to a three-bedroom flat at 4A Cumberland Street North West Lane. Fronting Cumberland Street North West Lane on the ground floor level. Access is gained via a private entrance from Cumberland Street North West Lane. The property also has access via a shared communal access.

The flat is within an A listed building (28614), listed on 1/1/2003.

The property is located within the New Town conservation area and the New Town Edinburgh World Heritage Site

### Description Of The Proposal



The application is for retrospective planning permission for the change of use from residential to short term let.

## **Supporting Information**

Planning Statement

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No further relevant site history.

### **Consultation Engagement**

No consultations.

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 7 October 2022

**Date of Advertisement:** 14 October 2022

**Date of Site Notice:** 14 October 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: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent sets out the principles for assessing the impact of a development on a listed building.

Managing Change in the Historic Environment: Setting sets out the principles that apply to developments affecting the setting of historic assets or places including listed buildings and conservation areas. It includes factors to be considered in assessing the impact of a change on the setting.

There are no external or internal alterations proposed. As such, the proposal will not have an adverse impact on or cause harm to the listed building. The setting of the listed building and the setting of neighbouring listed buildings will be unaffected by the proposal.

### **Conclusion in relation to the listed building**

The proposal does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals harm the character or appearance of the conservation area?**

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The New Town Conservation appraisal states *"The New Town, constructed between 1767 and 1890 on the glacial plain to the north of the Old Town, contains an outstanding concentration of planned ensembles of ashlar-faced, world-class, neo-*

*classical buildings, associated with renowned architects, including John and Robert Adam, Sir William Chambers, and William Playfair. Contained and integrated with the townscape are gardens, designed to take full advantage of the topography, while forming an extensive system of private and public open spaces. It covers a very large area, is consistent to an unrivalled degree, survives virtually intact and constitutes the most extensive surviving example of neo-classical town planning in the world. The Conservation Area ranks as one of the most important in the United Kingdom, in terms of both its architectural, urban planning and historic interest. Its significance is reflected in the extensive number of Statutory Listed Buildings, the number of tourists that visit the area, and its international recognition as part of the UNESCO designated Old and New Towns of Edinburgh World Heritage Site"*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

### **Conclusion in relation to the conservation area**

The proposals are acceptable with regard to Sections 59 and 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 policies of the adopted Edinburgh Local Development Plan (LDP) to be considered are:

- Local Development Plan Environment Policies, Env 1, Env3 and Env 6.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3
- Local Development Plan Delivering the Strategy Policy Del 2

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering LDP policies Env 3 and Env 6.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

### Listed Building and Setting

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a) above which concluded that this would be preserved.

The proposal complies with the objectives of 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 proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with LDP Policy Env 1.

#### Principle of development

The application site is situated in the Urban Area and City Centre Retail Core, as defined in the LDP.

The main policy that is applicable to the assessment of short term lets is LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), which seeks to protect residential amenity.

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STCVA 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 STL properties, the economic benefits are a material planning consideration.

The application property is located on Cumberland Street North West Lane. The character of the immediate area is entirely residential, with the level of amenity reflecting this character.

The use of the property as an STL would introduce an increased frequency of movement to the flat. The proposed short stay use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home. The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

The property's primary access is via a private entrance. A private access does mitigate some of the negative effects that are associated with STLs towards local residential amenity. However, this proposal is introducing an inappropriate use within a residential area contrary to Local Development Plan. The activity associated with STL is likely to have a material impact on neighbouring amenity. The immediate proximity to neighbouring residential flats, creates a situation where such a use would bring additional noise and disturbance beyond what would be acceptable within a residential area.

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 off street car parking available within the site and no immediate on street parking available nearby. The site is accessible by public transport via tram, train and bus.

The proposals comply with the LDP 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.

#### **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 complies with all thirteen principles outlined within paragraph 29 of the SPP. The proposal will therefore contribute to sustainable development.

#### 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 Cityplan 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

The application received no public representations.

### **Overall conclusion**

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;

### **Reason for Refusal**

1. The proposal is contrary to Policy Hou 7 of the adopted Edinburgh Local Development Plan, in respect of Inappropriate Uses in Residential Areas. 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: 23 September 2022**

### **Drawing Numbers/Scheme**

01 - 02

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Benny Buckle, Assistant Planning Officer  
E-mail: [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk)

Appendix 1

## **Consultations**

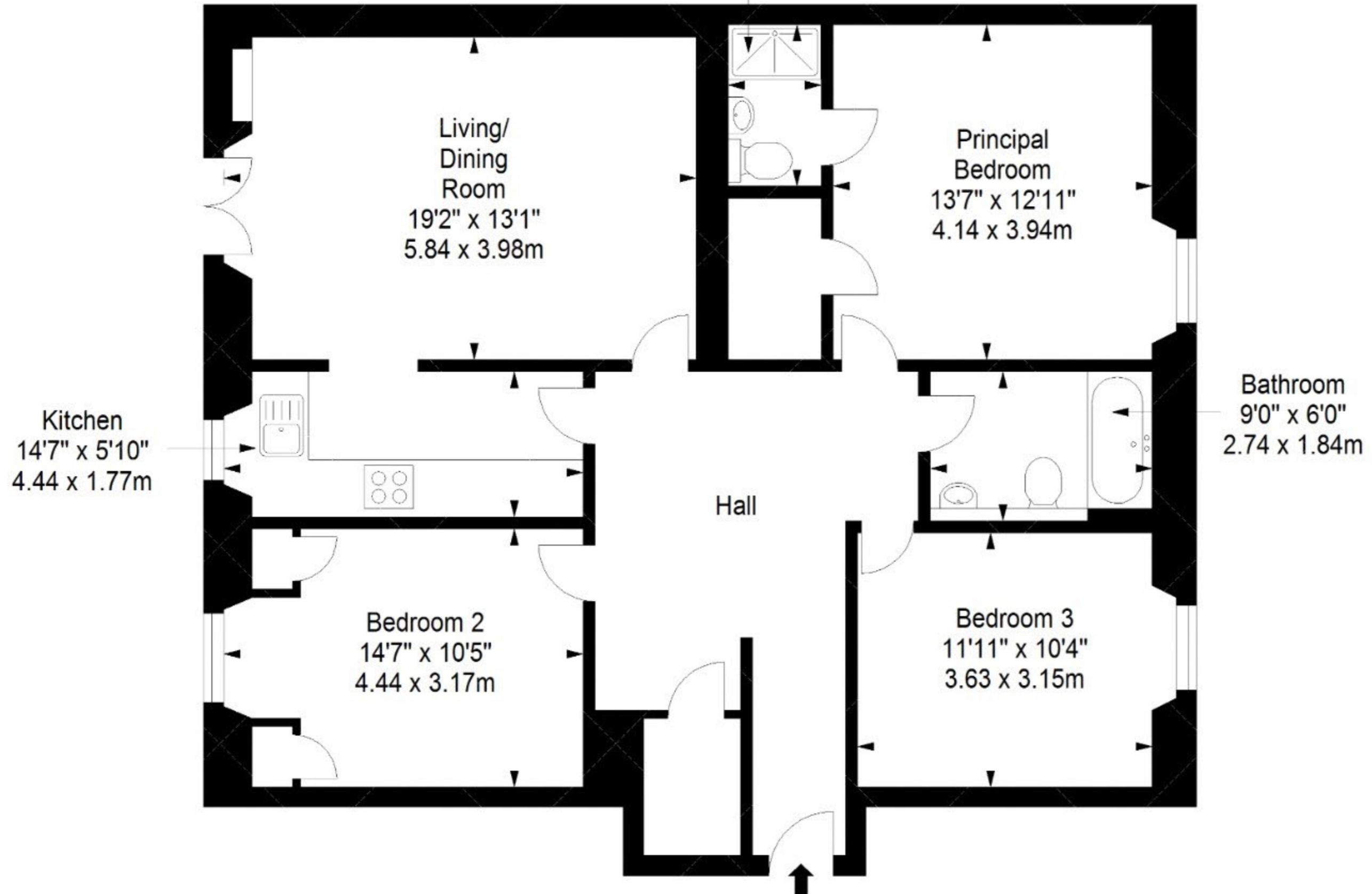
No consultations undertaken.



Lower Ground Floor  
Approx. 111.1 sq. metres (1195.9 sq. feet)

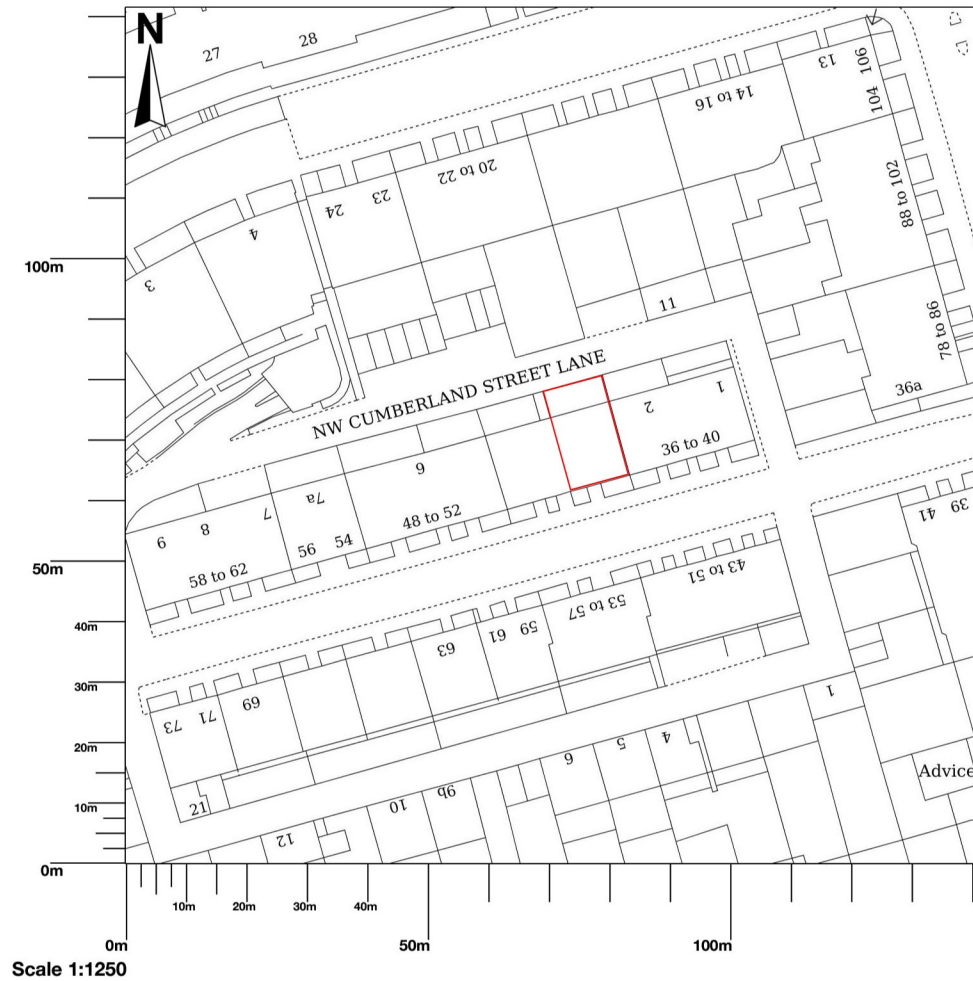


En-suite  
6'7" x 3'9"  
2.00 x 1.15m



Total area: approx. 111.1 sq. metres (1195.9 sq. feet)

4A Cumberland Street North West Lane  
Edinburgh EH3 6RG



Map area bounded by: 325021,674530 325163,674672. Produced on 22 September 2022 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2022. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p2c/uk/852990/1152699

Mr Stevenson  
9 Buckstone Gardens  
Edinburgh  
EH10 6QD

**Decision date: 30 March 2023**

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

Change of use from private residential to short term commercial letting.  
At Flat 20 89 Holyrood Road Edinburgh EH8 8BA

**Application No: 22/04909/FUL**

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 29 September 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. No conditions are attached to this consent.

**Reason for Refusal:-**

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

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

Drawings 01 - 02, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

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

Should you have a specific enquiry regarding this decision please contact Benny Buckle directly at [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://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](mailto: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  
Flat 20 89 Holyrood Road, Edinburgh, EH8 8BA**

**Proposal: Change of use from private residential to short term commercial letting.**

**Item – Local Delegated Decision  
Application Number – 22/04909/FUL  
Ward – B11 - City Centre**

## **Recommendation**

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

## **Summary**

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of tourist accommodation in this case it does not outweigh the adverse impact on residential amenity or the loss of residential accommodation.

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

## **SECTION A – Application Background**

### **Site Description**

The application site relates to a first floor, one-bedroom flat at F20, 89 Holyrood Road. Access is gained via a communal entrance and stairwells, used by a further seventy-nine flats. The further development is residential in character.

The property is located within the Old Town Conservation Area and World Heritage Site.

### **Description Of The Proposal**

The application is for retrospective planning permission for the change of use from residential to short term let.

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No further relevant site history.

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 17 October 2022

**Date of Advertisement:** 21 October 2022

**Date of Site Notice:** 21 October 2022

**Number of Contributors:** 11

## **Section B - Assessment**

### **Determining Issues**

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and

- any other identified material considerations.

## **Assessment**

To address these determining issues, it needs to be considered whether:

### **a) The proposals harm the character or appearance of the conservation area?**

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Old Town Conservation Area Character appraisal states: *"The Old Town is the historic heart of Edinburgh and is interwoven with the narrative of Scotland's past. A unique quality of the Old Town is the clarity of its historical plan form against the background of a spectacular landscape. The plan of the Old Town has retained much of its ancient pattern and distinctive character. It is an environment of enclosed streets and dramatic changes of level with numerous framed distant views. The skilful use of land contours, the careful siting and design of individual buildings and groups of buildings, and the use of local stone, combine to create an intricate and varied character. It is a microcosm of urban development, reflecting a long history from the earliest needs for shelter and protection, though cycles of intensification and expansion, with consequent phases of improvement, conservation or re-development."*

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a residential premises to a short-term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

### **Conclusion in relation to the conservation area**

The proposals are acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals comply with the development plan?**

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- NPF4 Historic Assets and Places Policy 7.



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

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering NPF4 Policy 7.

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

### Conservation Area

The impact on the character and appearance of the conservation area has been considered above in section 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 NPF4 Policy 7.

### World Heritage Site

The proposed change of use as a short stay let does not affect the reasons for the inscription of the World Heritage Site.

The proposal complies with NPF4 Policy 7.

### Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (b) and (e) specifically relate to STL proposals.

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

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to a short term let will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand and
- The nature and character of any services provided.

In connection to short term lets it states, "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

## *Amenity*

The property is located within an entirely residential block that is accessed via a main entrance, shared gardens with a communal lift access.

The use as a STL would allow multiple parties of visitors to come and go from the premises for inconsistent periods of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. When staying at the property, guests can come and go frequently throughout the day and night impacting on the amenity of immediate residential occupants. Temporary visitors are likely to have less regard for the local amenity. Furthermore, guests can also access a shared communal garden which has the potential to further impact on neighbouring amenity.

The proposed use would increase the ambient background noise levels beyond what residents would reasonably expect within the immediate and local area. The increase in frequency of movement to the flat at unpredictable hours would damage the amenity of the immediate neighbours and adjacent properties.

The proposal will have an unacceptable impact on the living conditions and amenity of nearby residents. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

## *Loss of residential accommodation*

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential property will only be supported where the economic benefits of the proposals are outweighed by demonstrable local economic benefits.

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

However, having the property in residential use would also contribute to the economy, through the use of a variety of local services and employment opportunities across the City. Long term residents also have the ability to make consistent and long-term contributions to the local community.

The proposal would result in the loss of residential accommodation. There is a recognised need and demand for housing in Edinburgh, therefore, it is important to retain the existing supply where appropriate.

In this instance, it has not been demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

## Parking Standards

There is no vehicle parking and no cycle parking proposed. Zero parking is acceptable as there are no parking requirements for STLs. Cycles could be parked inside the property.

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

### **Conclusion in relation to the Development Plan**

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

### **c) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

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

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

#### Public representations

The application received eleven public representations, all of which were objections.

A summary of the representations is provided below:

#### *material considerations*

- Damage to the residential amenity regarding noise and lack of care for communal spaces within the residential block. This has been covered within section B.

#### *non-material considerations*

- The title deeds state that the properties shall be used and occupied for private residential purposes only.
- Concerns related to waste management.
- Concerns to raising insurance premiums.

## **Conclusion in relation to other material considerations**

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

### **Overall conclusion**

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of tourist accommodation, in this case, it does not outweigh the adverse impact on residential amenity or the loss of residential accommodation. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Conditions**

1. No conditions are attached to this consent.

### **Reasons**

#### **Reason for Refusal**

1. The proposal is contrary to 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.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

### **Background Reading/External References**

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

**Further Information** - [Local Development Plan](#)

**Date Registered:** 29 September 2022

**Drawing Numbers/Scheme**

01 - 02

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Benny Buckle, Assistant Planning Officer  
E-mail: [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk)

Appendix 1

**Consultations**

No consultations undertaken.

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Dr Edwin van Beek

Address: 89 Holyrood Road Flat 3 Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: There are major issues with AirBnB and other short term lets within this building already. This is a block of 79 residential properties, with communal usage areas and related charges.

As things stand, almost half are already let out, leading to increasing nuisance, abuse and damage to the property's communal areas and increase in charges, such as common insurance policy.

I have to object, as living in this development is increasingly difficult due to noise issues, lack of care of communal areas, damage to facilities (such as lifts and corridors) and lack of security due to abuse of access points (this should be a locked building, but keys are not looked after and people just walk in without notification).

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Dr Graeme Abel

Address: Flat 34 89 Holyrood Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: 89 Holyrood Road is a residential building comprising 79 flats. There are 2 designated commercial properties attached to the building, but for the residential flats the Land Register Title deeds (MID15278) clearly state that "each dwellinghouse shall be used and occupied for PRIVATE residential purposes only " - section 4..1

Furthermore the title Deeds state " The proprietors of Dwellinghouses are expressly prohibited from carrying on therein or therefrom any trade, business or profession which involves the receipt or delivery of goods or persons visiting a Dwellinghouse. " - section 4.8.

When I purchased my flat in 2014; it was made very clear to me prior to purchase, that the flat could not be used for short term letting as it was a residential property.

Unfortunately contrary to the stipulations mentioned above in the title Deeds, many properties have been used for short term letting, and residents are becoming increasingly affected by noise and disturbances related to these short term lets. Some areas of the building now appear to be run as an unofficial apparthotel, with the extent that residents are being subject to continual noise and damage to the fabric of the building. Occupiers of short term lets are generally unaware of refuse disposal and recycling facilities in the building to the extent that bagged rubbish is often left lying in communal areas, which has to be removed by residents.

Most flats have balcony areas which are increasingly used by occupiers of short term lets for drinking and partying often very late at night again creating noise and disturbance to residents.

In summary my objections to this application are

- 1) it is contrary to the Title Deeds for the property.
- 2) change of use will create loss of privacy for residents
- 3) residents will be subject to increased and further noise and disturbance if there is an additional short term letting property.



# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Mr George Gilbert

Address: 89/76 Holyrood Road Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Park was intended as a high-quality residential complex in the heart of the Old Town of The City of Edinburgh.

The title deeds for each property in the complex reflect this requirement in that they limit the use of the properties to pure residential use in order to encourage the re-establishment of communities within the City Centre.

The prohibitive cost of legal challenges to owners abusing the title deeds in terms of using their properties for 'holiday rental' purposes has prevented legal action from being taken.

The recent recognition by the planning system of the erosion of City Centre residential communities by the inappropriate use of properties within private residential complexes is welcomed.

These 'holiday lets', on balance, cause elevated levels of disturbance, both short and long term, to the amenity associated with residential communities.

This use category should be restricted to locations in which established residential communities are not adversely affected.

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## 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 in a tenement results in noise and other disturbance for the other inhabitants, especially where there is shared access or shared space. Short-term lets as a whole destroy communities and lead to a sense of insecurity amongst remaining residents.

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Dr Ewelina Lacka

Address: 89/74 HOLYROOD ROAD EDINBURGH

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: 89 Holyrood Road is a residential apartment block consisting of 80 individual flats. As such, the applicant is not the sole owner of all the land.

The change of the flat use from residential to commercial may have an impact on the property insurance, which most likely will also have to be changed from residential to commercial. As such residents of the development will have to pay higher insurance rates.

The residents of the development long suffered from antisocial behaviors of people who rent flats short term via Airbnb or booking.com. Shared communal areas are being destroyed, there is a significant noise issue. As a resident and a property owner, I oppose this application.

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Mr Neville Colegrove

Address: Flat 17 The Park , 89 Holyrood Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Park ,89 Holyrood Road is a residential development which has 79 flats and two commercial properties (Dentist & Office).

The Land Register Title Deeds (MID 15278) clearly state that each dwelling shall be used and occupied for " Private" residential use only -Section 4.1.

The deeds specifically state " The proprietors of dwellings are expressly prohibited from carrying on therein or therefrom any trade, business or profession which involves receipt or delivery of goods or persons of visiting a dwellinghouse - Section 4.8.

We bought our flat in 2002 and our solicitor made it very clear to us that the flat could not be used for short-term letting as it was a residential property.

Several flats are now short term lets with people coming and going damaging the fabric of the building and regularly leave bin liners with rubbish in hallways/ landings/staircases and adjacent to lifts.

Residents are regularly disturbed by the noise coming from these flats and also late at night from people on the balconies that are on holiday, partying and drinking.

In summary our objections are:

- 1) Contrary to The Title Deeds.
- 2) Change of use will create loss of privacy for residents.
- 3) Residents will be subject to increased noise and disturbance from short term let property.

Best regards

N Colegrove

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Mr Richard Enoch

Address: 9 The Park 89 Holyrood Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Park, 89 Holyrood Road is a residential development which has 79 flats and two commercial properties (Dentist & Office).

The Land Register Title Deeds (MID 15278) clearly state that each dwelling shall be used and occupied for " Private" residential use only -Section 4.1.

The deeds specifically state " The proprietors of dwellings are expressly prohibited from carrying on therein or therefrom any trade, business or profession which involves receipt or delivery of goods or persons of visiting a dwellinghouse - Section 4.8.

When purchasing my property, my solicitor made it very clear that the flat could not be used for short-term letting as it was a residential property.

Notwithstanding the above, several flats are now being used as short term lets. This has resulted in:-

- 1) Increased wear and tear on the building as visitors move in and out - damaged floor coverings, walls and lifts.
- 2) Reduction in security as essentially anyone now has access to the common areas.
- 3) Inconvenience caused by un-familiarity with the building eg. bin bags dumped in hallways/ landings/staircases and adjacent to lifts.
- 4) Regular disturbed by visitors in "holiday mode" - noise in common areas, flats and balconies including late at night partying and drinking.
- 5) Potential increase in the cost of block insurance if usage changes from residential to commercial.

Richard Enoch

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Mrs Elspeth Wills

Address: 3 Brown's Place Edinburgh

## Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The applicant provides no detail about his plans for the property. He has clearly been marketing it on Air B and B and other platforms for some time.

The Old Town Community Council wishes to object to this new applications.

Our grounds of objection are as follows:

Shortage of housing to buy or rent is a real issue throughout Edinburgh as acknowledged by both by the current and 2030 national planning guidelines. This is particularly true of the Old Town where the voters' roll has fallen to its lowest level ever and one in three properties is now a STL. The proliferation of STLs has damaging effects not only on neighbours (Hou 7) and on building maintenance but on whole communities. Judging by the neighbour notification list there are still a few residents surviving in the area.

STLs bring few benefits to the local economy or community as most visitors stay for only 2-3 nights to have fun in the city centre.

Many properties are at the heart of the World Heritage site.

Loss of income to the Council who maintains essential services such as rubbish collection free of charge. Housing should be seen as a place for people to live in not as an investment.

We urge that this and all STL applications are turned down.

Yours sincerely

Elspeth Wills

Planning - OTCC

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Local1 Team

## Customer Details

Name: Mr Brian Fleming

Address: 89 Holyrood Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have been a long-term resident at this address. Over the last couple of years, living here has been ruined by short-term lets and Airbnb visitors. The visitors and operators show little consideration when it comes to disturbing permanent residents. Assuming this type of activity is covered by commercial letting, then I unfortunately wouldn't wish to have more of it here.

# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Improvement Team

## Customer Details

Name: Mrs Anne Jarvis

Address: 89/4 Holyrood Road Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Park Apartments are private residential properties. All the residents pay monthly recurring charges for communal lighting, gardening, property insurance, concierge wages, cleaning of communal areas and painting of these areas, etc. Because of this we tend to take care of the fabric of the building to a high degree. In general it is found that commercial lettings do not have the same regard for property they don't own.

Also, the noise from these lettings can be invasive, late arrivals, music, loud conversations and a general party atmosphere, which is understandable, but perhaps not acceptable to private residents



# Comments for Planning Application 22/04909/FUL

## Application Summary

Application Number: 22/04909/FUL

Address: Flat 20 89 Holyrood Road Edinburgh EH8 8BA

Proposal: Change of use from private residential to commercial letting.

Case Officer: Improvement Team

## Customer Details

Name: Mr Alan Findlay

Address: 89 Holyrood Road Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: A commercial short-term letting arrangement is not suitable for a small residential building.

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Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto: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      100601413-004

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

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	James	Building Number:	9
Last Name: *	Stevenson	Address 1 (Street): *	9 Buckstone Gardens
Company/Organisation		Address 2:	
Telephone Number: *	[REDACTED]	Town/City: *	EDINBURGH
Extension Number:		Country: *	United Kingdom
Mobile Number:		Postcode: *	EH10 6QD
Fax Number:			
Email Address: *	[REDACTED]		

## Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Flat 20/89 Holyrood Rd. Edinburgh, EH8 8BA

Northing

Easting

## 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 Private Residential to commercial letting

## 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.

This was refused on grounds "Inappropriate Uses in Residential Area" & "Loss of Residential Accommodation". It is inconsistent, as another application for change of use in the same building - 22/03698/CLE, Flat 33 89 Holyrood Road Edinburgh was approved. I would like to know how different for this flat these 2 grounds could be different for 2 flats in the same development. I've spent £1200 for 2 properties, and waited over 6 months (not 30 days as promised) to seemingly get stock answers.

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)

Additional Comments on application

## Application Details

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

22/04909/FUL

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

29/09/2022

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

29/03/2023

## 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 James Stevenson

Declaration Date: 30/03/2023

## **Additional Comments on Application**

As there was not enough space on the form I'd like to continue to outline why I don't believe the grounds for refusal are justified.

Loss of residential Accommodation – This flat is clearly within a tourist area, right beside Parliament and the Royal mile, there is a need for quality short term let housing near the Parliament and also for tourists, especially in the festival (one that is licenced and follows all the regulations – rather than someone renting out their bedroom).

Inappropriate Uses in Residential Areas - The Flat is already registered as an FHL and has been operating for years without problems. It is on the 1<sup>st</sup> floor and there is a lift in the building so has little impact on other flats using the stairs. The managing company – Pass The Keys - screens potential guests and does not allow for those who have engaged in anti-social behaviour. The flat cannot be instantly booked. It is mainly rented out to families.

The fact that another flat in the same building was approved for change of use earlier in the year suggests an inconsistency as the above grounds are the same for both apartments and should be applied consistently to both: Application: 22/03698/CLE - Flat 33 89 Holyrood Road Edinburgh EH8 8BA

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**Sarah Forsyth**

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**From:** [REDACTED]  
**To:** 31 March 2023 19:52  
Local Review Body  
**Cc:** [REDACTED]  
**Subject:** FW: Planning Application 22/04909/FUL

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**To:** localreviewbody@edinburgh.gov.uk

**Subject:** Planning Application 22/04909/FUL

Re. Planning Application 22/04909/FUL

Mr Stevenson  
Flat 20- 89 Holyrood Road Edinburgh EH8 8BA  
Change of use from private residential to short term commercial letting

Dear Local Review Body,

I would be very grateful if my objections (as stated below) to the above planning application appeal could be taken into account at the planned Local Review Body meeting on 3/5/23.

89 Holyrood Road is a residential building comprising 79 flats. There are 2 designated commercial properties attached to the building, ( a dentist and a design company ) but for the residential flats the Land Register Title deeds (MID15278) clearly state that "each dwellinghouse shall be used and occupied for PRIVATE residential purposes only " - section 4..1

Furthermore the title Deeds state " The proprietors of Dwellinghouses are expressly prohibited from carrying on therein or therefrom any trade, business or profession which involves the receipt or delivery of goods or persons visiting a Dwellinghouse. " - section 4.8.

When I purchased my flat in 2001; it was made very clear to me prior to purchase, that the flat could not be used for short-term letting as it was a residential property.

Unfortunately contrary to the stipulations mentioned above in the title Deeds, many properties have been used for short- term letting, and residents are becoming increasingly affected by noise and disturbances related to these short term lets. Some areas of the building now appear to be run as an unofficial apparthotel, with the extent that residents are being subject to continual noise and damage to the fabric of the building. Visitors of short term lets are generally unaware of refuse disposal and recycling facilities in the building to the extent that bagged rubbish is often left lying in communal areas, which has to be removed by residents.

Most flats have balcony areas which are increasingly used by occupiers of short term lets for drinking and partying often very late at night again creating noise and disturbance to residents.

In summary my objections to this application are

- 1) it is contrary to the Title Deeds for the property.
- 2) change of use will create loss of privacy for residents
- 3) residents will be subject to increased and further noise and disturbance if there is an additional short term letting property.

Kind regards

Neville Colegrove

89/17 Holyrood Road , Edinburgh .EH8 8BA

**From:** [REDACTED]  
**Sent:** 05 April 2023 08:58  
**To:** Local Review Body  
**Subject:** Planning Application 22/04909/FUL

Sir/Madam,

Re. Planning Application 22/04909/FUL  
Mr Stevenson  
Flat 20- 89 Holyrood Road Edinburgh EH8 8BA  
Change of use from private residential to short term commercial letting

This application concerns a property within a building known as The Park. I write as Chairman and at the request of the Park Owners Association Committee.

Please present the committee's unanimous objections (as stated below) to the Local Review Body meeting on 3/5/23

I refer to the reasons given for refusing the original application:-

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

I confirm this to be the case. with already observed examples from Short Term Lets being:-

1. Disturbance due to late night parties, particularly on balconies.
2. Loss of community due to the constantly changing neighbours.
3. Damage to common areas and floorings due to movement of heavy suitcases and general lack of care.
4. Rubbish being left in common areas as short term tenants are unaware of the correct disposal procedure.
5. Rubbish being dropped from balconies, particularly cigarette butts.
6. Reduced security due to keys being left in publicly accessible keysafes in the street.
7. Increased workload on our Concierges, distracting them from their proper duties.

2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and

the loss of a residential property has not been justified.

The impact on local amenity has already been demonstrated above. The Framework suggests that the only justification for granting such applications is where "the loss of residential accommodation" is "outweighed by local economic benefits". That is not the case here. In fact all the local economic effects are neutral or negative:-

1. Cost of additional cleaning and repairs.
2. Potential increase in block insurance premiums.
3. Visitors wishing to stay in this immediate areas can already do so using the Hotel in the building next door and several others nearby.

Other points to note are:-

1. The use properties at the Park for short term letting is expressly prohibited by the Deeds of Condition (Land Register Title deeds (MID15278)) which state "each dwellinghouse shall be used and occupied for PRIVATE residential purposes only " - section 4.1 and " The proprietors of Dwellinghouses are expressly prohibited from carrying on therein or therefrom any trade, business or profession which involves the receipt or delivery of goods or persons visiting a Dwellinghouse. " - section 4.8.
2. The Park is situated immediately adjacent to the Parliament building with many properties (although not this particular one) having balconies overlooking the Parliament Estate. Making such premises available for short term occupation must increase the opportunity for breaching the Parliament's security.

Regards

Richard Enoch

Chairman, Park Owners Association

9 The Park, 89 Holyrood Road, Edinburgh, EH8 8BA



**Sarah Forsyth**

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**From:** [REDACTED]  
**Sent:** 31 March 2023 16:36  
**To:** Local Review Body  
**Cc:** [REDACTED]  
[REDACTED] Application 22/04909/FUL

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Re. Planning Application 22/04909/FUL

Mr Stevenson  
Flat 20 89 Holyrood Road Edinburgh EH8 8BA  
Change of use from private residential to short term commercial letting

Dear Local Review Body,

I would be very grateful if my objections (as stated below) to the above planning application appeal could be taken into account at the planned Local Review Body meeting on 3/5/23.

89 Holyrood Road is a residential building comprising 79 flats. There are 2 designated commercial properties attached to the building, but for the residential flats the Land Register Title deeds (MID15278) clearly state that "each dwellinghouse shall be used and occupied for PRIVATE residential purposes only " - section 4..1

Furthermore the title Deeds state " The proprietors of Dwellinghouses are expressly prohibited from carrying on therein or therefrom any trade, business or profession which involves the receipt or delivery of goods or persons visiting a Dwellinghouse. " - section 4.8.

When I purchased my flat in 2014; it was made very clear to me prior to purchase, that the flat could not be used for short term letting as it was a residential property.

Unfortunately contrary to the stipulations mentioned above in the title Deeds, many properties have been used for short term letting, and residents are becoming increasingly affected by noise and disturbances related to these short term lets. Some areas of the building now appear to be run as an unofficial apparthotel, with the extent that residents are being subject to continual noise and damage to the fabric of the building. Occupiers of short term lets are generally unaware of refuse disposal and recycling facilities in the building to the extent that bagged rubbish is often left lying in communal areas, which has to be removed by residents.

Most flats have balcony areas which are increasingly used by occupiers of short term lets for drinking and partying often very late at night again creating noise and disturbance to residents.

In summary my objections to this application are

- 1) it is contrary to the Title Deeds for the property.
- 2) change of use will create loss of privacy for residents
- 3) residents will be subject to increased and further noise and disturbance if there is an additional short term letting property.

---

Kind regards

Graeme Abel

**Sarah Forsyth**

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**From:** [REDACTED]  
02 April 2023 15:40  
**To:** Local Review Body  
**Cc:** [REDACTED]  
**Subject:** RE: Planning Application 22/04909/FUL  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sir/Madam,

Re. Planning Application 22/04909/FUL  
Mr Stevenson  
Flat 20- 89 Holyrood Road Edinburgh EH8 8BA  
Change of use from private residential to short term commercial letting

I would be very grateful if my objections (as stated below) to the above planning application appeal could be taken into account at the planned Local Review Body meeting on 3/5/23

I refer to the reasons for refusing this application:-

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

I confirm this to be the case with examples being:-

- Disturbance due to late night parties, particularly on balconies.
- Loss of community due to the constantly changing neighbours.
- Damage to common areas and floorings due to movement of heavy suitcases and general lack of care.
- Rubbish being left in common areas as short term tenants are unaware of the correct disposal procedure.
- Rubbish being dropped from balconies, particularly cigarette butts.
- Reduced security due to keys being left in publicly accessible keysafes in the street.

2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

The impact on local amenity has already been demonstrated above.

The Framework suggests that the only justification for granting such applications is where “the loss of residential accommodation” is “outweighed by local economic benefits”. That is not the case here. In fact all the local economic effect are neutral or negative:-

- Cost of additional cleaning and repairs.
- Potential increase in block insurance premiums.
- Visitors wishing to stay in this immediate areas can already do so using the Hotel in the building next door.

In addition I would mention the security issue as this block of flats is immediately adjacent to the Parliament building with many properties (although not this particular one) having balconies overlooking the Parliament Estate.

Finally, I would also endorse all the points already made by my neighbours, which are copied below:-

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89 Holyrood Road is a residential building comprising 79 flats. There are 2 designated commercial properties attached to the building, ( a dentist and a design company ) but for the residential flats the Land Register Title deeds (MID15278) clearly state that "each dwellinghouse shall be used and occupied for PRIVATE residential purposes only " - section 4..1

Furthermore the title Deeds state " The proprietors of Dwellinghouses are expressly prohibited from carrying on therein or therefrom any trade, business or profession which involves the receipt or delivery of goods or persons visiting a Dwellinghouse. " - section 4.8.

When I purchased my flat in 2001; it was made very clear to me prior to purchase, that the flat could not be used for short-term letting as it was a residential property.

Unfortunately contrary to the stipulations mentioned above in the title Deeds, many properties have been used for short- term letting, and residents are becoming increasingly affected by noise and disturbances related to these short term lets. Some areas of the building now appear to be run as an unofficial apparthotel, with the extent that residents are being subject to continual noise and damage to the fabric of the building. Visitors of short term lets are generally unaware of refuse disposal and recycling facilities in the building to the extent that bagged rubbish is often left lying in communal areas, which has to be removed by residents.

Most flats have balcony areas which are increasingly used by occupiers of short term lets for drinking and partying often very late at night again creating noise and disturbance to residents.

In summary my objections to this application are

- 1) it is contrary to the Title Deeds for the property.
  - 2) change of use will create loss of privacy for residents
  - 3) residents will be subject to increased and further noise and disturbance if there is an additional short term letting property.
- 

Regards

Richard Enoch

9 The Park, 89 Holyrood Road, Edinburgh, EH8 8BA



[REDACTED]

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**Sent:** 17 April 2023 20:26  
**To:** Local Review Body  
**Subject:** Re: Local Review Further Representations for Application No 22/04909/FUL

Hi Gina,

Thanks for forwarding those to me. My comments on these are as below:

It would look like the objections to the change of use are worded in the same format with the same points listed. They even refer to the other objections, so it is obvious that this is a coordinated campaign to halt the planning permission on this flat rather than representative of individual flat owners, there are over 100 flats in this development and so a coordinated response from 4 other flats owner (only 1 being in the vicinity of mine) is very much in the minority.

As to the points they list, I appreciate the concern about parties and loudness from people visiting the airbnb (this can also be the case with residents) - however, the management company for the property ([passthekeys.co.uk](https://passthekeys.co.uk)) vet guests thoroughly and do not allow large groups or younger people who have parties - there is no instant book option on it (thus the lack of any complaints in 4 years as mentioned below). There is insurance in place with guardhog if there was damage to the property or communal areas - there have been 0 issues with this to date.

Furthermore, there seems to be an assumption that this is for a new short term let property, when in fact this property has been a short-term rental since September 2019 and listed as a FHL during that time (apart from a short period during the Pandemic). In that time I, nor the management company have received 0 complaints from neighbours. If there had been complaints and the rental of this flat was an issue then I would have expected to hear about that before now. I am assuming that the objections are based upon other properties that have been rented without due concern for neighbours and mine is being painted with the same brush. For example, there is no security issue with lock boxes as keys are picked up directly with the concierge, the flat is on the 1st floor and has access by a lift - so there are no heavy bags being dragged up stairs or causing damage. There is no balcony in the flat for people to hang out on and cause noise (different flats do have balconies). The flat isn't overlooking the parliament building, it is overlooking the car-park at the back of the development. There is 24 hour security and concierge at the property. The guest manual tells them directly where to place rubbish bags - but during short term stays mostly it is the cleaners who deal with the garbage. IT does provide accommodation WITH parking for those visiting the parliament a lot cheaper than any neighbouring hotels, it is in the heart of a prime tourist location - how will the fringe festival and other events cope with the loss of short-term accommodation?

Regarding the clause in the title deeds, I specifically raised this point with the solicitors when purchasing this flat as the intention was to use it as an airbnb - I was assured at the time that it did not refer to short term rentals and was more directed at running a trade business with customers. That is the specific reason I chose to go ahead with the purchase and you can see that almost immediately it has been run as a short-term rental ever since. It is my understanding and my solicitors at the time that having this as a short-term rental is not contrary to the title deeds.

In summary, I understand the concerns about noise and anti-social behaviour - however, I feel these are based on other properties that have not been managed properly and in fact most of it is from balconies which my flat does not possess - it is at the very back on the development and not facing into communal areas, the management company vets guests, there are no security issues with key boxes, and there have been 0 complaints to myself or them during 4 years of renting this property as a short-term let.

I hope this will be taken into consideration so my specific proposal isn't denied due to bad experiences from less responsible property owners. If granted I would ensure to maintain the relations with the neighbours and deal with



any issues arising immediately, making sure all licenses are in place and being a responsible host with a reputable managing company. This company has a 24/7 guest support line and I would be happy to pass this number to any neighbours with concerns so they can contact them immediately if any issue should arise.

Best Regards,

James Stevenson

On Mon, 17 Apr 2023 at 06:35, <[localreviewbody@edinburgh.gov.uk](mailto:localreviewbody@edinburgh.gov.uk)> wrote:

Please See Attachedletter attached from Edinburgh City Council with regard to the local review body ref number 23/00041/REVREF.

\*\*\*\*\*

This email and files transmitted with it are confidential and are intended for the sole use of the individual or organisation to whom they are addressed.

If you have received this eMail in error please notify the sender immediately and delete it without using, copying, storing, forwarding or disclosing its contents to any other person.

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Ms Brown  
178 Pleasance  
Edinburgh  
EH8 9RT

**Decision date: 15 March 2023**

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

Change of use from residential to short-term holiday accommodation.  
At 178 Pleasance Edinburgh EH8 9RT

**Application No: 22/05431/FULSTL**

**DECISION NOTICE**

With reference to your application for Planning Permission STL registered on 27 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;

**Conditions:-**

1. No conditions are attached to this consent.

**Reason for Refusal:-**

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

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

Drawings 01A, 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 James Armstrong directly at [james.armstrong@edinburgh.gov.uk](mailto:james.armstrong@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://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](mailto:localreviewbody@edinburgh.gov.uk).

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

∴

# Report of Handling

**Application for Planning Permission STL  
178 Pleasance, Edinburgh, EH8 9RT**

**Proposal: Change of use from residential to short-term holiday accommodation.**

**Item – Local Delegated Decision  
Application Number – 22/05431/FULSTL  
Ward – B15 - Southside/Newington**

## **Recommendation**

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

## **Summary**

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the adverse impact on residential amenity.

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

## **SECTION A – Application Background**

### **Site Description**

The application site is a one bedroom, ground floor flat located off a cul de sac to the Eastern side of Pleasance. The property has its own main door access.

The section of Pleasance where the application site is located is of predominantly residential character. The surrounding area is more mixed, with the adjoining section of Pleasance containing a medical centre and a hot food takeaway. Bus links are relatively accessible from the site.

### **Description Of The Proposal**

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

### **Supporting Information**

- Planning Statement
- Planning Statement regarding NPF4

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No other relevant site history was identified.

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 15 March 2023

**Date of Advertisement:** Not Applicable

**Date of Site Notice:** Not Applicable

**Number of Contributors:** 7

## **Section B - Assessment**

### **Determining Issues**

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and
- any other identified material considerations.

### **Assessment**

## a) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

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

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

### Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (b) and (e) specifically relate to STL proposals.

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

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to a short term let will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand and
- The nature and character of any services provided.

In connection to short term lets it states, "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

### *Amenity*



The application property has its own main door access and is located within a predominantly residential area. There is a low to moderate degree of activity in the immediate vicinity of the property at any time.

The use of the property as an STL would introduce an increased frequency of movement to the property. The proposed two bedroom STL use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home.

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

This would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions and amenity of nearby residents. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

#### *Loss of residential accommodation*

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential property this will only be supported where the economic benefits of the proposals are outweighed by demonstrable local economic benefits.

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

The applicant has provided a planning statement outlining the location of the property as popular with tourists, and as being of benefit to local shops, restaurants tourist attractions and the wider local economy. The applicant also notes that should the application be refused they would choose to keep the property as a second home rather than letting it on a long term basis, meaning that there would be no loss of residential accommodation arising from the application.

However, the choice of the applicant to retain the property as a second home is not material as to whether the proposed development is acceptable, the use of which as an STL would result in the loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh it is important to retain, where appropriate.

Furthermore, residential occupation of the property also contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

In this instance it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by local economic benefits arising from the STL use. As such, the proposal does not comply with NPF 4 30(e) part (ii).

### Parking Standards

There is one vehicle parking space and no cycle parking. This is acceptable as there are no parking requirements for STLs.

The proposal complies with LDP Policies Tra 2 and Tra 3.

### **Conclusion in relation to the Development Plan**

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

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

The following material planning considerations have been identified:

#### Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. Public representations have raised a potential impact on a person with a protected characteristic. The impact on the person with a protected characteristic is as a result of the nature of the STL use impacting on amenity. This has been considered as under section (a) of this assessment.

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.

### **Conclusion in relation to other material considerations**

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

#### Public representations

A summary of the representations is provided below:

7 objections

0 in support  
0 neutral

#### *material considerations in objection*

- Inappropriate use in this location. Addressed in section A.
- Impact on residential amenity. Addressed in section A.
- Loss of residential accommodation. Addressed in section A.
- Impact on the local community. The change of use of one property to an STL will not have a significant impact on the local community.
- Impact on waste and recycling. The properties contain suitable refuse and recycling facilities for their proposed use.
- Impact on a person with a protected characteristic. Addressed in section B.

#### *non-material considerations*

- Impact on a Conservation Area.
- Amenity impacts from building works to the property.
- Illegal waste disposal as part of building works to the property.
- Drainage access.
- Relationship between the applicant and neighbours.
- Allegations of the applicant parking illegally and behaving in an anti-social way.
- The applicant's motives.

#### **Overall conclusion**

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the adverse impact on residential amenity. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

### **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

#### **Conditions**

1. No conditions are attached to this consent.

#### **Reasons**

##### **Reason for Refusal**

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this

dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

### **Background Reading/External References**

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

**Further Information** - [Local Development Plan](#)

**Date Registered: 27 October 2022**

### **Drawing Numbers/Scheme**

01A, 02

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: James Armstrong, Assistant Planning Officer  
E-mail: [james.armstrong@edinburgh.gov.uk](mailto:james.armstrong@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.

# Comments for Planning Application 22/05431/FULSTL

## Application Summary

Application Number: 22/05431/FULSTL

Address: 178 Pleasance Edinburgh EH8 9RT

Proposal: Change of use from residential to short-term holiday accommodation.

Case Officer: Improvement Team

## Customer Details

Name: Dr Alison Whyte

Address: 15 Roseneath Place Edinburgh

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The proposed use as short term let accommodation does not comply with the residential nature of tenement buildings.

The high turnover of visitors will cause extreme disturbance and the transient visitors will have an adverse effect on long standing residents, amenities and resident safety and privacy. This is particularly important for the more elderly and vulnerable members of this area.

The current housing crisis is also not helped by STL properties, and they have already had a devastating effect on our communities and housing stock, with absolutely no need for this to be allowed in an already over saturated market.

This proposal should be objected immediately to help preserve our community, conservation area and resident safety.

# Comments for Planning Application 22/05431/FULSTL

## Application Summary

Application Number: 22/05431/FULSTL

Address: 178 Pleasance Edinburgh EH8 9RT

Proposal: Change of use from residential to short-term holiday accommodation.

Case Officer: Improvement Team

## Customer Details

Name: CC Stephen Rodger Benson

Address: 41 Clerk Street 1F2 Edinburgh

## Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am writing on behalf of the Southside Community Council:

We at the Southside Community Council object to this application.

Edinburgh's housing is already under significant pressure, with demand being quite high, driving up both rental and purchase prices for residents, and making it harder to find suitable accommodation in the first place (including for students). Short Term Lets exacerbate this by removing properties from the private rental market or diverting them from being sold on. This is an application to convert from residential use, and we feel should be rejected on those grounds alone. This small ground floor flat with good shopping provision in pretty easy walk would work well for an older person or couple living on their own, or a young couple or person living on their own, given its relatively convenient location for working in many parts of the city.

Short term lets also put extra pressure on local services. With the new groups of visitors arriving and departing, sometimes in rapid succession after each other, this often produces notably extra rubbish as things are cleared out after each group, sometimes contributing to overflowing bins, particularly in high density residential areas such as where this flat is.

STLs often cause disruption for neighbours. The arrivals and departures of visitors with their luggage, sometimes at anti-social hours, can be disturbing for neighbours. Visitors are sometimes less careful about being considerate for neighbours, and given the turnover in visitors it increases the chance of this happening eventually, and any resolution of a problem has no guarantee of lasting beyond an individual stay. While this is most pronounced in shared stairways, it is not eliminated with main door flats.

A lack of long term residents also undermines the sense of a local community. Communal stairs exist where many, or even most, the flats are STL. People find it harder to find accommodation in their local area, and can even feel forced out by the disruption or the isolation of having STL around them. Even main door flats, like this one, play into this, as residents who live in main door flats are often many of the most visible members of a local community. This is particularly the case where, like this, the flat is among other main door flats and has a garden space and it would leave residents with fewer neighbours. As the Community Council, we are aware that the Southside already has difficulties with community involvement as a result of the comparatively transient population, and this trend should not be reinforced by approving more Short Term Lets.



# Comments for Planning Application 22/05431/FULSTL

## Application Summary

Application Number: 22/05431/FULSTL

Address: 178 Pleasance Edinburgh EH8 9RT

Proposal: Change of use from residential to short-term holiday accommodation.

Case Officer: Improvement Team

## Customer Details

Name: Ms Suzanne Felix

Address: 14/9 South Carron Wynd Edinburgh

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I used to live on 180 and know yet another short-term let will be detrimental to the neighbourhood. It increases noise and nuisance levels and it also means less affordable housing for local people.

# Comments for Planning Application 22/05431/FULSTL

## Application Summary

Application Number: 22/05431/FULSTL

Address: 178 Pleasance Edinburgh EH8 9RT

Proposal: Change of use from residential to short-term holiday accommodation.

Case Officer: Improvement Team

## Customer Details

Name: Mr Morris Sinclair

Address: 3/2 Walkers Rigg Edinburgh

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have family living there who are adversely affected by these proposed changes;

Residents MUST come first !!

# Comments for Planning Application 22/05431/FULSTL

## Application Summary

Application Number: 22/05431/FULSTL

Address: 178 Pleasance Edinburgh EH8 9RT

Proposal: Change of use from residential to short-term holiday accommodation.

Case Officer: Improvement Team

## Customer Details

Name: Mr Kevin McColl

Address: 48 Carnegie Court Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The proposed use of this property as a holiday let accommodation & the high turnover of visitors this will bring will cause extreme disturbance not only to the direct neighbours but the entire Carnegie Court community which is slowly but surely turning into a HOTEL block!

Not knowing who is coming and going is also a security risk for those of us who are in the elderly & vulnerable.

There are already several short term tenancies within our block as it is, some of those are running as airbnbs or for let via booking.com.

The current housing crisis is also not helped by these Short term let properties, and this is having a devastating effect on our shrinking community, and it seems long term residents are treated as non entities by the council who are approving these applications without considering the impact these holiday let's are having on our mental health and well-being.

The applicant has also shown a lack of respect to any of us living in the block by dumping building materials in our bins and in the adjoining Palladin bin to the 1st block on more than one occasion.

I therefore object to this application being granted to preserve our community.

RESIDENTS must come before TOURISTS.

# Comments for Planning Application 22/05431/FULSTL

## Application Summary

Application Number: 22/05431/FULSTL

Address: 178 Pleasance Edinburgh EH8 9RT

Proposal: Change of use from residential to short-term holiday accommodation.

Case Officer: Improvement Team

## Customer Details

Name: Mr David Whitecross

Address: 180 Pleasance Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:1/The applicant property is adjoined to others (180 Pleasance (Nextdoor) & 43 Carnegie Court (Upper)) which will lead to noise and disruption for residents in these properties, 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, especially during Christmas/New Year & during the Festival! Frequent changeovers of guests would also mean more coming and going than would be normal in mainstream houses, which could be in the early hours for guests to catch flights etc. Consequently, the proximity of the holiday homes to numbers 43 Carnegie Court & 180 Pleasance could well lead to a reduction in residential amenity for residents in these homes.

2/There would also be an additional level of activity at the property as a result of people accessing the property to clean it. This level of activity would be intensified during periods where guests stay for short periods.

3/The applicant property does not share an internal access stair with other flats. BUT the communal path used for its access passes very close(20ft) to noise-sensitive parts of other residential properties(the bedrooms are situated to the front of the property). I believe that on balance it would not accord with policy Hou 7 of the Edinburgh Local Development Plan (2016). This says that changes of use which would have a materially detrimental effect on the living conditions of nearby residents will not be permitted.

4/ The presence of so many strangers could introduce concerns over security which, even if not well founded, would inevitably detract from the amenity of the occupants of the other 7 homes within this section of the block. This would be materially different to what would be the case if the flat's occupants remained the same for months or even years, as one could reasonably expect if it

were occupied in accordance with its planning permission. There is also the fact that 180 Pleasance has already had incidents occur due to STL's not being pinpointed properly on a map with guests just walking in to their home and becoming aggressive! [REDACTED]

5/ The long term building works, using the common access thoroughfare as a skip/building materials storage area, dumping their building materials in the Palladian bin every week and the applicant currently refusing access to the drain that services other properties in the block, is causing an increase in conflict between the applicant and the permanent residents and this is BEFORE their STL application has been granted. They have had no respect for the other neighbours since day one, not even apologising for the length of the works (almost a year!), turning up at 7am and using power tools and on a Sunday too! The Police have been called to the applicants workmen and father and also an email with the incident number sent to Scott Robertson, Edinburgh Council, who didn't even give us the decency of a response! [REDACTED]

Taking all of these matters together, despite the size and ground floor location of property, I consider that the number and nature of arrivals and departures to and from the flat, the likelihood of increased noisy activity for neighbouring properties (including late in the evening), and increased activity as a result of cleaning, maintenance etc, would all be at increased levels compared to what would be expected were the property in long term use by a single household.

Therefore we have no alternative but to OBJECT to this application

# Comments for Planning Application 22/05431/FULSTL

## Application Summary

Application Number: 22/05431/FULSTL

Address: 178 Pleasance Edinburgh EH8 9RT

Proposal: Change of use from residential to short-term holiday accommodation.

Case Officer: Improvement Team

## Customer Details

Name: Ms Catherine Cameron

Address: 182 Pleasance Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The proposed use as short term let accommodation & its high turnover of visitors will cause extreme disturbance and the transient visitors will have an adverse effect on the long standing residents, including their safety and privacy.

This is particularly important for the more elderly and vulnerable members of this area such as myself.

I have had people banging on my doors in the past looking for nearby airbnbs at all hours which as an elderly lady living alone is frightening enough.

The current housing crisis is also not helped by these STL properties, and they are having a devastating effect on our shrinking communities and housing stock, with absolutely no need for this to be allowed in an already over saturated market.

In this block of 8 there are only 3 long term residents (180, 182 and 40 Carnegie Court) the rest being short term tenancies or holiday lets, and that isn't taking into consideration the rest of Carnegie Court, with its several airbnbs and high turnover of tenants in the short term tenancies. Then comes the disturbance for almost a year and the upheaval and dumping materials outside our gates and of course the downright rudeness from the applicants father and his employed workers towards the long term residents here with no respect given whatsoever. They repeatedly parked alongside my vehicle on the yellow lines so that I couldn't get into it and refused to move their van when asked on my behalf by my neighbour in 180, replying with expletives. [REDACTED]

They have come in and swooped on this flat for the purpose of making money ONLY. And do not care about anyone other than themselves.

This proposal should be objected immediately to help preserve our community, and to prioritise current residents safety.

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto: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      100621709-001

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

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	178
First Name: *	Stacey	Building Number:	
Last Name: *	Brown	Address 1 (Street): *	Pleasance
Company/Organisation		Address 2:	
Telephone Number: *	[REDACTED]	Town/City: *	Edinburgh
Extension Number:		Country: *	City of Edinburgh
Mobile Number:		Postcode: *	EH8 9RT
Fax Number:			
Email Address: *	[REDACTED]		

## Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

178 PLEASANCE

Address 2:

NEWINGTON

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH8 9RT

Please identify/describe the location of the site or sites

Northing

673053

Easting

326345

## 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, application: 22/05431/FULSTL

## 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.

Incorrect information in the report of handling which has been used to base this decision on. Assumptions used in the report of handling which has been used to base this decision on. Council failure to decide this case in a timely manner and inform the applicant of non-determination process resulting in additional regulatory standards needing met [NPF 4 policy 30 (e) part (ii)] which has been used as a reason for refusal.

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)

See report of handling response from the applicant.

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)

1. Supporting statement- 27 October 2022 2. Supporting statement- 12 February 2023 3. Decision notice 4. Report of handling 5. Report of handling- applicants response 6. Map of property

## Application Details

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

22/05431/FULSTL

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

27/10/2022

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

15/03/2023

## 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 Stacey Brown

Declaration Date: 17/03/2023

**12 February 2023**

**Planning statement in response to National Planning Framework 4 (NPF 4) Policy 30(e) for 178 Pleasance:**

**In response to e) i and ii.**

1. The owner wishes to respond to the policy note but would highlight that the determination date for a decision to be made on this application was 23 December 2022. Had the Council provided a decision within the required timescale this would not have been a material consideration in the determination of this case.

2. Policy 30(e) is just one sub-policy of the NPF4 and NPF4 needs to be considered as a whole when applying it to this case. Further, The NPF4 Explanatory Report: November 2022 recognises that limited guidance is provided on minimising the adverse impacts of short-term lets and that proposals are to be considered on a local level. As such, the applicant submits that particular weight should continue to be given to local policies such as the Edinburgh Local Development Plan (LDP) and Edinburgh's City Centre Transformation Plan (referenced in the NPF4) and guidance which provides further detail on minimising adverse impacts, such as the Planning Guidance for Hosts and Operators issued by the Scottish Government (referenced in the original supporting statement for this application).

3. In terms of the NPF4, the owner would note that the following policies are also directly applicable:

*Policy 30(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;*

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

4. Considering Policy 30(b)(i), the property is located in Edinburgh City Centre and is surrounded by shopping, leisure, cultural, arts and other tourist facilities. As such, it is ideally located to bring tourists into the city, who will contribute to the local economy and support the jobs of over 31,000 people employed in the tourism sector in Edinburgh (as at the date of the LDP). The city centre is identified within the LDP as being the preferred location for most visitors and given that the majority of tourist destinations are within walking distance from the property, it will also align with Edinburgh's City Centre Transformation Plan. The property is also within walking distance of Waverly train station and a key element of this plan is to deliver a walkable city centre with a pedestrian priority zone and a network of connected, high-quality, car-free streets.

5. Turning to Policy 30(b)(iv), the development proposal is in line with this policy given that it is highly unlikely to increase the number of cars in the area or have any impact on parking. It should also be noted that this policy should be given particular weight, given

that it aligns with Edinburgh's City Centre Transformation Plan which seeks to significantly reduce on-street parking, giving greater priority to residents and blue badge parking. As noted in the original application, the public thoroughway street leading to the property has metered parking only with a maximum stay of up to 4 hours. As guests are not eligible for resident parking, no loss of parking for neighbours will result where the application is approved. The majority of guests to this area would be expected to arrive by public transport. Promoting the use of Waverley station is a key part of Edinburgh's City Centre Transformation Plan and the close proximity of the property to Waverley would clearly encourage tourists to use the train. This promotes sustainable travel and access to the rest of Scotland by train and thus, is in line with both Policy 30(b)(iv) and the overarching policy intent of NPF Policy 30 to promote sustainable tourism development across Scotland.

6. NPF4 Policy 30(b)(ii) is highlighted as of particular importance. There is a balance to be achieved between encouraging, promoting and facilitating sustainable tourism and minimising the impact on residential accommodation and the applicant submits that Policy 30(b)(ii) is a key factor to consider in determining whether this balance has been met. This is supported by a number of recent planning appeals, which should also be taken into account as a material consideration. The respective Reports of Handling have all noted that the reasoning set out in the appeals are relevant in helping to assess whether short stay letting is acceptable or not (see points 11 to 14 for further detail on appeals which are considered relevant for this case). The Reports of Handling in each case have referred to the main determining issues as comprising the following matters which are considered individually below:

*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.*

It is submitted that the above issues provide guidance as to how Policy 30(b)(ii) of NPF4 should be applied in practice.

7. The property at 178 Pleasance enjoys its own private access and does not rely on any communal areas.

8. The property at 178 Pleasance is small in scale and only has 1 bedroom which is comfortable for 2 people. This is not considered an unusual overall quantum of people to be using a property of this type. The specific movements of a couple renting the property 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, while in the evening, the abundance of places to eat and drink in the local area might result in many guests leaving the property for the whole evening and returning only to sleep.

9. 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. As noted previously in the original supporting statement, there is a well-provisioned supermarket a short-distance away on Nicolson Street that it seems likely many guests would use to undertake convenience food shopping. It is considered quite unlikely here that guests would order a large online food delivery to the property. The presence of so many restaurants nearby also means that the likelihood of hot food being delivered to the property must be considered as being no greater than with any other residential properties in the area (and potentially less, given that tourists will want to experience the atmosphere of the wide range of restaurants and bars that Edinburgh city centre has to offer).

10. As explained previously in the original supporting statement, the surrounding wider neighbourhood is a busy and dynamic area, and the property itself is located around 200 yards from Nicolson Street, a key shopping street and bus-route recognised in the Adopted Local Development Plan as providing the Southside of the city with a 'town centre' function. 178 Pleasance sits directly opposite the University of Edinburgh self-catered student halls, Deaconess House. Deaconess House hosts over 300 students. Students are transient in nature in line with term dates, holidays and the academic year therefore current local residents would be used to a general level of movement and noise. A bin store for these students and a 24-hour Amazon Locker which is open to the public also sit opposite the property. Footfall within this area is considerable 24 hours per day because of this.



**Image 10a-** Property (in red) in relation to bin store (in green) and Amazon locker (in blue) located outside student halls of residence

**Image 10b-** 24 hour Amazon Locker



11. 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 178 Pleasance. Of particular relevance the Reporter noted the following in that 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”.*

14. The recent appeal decision under reference PPA-230-2367 overturned the refusal of planning application 21/04512/FUL at 1B Fingal Place, Sciennes. Describing the general ambience of the Meadows area – a short distance from the current proposal’s site - 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”.*

15. Further, in the successful recent appeal decision for 4/4A Dewar Place Lane (reference PPA-230-2328), the DPEA Reporter noted the following; which is also considered to be comparable to the situation at 178 Pleasance:

*“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”.*

16. It is significant that in the recent 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 at 178 Pleasance as reflecting the level of activity that acting reasonably, one might expect to experience in an area such as this.

17. In summary, when assessing appeals for Change of Use applications such as this, the Directorate of Planning and Environmental Appeals has identified a number of key tests and considerations that should be material to the determination process. These are all associated with assessing compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors (and hence, provide detailed guidance as to how NPF Policy 30(b)(ii) is to be applied in practice). They also provide practical guidance that the NPF4 itself recognises is lacking on how adverse impacts of short-term lets can be mitigated and the considerations that are particularly relevant to Edinburgh and have been recognised by City of Edinburgh Council Planning Officers. Importantly, when assessed against these tests and considerations, it is contended that the proposed use of this property for short-term letting should be considered acceptable.

18. As for Policy 30(e) itself, the acceptability of short-term lets in predominantly residential areas is noted. In this case the host area is residential but with a large and important mixed-use area within the city with significant footfall at day and night. It is considered that this proximity to such activity has traditionally and continues to largely inform the character of this particular residential area which is considered to be in no way suburban or sedentary in nature.

19. The owner of the property paid additional LBTT on the property at the time of purchase, as 178 Pleasance is a second home for the owner. The property has been used for short-term rentals since this purchase but it has never been used and there has never been any intention to use it as a long-term let. As the owner works in Edinburgh and has her main residence in Tayside, this enables her to use the property flexibly to stay in Edinburgh for work when she requires. This works well alongside use as a short-term rental (which has the significant, additional benefit of promoting tourism in the area), whilst a long-term tenant in situ would not work with the owner's requirements. Should the short-term planning application be unsuccessful, the applicant will continue to use the property as a second home for personal use only. Given that a long-term tenant is unsuitable for the owner's requirements, there is no loss of residential accommodation should the application be approved. Local economic benefits for example by short-term visitor spending in local supermarkets, tourist attractions and public transport will be greater in the case where the application is approved.

20. In conclusion, although NPF4 Policy 30(e) is a material consideration, it should be judged alongside the other determining factors of this case and not in silo to the other policies. The applicant contends that support can be found for the application in NPF4 Policy 30(b)(i), (ii) and (iv), Edinburgh's City Centre Transformation Plan, the Planning Guidance for Hosts and Operators issued by the Scottish Government and local planning appeals. Given that there is no loss of residential accommodation (as the owner would exclusively use the property as a second home in the event that the planning application is unsuccessful) and the local economic benefits are substantial and in line with the City Centre Transformation Plan, the local economic benefits clearly outweigh the residential accommodation considerations in this case.



Accompanying notes to support the planning application for the change of use from residential to short-stay for property:

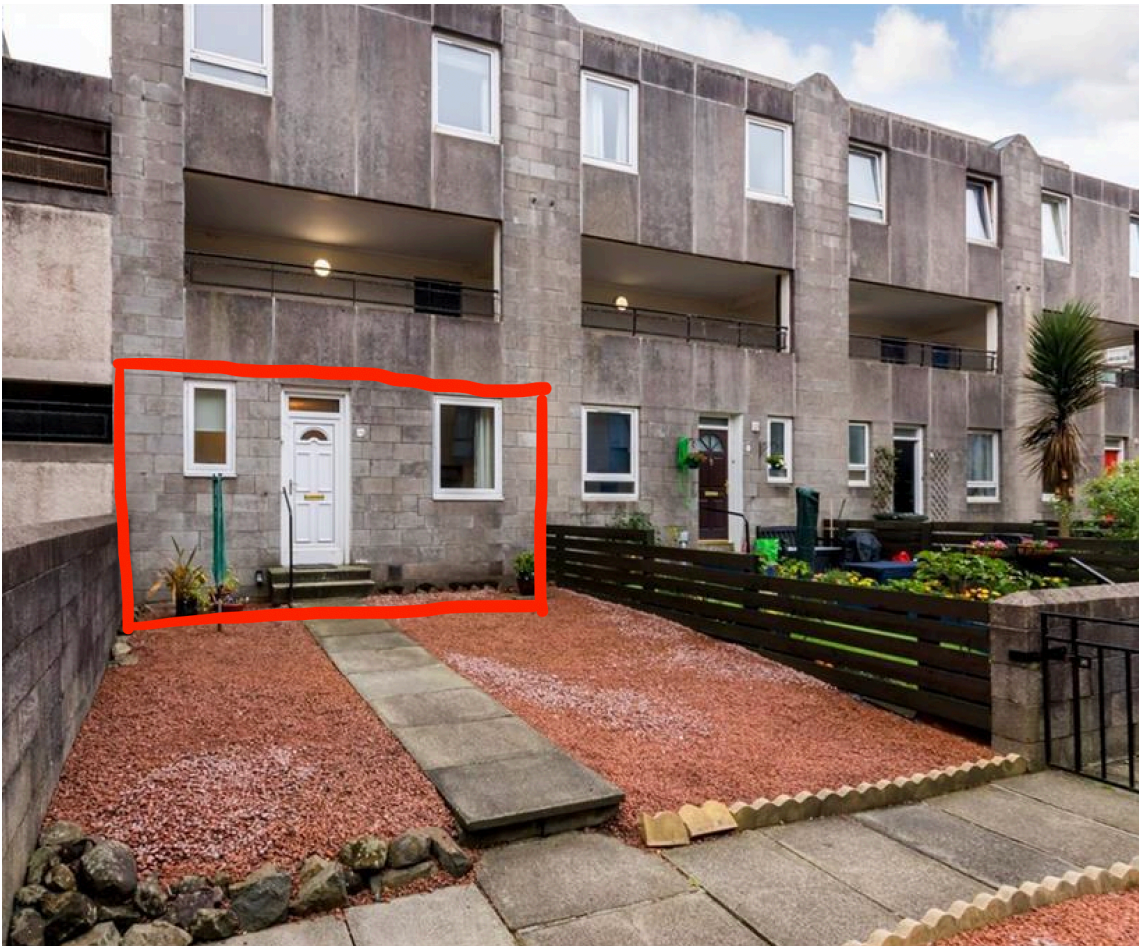
## 178 Pleasance, Edinburgh, EH8 9RT

### Contents

1. Property Location
2. Property Layout
3. Material factors to consider to support application permission

### 1. Property Location

The property is located in the Pleasance area of Edinburgh. The property is **not** within a conservation area and is **not** a listed building. The property is a main-door ground floor flat and is accessed via a private front door. There is a private front garden which leads to the front door and the garden gate borders a public thoroughfare. There is no communal access or stairwell to the property.





# LAND REGISTER OF SCOTLAND



178, PLEASANCE, EDINBURGH, EH8 9RT

Survey scale 1:1250

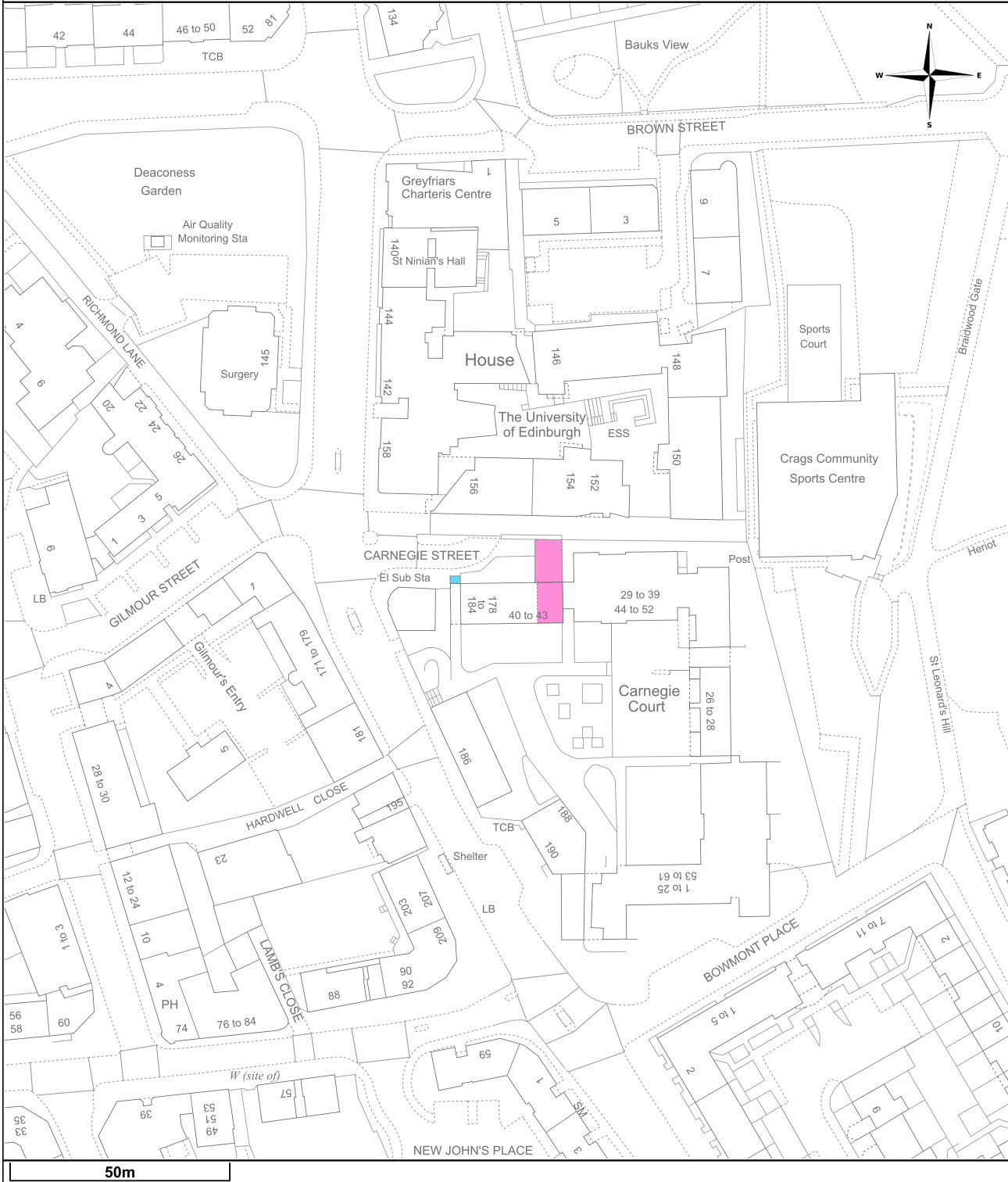
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09/10/2019

REQUEST NUMBER 5924233MID

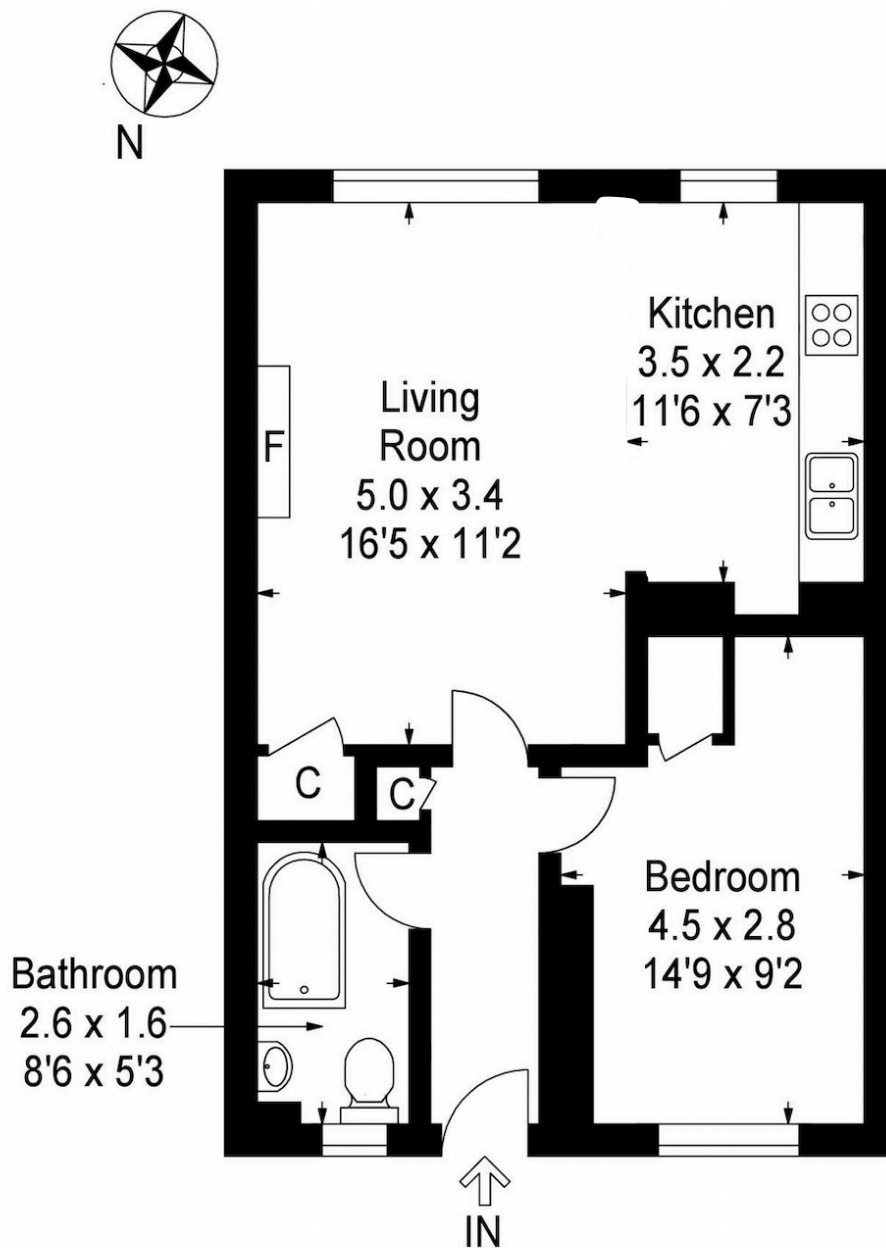
326231 672926 326461 673189

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## 2. Property Layout

The property consists of an open plan living, dining and kitchen area, one bedroom and one bathroom:



A building warrant (ref: 22/01595/WARR) was approved in May 2022 to knock down a wall between the living room and kitchen. A completion certificate for this work was issued on 25 October 2022. Please note that the layout above reflects the changes made as part of building warrant submission.

### 3. Material factors to consider to support application permission

In reference to planning guidance for hosts and operators issued by the Scottish Government the applicants wish for the following to be considered in support of their application:

- I. Guest arrivals and departures
  - A. Guests to the property have no access to communal areas (for example stairways or gardens).
  - B. Maintenance and cleaning services used to support the provision of guest accommodation have no access to communal areas (for example stairways or gardens).
- II. Impacts to other residents in flatted buildings
  - A. The property is accessed via a private front door. There are no communal entrances to the flat.
- III. Impact on public services and residents amenity
  - A. The public thoroughway street leading to the property has metered parking only with a maximum stay of up to 4 hours. As guests are not eligible for resident parking no loss of parking for neighbours will result where the application is approved. It may be noted that the majority of guests to this area arrive by public transport (e.g. Waverley train station is only a 15 minute walk away from the property). In the event that a guest does arrive by car there is plentiful parking provision at St Leonard's Car Park which is a 5 minute walk away from the property and at the NCP car park on Holyrood Road which is a 10 minute walk away from the property.
- IV. Number of people staying and cumulative impact on character and neighbourhood amenity
  - A. The property provides comfortable accommodation for 2 people being a one-bedroom dwelling. Large numbers of guests (5+) are unsuitable for this property type and are not allowed by the owners. The restrictions on guest numbers keeps impacts of parking, waste and other inconveniences to a minimum.
  - B. The businesses immediately surrounding the property consist largely of restaurants (Thai 2 go- 220 Pleasance); bars (the Southsider Pub- 3 W Richmond St), cafes (The Richmond Cafe- 52 W Richmond S) and entertainment venues (Pleasance Theatre Trust, 60 Pleasance) which would all benefit from the activities of guests and positively support the local community.



Ms Brown  
178 Pleasance  
Edinburgh  
EH8 9RT

**Decision date: 15 March 2023**

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

Change of use from residential to short-term holiday accommodation.  
At 178 Pleasance Edinburgh EH8 9RT

**Application No: 22/05431/FULSTL**

**DECISION NOTICE**

With reference to your application for Planning Permission STL registered on 27 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;

**Conditions:-**

1. No conditions are attached to this consent.

**Reason for Refusal:-**

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

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

Drawings 01A, 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 James Armstrong directly at [james.armstrong@edinburgh.gov.uk](mailto:james.armstrong@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://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](mailto: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- Applicant's Response

1. There is a 24 hour Amazon locker opposite the flat which is open to the public. The 24 hour bin store for Deaconess House also sits opposite the flat. Deaconess House which sits directly in front of the property hosts over 300 University of Edinburgh students. Therefore there is a considerable degree of activity 24 hours a day in the immediate vicinity. Therefore there is not a '*low to moderate degree of activity in the immediate vicinity of the property at any time*' as the Council states.
2. The property has one bedroom and is not '*two bedroom SLT* [short term let]' as stated in the report of handling.
3. Given the substantial student population in the local vicinity, movement and travel during holidays, term time and irregular patterns of movement throughout the year are already common to residents. As students often take weekend trips or travel home for periods of time, suitcase and travel noise is already common to residents. Therefore the owner would dispute the Council's comments that approval of one STL would '*be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions and amenity of nearby residents.*' The Council's comments that one short term let would '*enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents*' is unfounded as students are a large transient population.
4. The Council has not engaged the applicant on any discussions in respect of when guests would arrive and depart at the property. Therefore comments which state that '*there is no guarantee that guests would not come and go frequently throughout the day and night*' are unjust. The applicant is happy to have a dialogue with the Council and agree what appropriate arrival and departing times are. The same applies to when the property would be serviced/ cleaned.
5. The determination deadline for this case was due in December 2022. Had the Council met this deadline NPF 4 policy 30 (e) part (ii) would not have been a material factor as it only came in to force in 2023. Therefore this application should be reviewed in line with the rules at the time of application up to the determination date. Applicants should not be penalised for Council failings.
6. No extension of the December 2022 deadline was communicated or agreed with the applicant.
7. The Council informed the applicant that she had the right to appeal for non-determination to the Secretary of State. The Council did inform the applicant that she had the right to ask for a review by the Local Review Body if the application has not been determined within the 2 month time period for a decision, which would have been 26 December 2022. If this was communicated, the applicant would have taken this to the LRB for consideration and NPF 4 policy 30 (e) part (ii) would not have been a material factor as it only came into force in 2023.
8. The applicant would like to see evidence from the Council about how they can prove that there would be loss of 'residential accommodation' where the SLT application is approved. As this is one of the main reasons for refusal, evidence to substantiate this assumption is sought.



# Report of Handling

**Application for Planning Permission STL  
178 Pleasance, Edinburgh, EH8 9RT**

**Proposal: Change of use from residential to short-term holiday accommodation.**

**Item – Local Delegated Decision  
Application Number – 22/05431/FULSTL  
Ward – B15 - Southside/Newington**

## **Recommendation**

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

## **Summary**

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the adverse impact on residential amenity.

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

## **SECTION A – Application Background**

### **Site Description**

The application site is a one bedroom, ground floor flat located off a cul de sac to the Eastern side of Pleasance. The property has its own main door access.

The section of Pleasance where the application site is located is of predominantly residential character. The surrounding area is more mixed, with the adjoining section of Pleasance containing a medical centre and a hot food takeaway. Bus links are relatively accessible from the site.

### **Description Of The Proposal**

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

### **Supporting Information**

- Planning Statement
- Planning Statement regarding NPF4

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No other relevant site history was identified.

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 15 March 2023

**Date of Advertisement:** Not Applicable

**Date of Site Notice:** Not Applicable

**Number of Contributors:** 7

## **Section B - Assessment**

### **Determining Issues**

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and
- any other identified material considerations.

### **Assessment**

**a) The proposals comply with the development plan?**

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

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

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

Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (b) and (e) specifically relate to STL proposals.

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

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to a short term let will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand and
- The nature and character of any services provided.

In connection to short term lets it states, "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

*Amenity*

The application property has its own main door access and is located within a predominantly residential area. There is a low to moderate degree of activity in the immediate vicinity of the property at any time.

The use of the property as an STL would introduce an increased frequency of movement to the property. The proposed two bedroom STL use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home.

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

This would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions and amenity of nearby residents. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

#### *Loss of residential accommodation*

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential property this will only be supported where the economic benefits of the proposals are outweighed by demonstrable local economic benefits.

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

The applicant has provided a planning statement outlining the location of the property as popular with tourists, and as being of benefit to local shops, restaurants tourist attractions and the wider local economy. The applicant also notes that should the application be refused they would choose to keep the property as a second home rather than letting it on a long term basis, meaning that there would be no loss of residential accommodation arising from the application.

However, the choice of the applicant to retain the property as a second home is not material as to whether the proposed development is acceptable, the use of which as an STL would result in the loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh it is important to retain, where appropriate.

Furthermore, residential occupation of the property also contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

In this instance it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by local economic benefits arising from the STL use. As such, the proposal does not comply with NPF 4 30(e) part (ii).

### Parking Standards

There is one vehicle parking space and no cycle parking. This is acceptable as there are no parking requirements for STLs.

The proposal complies with LDP Policies Tra 2 and Tra 3.

### **Conclusion in relation to the Development Plan**

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

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

The following material planning considerations have been identified:

#### Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. Public representations have raised a potential impact on a person with a protected characteristic. The impact on the person with a protected characteristic is as a result of the nature of the STL use impacting on amenity. This has been considered as under section (a) of this assessment.

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.

### **Conclusion in relation to other material considerations**

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

#### Public representations

A summary of the representations is provided below:

7 objections

0 in support  
0 neutral

#### *material considerations in objection*

- Inappropriate use in this location. Addressed in section A.
- Impact on residential amenity. Addressed in section A.
- Loss of residential accommodation. Addressed in section A.
- Impact on the local community. The change of use of one property to an STL will not have a significant impact on the local community.
- Impact on waste and recycling. The properties contain suitable refuse and recycling facilities for their proposed use.
- Impact on a person with a protected characteristic. Addressed in section B.

#### *non-material considerations*

- Impact on a Conservation Area.
- Amenity impacts from building works to the property.
- Illegal waste disposal as part of building works to the property.
- Drainage access.
- Relationship between the applicant and neighbours.
- Allegations of the applicant parking illegally and behaving in an anti-social way.
- The applicant's motives.

### **Overall conclusion**

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the adverse impact on residential amenity. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Conditions**

1. No conditions are attached to this consent.

### **Reasons**

#### **Reason for Refusal**

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this

dwelling as a short stay let will result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

### **Background Reading/External References**

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

**Further Information** - [Local Development Plan](#)

**Date Registered: 27 October 2022**

### **Drawing Numbers/Scheme**

01A, 02

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: James Armstrong, Assistant Planning Officer  
E-mail: [james.armstrong@edinburgh.gov.uk](mailto:james.armstrong@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.



**Sarah Forsyth**

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**From:** [REDACTED]  
**Sent:** 28 March 2023 23:20  
**To:** Local Review Body  
**Subject:** Response to Local Review No 22/05431/FULSTL - Southside Community Council

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Sir/Madam

Southside Community Council already objected to this proposed change of use to a short term let, but we wish to reiterate and reemphasise our objection, on all the grounds we mentioned on the original submission: The shortage of housing in Edinburgh (and so the need to avoid more of it being lost to the short term housing sector), the increased pressure on local services, the disruption to neighbours of visitors coming and going, and the challenges STL pose to forming a local community.

We also want to add to this the numerous objections from local residents, who have similarly mentioned the disruption (including people knocking on neighbours late at night), and also highlighted the security issues having large numbers of rotating visitors can pose. There are also already a high proportion and number of short term lets already operating in the local area (even the same block, as mentioned by the residents responses), and this should not be further added to, given the disruption that the existing STLs are causing.

Kind regards

Stephen Rodger

Secretary  
Southside Community Council

-----Original Message-----

From: localreviewbody@edinburgh.gov.uk <localreviewbody@edinburgh.gov.uk>  
Sent: 17 March 2023 10:26  
To: [REDACTED]  
[REDACTED] 05431/FULSTL

Please See Attached This email is to inform you that a local review has been received for a planning application that you commented on .

\*\*\*\*\*

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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.

<sup>148</sup> 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.

<sup>149</sup> 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.

## 2 Design Principles for New Development

150 The Council encourages innovation and well designed developments that relate sensitively to the existing quality and character of the local and wider environment, generate distinctiveness and a sense of place, and help build stronger communities. Policies Des 1–Des 13 will be used to assess planning applications to meet the following objectives. More detailed advice on how to interpret and apply these policies can be found in Council guidance including in the Edinburgh Design Guidance document.



### Objectives

- a) To ensure that new development is of the highest design quality and respects, safeguards and enhances the special character of the city
- b) To ensure that the city develops in an integrated and sustainable manner
- c) To create new and distinctive places which support and enhance the special character of the city and meet the needs of residents and other users

### Policy Des 1 Design Quality and Context

Planning permission will be granted for development where it is demonstrated that the proposal will create or contribute towards a sense of place. Design should be based on an overall design concept that draws upon positive characteristics of the surrounding area. Planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it, particularly where this has a special importance.

151 This policy applies to all new development, including alterations and extensions. The Council expects new development to be of a high standard of design. The Council's policies and guidelines are not to be used as a template for minimum standards. The purpose of the policy is to encourage innovation in the design and layout of new buildings, streets and spaces, provided that the existing quality and character of the immediate and wider environment are respected and enhanced and local distinctiveness is generated.

### Policy Des 2 Co-ordinated Development

Planning permission will be granted for development which will not compromise:

- a) the effective development of adjacent land; or
- b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council.

152 This policy applies to all development involving one or more new buildings. The Council encourages a comprehensive approach to redevelopment and regeneration wherever possible, and the preparation of development frameworks or master plans, to identify the full design potential for creating successful places. Piecemeal development is less likely to lead to the creation of well-defined and cohesive networks of streets and spaces. In exceptional cases, it may be necessary for the Council to use its powers of compulsory purchase to assemble a site for development and enable a satisfactory outcome to be achieved.

### Policy Des 3 Development Design - Incorporating and Enhancing Existing and Potential Features

Planning permission will be granted for development where it is demonstrated that existing characteristics and features worthy of retention on the site and in the surrounding area, have been identified, incorporated and enhanced through its design.

153 This policy is relevant for all new development involving one new building or more. Its aim is to ensure that development proposals are informed by a detailed analysis and understanding of the site. The incorporation of existing features including built structures, archaeology, trees and woodland, landscape character, views and biodiversity can enhance a development's sense of place and contribution to the wider habitat and green network. Where practicable, proposals should provide new habitat to further the conservation of biodiversity.

### Policy Des 4 Development Design – Impact on Setting

Planning permission will be granted for development where it is demonstrated that it will have a positive impact on its surroundings, including the character of the wider townscape and landscape, and impact on existing views, having regard to:

- a) height and form
- b) scale and proportions, including the spaces between buildings
- c) position of buildings and other features on the site
- d) materials and detailing

154 This policy applies to all new development of one or more buildings. Where the built environment is of high quality and has a settled townscape character, new development proposals will be expected to have similar characteristics to the surrounding buildings and urban grain. Where the surrounding development is fragmented or of poor quality, development proposals should help repair the urban fabric, establish model forms of development and generate coherence and distinctiveness – a sense of place. The siting and design of development should also be guided by views within the wider landscape and an understanding of local landscape character, including important topographical features, e.g. prominent ridges, valleys and patterns of vegetation.

### Policy Des 5 Development Design – Amenity

Planning permission will be granted for development where it is demonstrated that:

- a) the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook
- b) the design will facilitate adaptability in the future to the needs of different occupiers, and in appropriate locations will promote opportunities for mixed uses
- c) community security will be promoted by providing active frontages to more important thoroughfares and designing for natural surveillance over all footpaths and open areas
- d) a clear distinction is made between public and private spaces, with the latter provided in enclosed or defensible forms
- e) refuse and recycling facilities, cycle storage, low and zero carbon technology, telecommunications equipment, plant and services have been sensitively integrated into the design

155 This policy applies to all new development for one or more new buildings. Buildings must meet the needs of users and occupiers, with consideration given to impacts on neighbouring properties to ensure no unreasonable noise impact or loss of daylight, sunlight or privacy. Buildings should be designed to be flexible in use and interact closely with the street, providing continuity of urban frontage and natural surveillance. Cul-de-sac and single access residential layouts and gated communities should be avoided to help the integration of new development into the wider neighbourhood. Ancillary facilities must be sensitively integrated into the design of buildings to avoid impacting upon the surrounding townscape.

### Policy Des 6 Sustainable Buildings

Planning permission will only be granted for new development where it has been demonstrated that:

- a) the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low and zero carbon generating technologies.
- b) other features are incorporated that will reduce or minimise environmental resource use and impact, for example:
  - i. measures to promote water conservation
  - ii. sustainable urban drainage measures that will ensure that there will be no increase in rate of surface water run-off in peak conditions or detrimental impact on the water environment. This should include green roofs on sites where measures on the ground are not practical
  - iii. provision of facilities for the separate collection of dry recyclable waste and food waste
  - iv. maximum use of materials from local and/or sustainable sources
  - v. measures to support and encourage the use of sustainable transport, particularly cycling, including cycle parking and other supporting facilities such as showers.

156 This policy applies to all development involving one or more new buildings. The purpose of this policy is to help tackle the causes and impacts of climate change, reduce resource use and moderate the impact of development on the environment.

157 Buildings account for a substantial proportion of total carbon emissions through the energy they consume. Local authorities, through their planning and building standards responsibilities have a key role in helping to meet the Scottish Government's target for nearly zero carbon homes and buildings by 2016. Scottish Building Standards set carbon dioxide emissions reduction targets. At March 2013,

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### 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 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.

177 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.

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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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<sup>173</sup> 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.

<sup>174</sup> 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.

<sup>175</sup> 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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## Alternative Use of Shop Units

### Policy Ret 9 Alternative Use of Shop Units in Defined Centres

In the City Centre Retail Core and town centres, change of use proposals which would undermine the retailing function of the centre will not be permitted. Detailed criteria for assessing proposals for the change of use of a shop unit to a non-shop use will be set out in supplementary guidance. Supplementary Guidance will detail an approach tailored to different parts of the city centre retail core and each town centre to be informed by town centre health checks which will assess the centres strengths, vitality and viability, weaknesses and resiliencies.

The change of use of a shop unit in a local centre to a non-shop use will be permitted provided:

- a) the change of use would not result in four or more consecutive non-shop uses and;
- b) the proposal is for an appropriate commercial, community or business use, which would complement the character of the centre and would not be detrimental to its vitality and viability.

259 This plan aims to protect the important retailing function of defined centres but recognises the benefits of a wide range of complementary service, leisure and other community uses. The right mix of shopping and other uses will vary in the different centres and in the case of the city and town centres, in different parts of the centre. The policy applies to ground floor units only or basement/first floor units that are directly accessed from the pavement.

260 Within the City Centre Retail Core, a strong, high quality retail offer is a key aspect of sustaining and enhancing the city centre and policies are required to ensure that shopping continues to be the predominant use. However in order to achieve a diverse, thriving and welcoming city, a more flexible approach to the introduction of

complementary uses that support the main shopping function and encourage use into the evening is proposed. Supplementary guidance will be prepared to guide the mix of uses in different parts of the City Centre Retail Core and set out criteria for assessing proposals for uses other than shops.

261 Previous local plans incorporated a standard approach to change of use applications in town centres based on identifying primary frontages where there should be a greater proportion of units in shop use. However, each town centre is different in terms of the current mix of uses and how well it is meeting the needs of those who live, work and shop in the surrounding area. In order to take account of these differences, this plan proposes a tailored approach for each town centre. Separate supplementary guidance will be produced to guide change of use applications in each of the nine town centres. The supplementary guidance may also recommend changes to the town centre boundaries to be included in the next Local Development Plan.

262 The policy aims to avoid areas of 'dead frontage' and reduced pedestrian flow which would detract from the character and vitality of the centre by requiring that at least one unit in every four is in shop use. Beyond this requirement, the policy applies a flexible approach to change of use applications in local centres provided the use will be beneficial to the local community such as providing services, hot food or entertainment facilities. In local centres, former shop units may also be suitable for business use, providing a beneficial use for vacant properties and opportunities for small start up businesses and job creation close to where people live.

### Policy Ret 10 Alternative Use of Shop Units in Other Locations

Outwith defined centres, planning applications for the change of use of a shop unit will be determined having regard to the following:

- a) where the unit is located within a speciality shopping street (defined on the Proposals Map and in Appendix B), whether the proposal would be to the detriment of its special shopping character
- b) where the unit is located within a predominantly commercial area, whether the proposal would be compatible with the character of the area
- c) whether the proposal would result in the loss of premises suitable for small business use
- d) whether there is a clear justification to retain the unit in shop use to meet local needs
- e) where residential use is proposed, whether the development is acceptable in terms of external appearance and the standard of accommodation created.

263 The purpose of this policy is to guide proposals for change of use involving shop units not located within defined centres.

264 Independent and specialist retailers may be found in secondary locations throughout the city. But their concentration in some streets in the Old Town and on the fringes of the City Centre has given these a distinctive shopping character and interest worthy of protection. The defined speciality shopping streets are Cockburn Street; High Street (parts) Lawnmarket and Canongate; Victoria Street and West Bow, Grassmarket; Jeffrey Street and St Mary's Street; Stafford Street, William Street and Alva Street in the New Town. More detailed information on the frontages to which Policy Ret 10 applies is provided in Appendix B.

265 In parts of the city, mainly the City Centre and Leith, there are concentrations of commercial uses including retail, food and drink, and entertainment uses which, although not fulfilling the role of a local centre, do make a positive

contribution to the vibrancy of the city. Proposals incompatible with the commercial character of such areas will be resisted.

266 Single convenience shops and parades of small shops play an important role in meeting neighbourhood shopping needs and creating a sense of community, particularly in areas not well served by the network of shopping centres. It may be necessary to resist the loss of shop units to ensure local needs, particularly for people without access to car, are met

267 The Council's Guidance for Business provides advice on relevant design and amenity considerations for the conversion of shop units to residential use.

### Policy Ret 11 Food and Drink Establishments

**The change of use of a shop unit or other premises to a licensed or unlicensed restaurant, café, pub, or shop selling hot food for consumption off the premises (hot food take-away) will not be permitted:**

- a) **if likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti-social behaviour to the detriment of living conditions for nearby residents or**
- b) **in an area where there is considered to be an excessive concentration of such uses to the detriment of living conditions for nearby residents.**

268 The provision of food and drink establishments in areas where people live is a recognisable component of urban living. However, such uses can cause a number of problems for local residents. Particular care will be taken to prevent an excessive concentration of hot food shops, pubs and bars in areas of mixed but essentially residential character. The Council's Guidance for Businesses identifies sensitive areas in this regard namely Tollcross, Grassmarket, Nicolson/Clerk Street and Broughton Place/Picardy Place and their environs.

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.

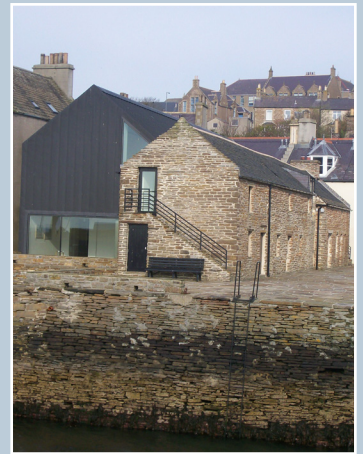
Cycle parking should be provided closer to building entrances than general car parking spaces and be designed in accordance with the standards set out in Council guidance.

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.

Managing  
Change  
in the Historic  
Environment



# Extensions



October 2010

# Key Issues

- 1. Most historic buildings can be extended sensitively. Listed building consent is required for any works affecting the character of a listed building and planning permission may be required in a conservation area.**
- 2. Extensions:**
  - **must protect the character and appearance of the building;**
  - **should be subordinate in scale and form;**
  - **should be located on a secondary elevation;**
  - **must be designed in a high-quality manner using appropriate materials.**
- 3. Planning authorities give advice on the requirement for listed building consent, planning and other permissions.**



## 1. INTRODUCTION

- 1.1 This is one of a series of guidance notes on managing change in the historic environment for use by planning authorities and other interested parties. The series explains how to apply the policies contained in the *Scottish Historic Environment Policy* (2009) ([SHEP](#), PDF 312K) and *The Scottish Planning Policy* (2010) ([SPP](#), PDF 299K).
- 1.2 This note sets out the principles that apply to extending historic buildings. It should inform planning policies and the determination of applications relating to the historic environment, and replaces the equivalent guidance in *The Memorandum of Guidance on Listed Buildings & Conservation Areas* (1998).
- 1.3 Monuments scheduled under the Ancient Monuments & Archaeological Areas Act 1979 require scheduled monument consent for any works. Where a structure is both scheduled and listed, the scheduling controls have precedence. Separate advice is available from Historic Scotland's website: [Scheduled Monuments: Guidance for Owners, Occupiers & Land Managers](#) (PDF 718K).



*Esk Net Mills, Musselburgh in 1996 before refurbishment and extension.*



*The extension to Esk Net Mills, Musselburgh, East Lothian. The glass extension of 2006 makes a deferential contrast to the solid masonry of the surrounding courtyard buildings of the 19th-century net-making complex. The design draws on the symmetry and scale of the old buildings, whilst creating a distinctive new component in its form and materials.*

## 2. ADDITIONS TO HISTORIC BUILDINGS

- 2.1 The history of use and ownership of a historic building is reflected in the cumulative changes made to it. They can themselves form an aspect of a building's special interest. New alterations or additions, which are of high design quality sympathetic to the character of the building, form part of this continuum. Most historic buildings can sustain some degree of sensitive alteration or extension to accommodate continuing or new uses.
- 2.2 Yet historic buildings vary in the extent to which they can accommodate change without loss to special interest. Some present the opportunity to promote design intervention that would not have been possible without the historic building as a creative spark. Others are sensitive even to slight alterations. This is especially so of buildings with important interiors - not just great houses, but also, for example, churches with historic pews or factories with surviving machinery. Then an extension rather than internal change may be a way to safeguard the special interest of the building.
- 2.3 Some buildings have interest as little-altered examples of a modest building type. These are harder to extend sympathetically than many more substantial pieces of architecture (see *Small Buildings*, below).
- 2.4 An extension to a historic building can have a wider impact on the historic environment. For example, archaeology and the



*A complementary addition to a 19th-century country house in the Scottish Borders, in which brick takes its cue from walled gardens.*



*Restoration and replication: Ca D'Oro, Union Street, Glasgow. Designed by John Honeyman in 1872 in the style of a Venetian palazzo, this former furniture warehouse was extended by two replica bays (right-hand side of image) in 1989 and the roof was restored to its original profile.*



*Complementary: Stanley Mills, Perth and Kinross. A new lift tower was added to East Mill that echoes a semicircular stair tower on nearby Mid Mill. The location had been scarred by an earlier lift and rudimentary toilets. A glass strip separates the new-build from the historic masonry.*



*Complementary: Dundas Home Farm, South Queensferry, an 1881 steading converted and extended for residential use from 2001 to 2006. Here a new range takes its cue from the scale and rhythm of the original. © Simpson & Brown Architects.*

layout of lang rigs, important features of the historic fabric of some older towns, should be respected in any new development.

- 2.5 Extensions have the potential to impact on the setting of adjacent historic buildings, which should be taken into account when considering a proposal.

### 3. CONTEXTUAL DESIGN

- 3.1 New work must acknowledge the old in every case, whether that work will be:

- a restoration
- a replication
- a complementary addition
- a deferential contrast
- an assertive contrast

- 3.2 New work should be based on a thorough understanding of the existing historic building. A design statement which describes the interest of the building and an explanation of the impact of the alterations is always useful when assessing proposals for change.

#### Restoration

- 3.3 A building may have lost its original form, and a well-documented reconstruction of a missing element may be proposed. The original frontage to a building may have become partially or completely hidden behind later extensions. The appearance of the building and its setting could be improved by their removal and the restoration of the facade. Planning authorities will often seek to promote restoration, provided there is sound evidence on which to base the work. Where an extension has architectural merit in its own right, or has through time become part of the character and interest of the building, it should be retained.

#### Replication

- 3.4 Replication is where new work is designed specifically to match the original building and does so in all respects, not only in the use of the same materials in the same style. The dimensions and finish of the materials used and details such as coursing, pointing, tooling, window proportion and profile, roof pitch and slate must all be accurately modelled upon the existing building or they will not sit comfortably beside the original.

#### Complementary additions

- 3.5 Complementary new work takes as design cues the profile, massing, bay rhythm, scale and proportion of the existing building, but without replication of the details.
- 3.6 Quite substantial additions can be made to some buildings without detracting from the character of the original work.



The same added to other buildings would result in imbalanced design or a straggling composition. In those cases, a well-designed modern addition that will not read as part of the original building will affect its appearance less radically.

### Deferential contrast

- 3.7 Deferential contrast is where the new becomes a self-effacing backdrop against the old. Even if it is large, it seeks not to be assertive. It might be achieved by reflective glass, for example.

### Assertive contrast

- 3.8 Assertive contrast means affirmation of the new as a more or less equal partner to the old. New and old combined should be of greater lasting value than either on its own. This demands higher-quality new work than would often be found in an isolated new building. The presence of the existing building 'raises the game' for the new build.

## 4. GENERAL PRINCIPLES

- 4.1 It is difficult to lay down hard and fast rules for new work when much will depend upon the site, the landscape, the scale and form both of the existing building and of the addition or extension proposed. The following basic principles will, however, apply:

- An addition or extension should play a subordinate role. It should not dominate the original building as a result of its scale, materials or location, and should not overlay principal elevations.
- Where an extension is built beside a principal elevation it should generally be lower than, and set back behind, that facade.
- An extension that would unbalance a symmetrical elevation and threaten the original design concept should be avoided.
- An extension should be modestly scaled and skillfully sited.
- Fire escape routes may be internal wherever space can be created without damaging important interior work. Where an external escape stair is necessary, it should be located as reversibly and inconspicuously as possible, and not on principal elevations.

## 5. SMALL BUILDINGS

- 5.1 Small buildings such as tollhouses and lodges present challenges of scale but may need extension to give them purpose. One way to maintain the visual integrity of the original building may be to construct a lower link block, perhaps in glass, between it and the extension. Very small structures such as garden buildings not intended for permanent occupation will seldom be capable of extension. A proven need for additional accommodation



*Former Arctic Tannery and Harbour Workshops, Dundee. A fire destroyed the upper part that had originally been of timber louvres to cure sealskin hides, replaced in brick. The development of housing (see below) echoes in a new form the timber and brick previously used here.*



*Deferential contrast: Harbour Workshops, Dundee, following redevelopment as housing in 2008.*



*Assertive contrast: the rear extension of the former India of Inchinnan Tyre Factory (1930). The aerodynamic curve reflects earlier use of the site to make aircraft and dirigibles.*



An extension to a house in a conservation area, set back from the front elevation, of glass and timber that echoes conservatories in the area.



Fairfield House, Dalkeith, built for an iron founder. The cast-iron vine house on the right was repaired as part of the development as offices for Midlothian Council. The house is still the focal point although smaller than the new-build addition. The pink building is the rear of a separate structure.  
© Royal Fine Art Commission.



Former nurses' home of 1938–47, Salisbury Road, Edinburgh. The additional rooftop storey is set back from the wallheads, minimising its impact on the original design.

might instead be met by a new free-standing suitably scaled and designed structure, nearby or elsewhere. A condition might be set to phase the new work after the repair or restoration of the small building.

## 6. ROOF EXTENSIONS

6.1 A planning authority will consider the special interest of the existing roof and the visibility of the extension in views, and take into consideration the amenity of adjacent buildings. See also Historic Scotland's *Managing Change in the Historic Environment: Roofs*.

### Special interest

6.2 Where the external form is significant to the character of the building, or where the internal structure and decoration have historic interest, a roof extension will not be appropriate that destroys this or requires such a high degree of new supporting structure that only the facades of the historic building remain.

### Visibility

6.3 A roof extension may not comfortably fit where long views are important to the profile of a building. Where streets are narrow and buildings are tall, the visual impact to pedestrians in the street of a roof extension will be less but must not have an adverse impact.

### Height

6.4 The presence of a neighbouring high building should not be taken as a reason for an inappropriate roof extension to a historic building.

## 7. BUILDING STANDARDS

7.1 Rather than force the existing building to adapt to meet modern requirements, the new extension will normally be the place to provide:

- accessibility to existing floor levels through lifts and ramps (see accessibility guidance in this series)
- new services that might be difficult to route through the existing building
- high thermal performance
- fire separation
- rainwater collection and disposal (consider Sustainable Drainage Systems)
- independent foundations that do not compromise the foundations of the existing building

7.2 Many historic buildings are capable of alteration that is of its time, respects and defers to what has gone before, and may be



justified as supporting the continued conservation and use of that building. A Design and Access Statement, if required, should bring this out within these guidelines and with reference to a statement of significance or conservation plan specific to the building.

## 8. ARCHAEOLOGY

8.1 It is possible that archaeological resources survive within or beneath a listed building or unlisted building in a conservation area. Planning authorities should seek to manage archaeological issues, such as recording or preservation in situ, through the use of conditions or agreements under Section 75 of the Town & Country Planning (Scotland) Act 1997. Advice on archaeological sensitivity should be obtained from the planning authority's archaeological adviser at an early stage.

## 9. RECORDING

9.1 When proposed extension works to a listed building will result in significant loss of fabric or changes to the building's character, it is suggested that the Royal Commission on the Ancient and Historical Monuments of Scotland's (RCAHMS) is given the opportunity to record the historic structure prior to works commencing. This becomes a statutory requirement only when demolition of the historic structure is proposed. However, RCAHMS is always pleased to consider recording changes to historic structures whenever the opportunity arises. Contact details for RCAHMS can be found overleaf.

## 10. CONSENTS

10.1 Listed building consent is required for any work to a listed building that affects its character. The local authority determines the need for consent.

10.2 Where listed building consent is required, an application is made to the local authority. This should include accurate scale drawings showing both the existing situation and the proposed works in context. It is normally helpful to provide detailed technical information and photographs. A brief description of the interest of the building and an explanation of the impact of the alterations are always helpful in assessing change.



*Kilncraigs Business Centre, Alloa. Above: cast-iron columns are retained internally behind the glazed curtain wall constructed in 2000. Below: A 19th-century woollen yarn store was skilfully extended in contrasting concrete and steel (left-hand side of photo) in 1938 by William Kerr. Most of the very deep original but multi-phase block (right-hand side of photo) was cut back and a new curtain wall added to the existing structure in 2000, making an assertive but revealing contrast of new and old, and achieving a visual link between Alloa Tower and the town. Junctions are clearly formed in red and white.*



## Other selected Historic Scotland publications and links

[Guide for Practitioners 6: Conversion of Traditional Buildings](#) (2007) (Historic Scotland online shop: DVD available for purchase).

For the full range of Inform Guides, Practitioner Guides, Technical Advice Notes and Research Reports please see the [Publications](#) section of the Historic Scotland website.

## Other selected publications

Scottish Government, [A Policy on Architecture for Scotland](#) (2001) (PDF 608K) and [Building Our Legacy: Statement on Scotland's Architecture Policy](#) (2007) on Scottish Government website.

## Other selected contacts

Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS)  
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Architecture & Design Scotland (A+DS)  
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e-mail: [info@ads.org.uk](mailto:info@ads.org.uk)

## FURTHER INFORMATION AND ADVICE

Details of all individual scheduled monuments, listed buildings, designated gardens and designed landscapes, and designated wrecks can be obtained from Historic Scotland (see contact details below) or at: [www.pastmap.org.uk](http://www.pastmap.org.uk). Details of listed buildings can also be obtained from the relevant local authority for the area.

Advice on the requirement for listed building consent, conservation area consent, building warrants, and other permissions/consents should be sought from local authorities.

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Web: [www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk)

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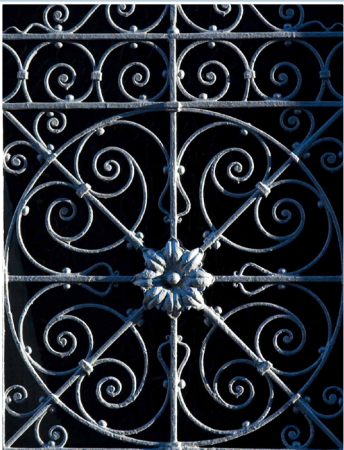
## Cover images

*Beach Shelter (1934), Broughty Ferry Esplanade, City of Dundee, extended and refurbished in 2005.*

*Castlemilk Stables (circa 1800), Glasgow, were converted in 2003–7 for the Glasgow Building Preservation Trust, requiring a glazed extension into the courtyard to give reception and circulation space to the narrow stable buildings around the perimeter of a square.*

*Pier Arts Centre, Stromness, Orkney, refurbished and extended in 2007. The scale and massing of the extension complements the adjacent traditional waterfront buildings that provide the conservation area with much of its character.*

# External Fixtures



# Key Issues

- 1. Historic external fixtures form an important element in defining the character of a historic building or group of historic buildings. New external fixtures can have an impact on the character of historic buildings or areas. Listed building consent is required for any works affecting the character of a listed building and planning permission may be required in a conservation area.**
- 2. The protection provided by statutory listing extends to all categories of listing, and to all parts of a building, including its external fixtures.**
- 3. Before undertaking repairs or alterations it is important to identify the interest of the fixture and seek to maintain its characteristics in the new work. This includes understanding the materials, method of construction, colour, texture and detailing.**
- 4. New external fixtures should be sited to maintain the special architectural or historic interest, integrity and fabric of the building.**
- 5. The means of new fixing should always be non-ferrous to prevent structural damage or staining.**
- 6. Planning authorities give advice on the requirement for listed building consent, planning and other permissions.**



## 1. INTRODUCTION

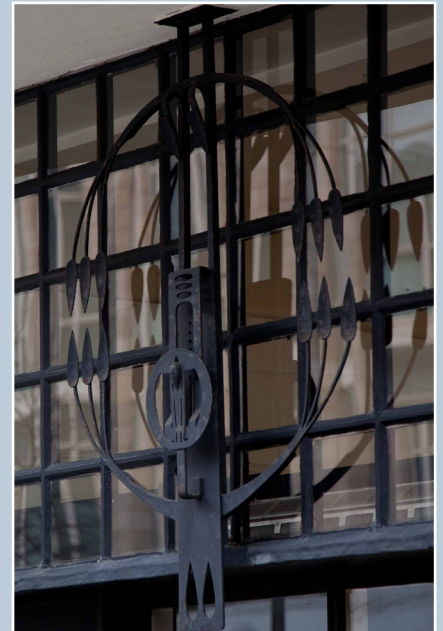
- 1.1 This is one of a series of guidance notes on managing change in the historic environment for use by planning authorities and other interested parties. The series explains how to apply the policies contained in the *Scottish Historic Environment Policy* (2009) ([SHEP](#), PDF 312K) and *The Scottish Planning Policy* (2010) ([SPP](#), PDF 299K).
- 1.2 This note sets out the principles that apply to altering the external fixtures of historic buildings. It should inform planning policies and the determination of applications relating to the historic environment, and replaces the equivalent guidance in *The Memorandum of Guidance on Listed Buildings & Conservation Areas* (1998).
- 1.3 Monuments scheduled under the Ancient Monuments & Archaeological Areas Act 1979 require scheduled monument consent for any works. Where a structure is both scheduled and listed, the scheduling controls have precedence. Separate advice is available from Historic Scotland's website: [Scheduled Monuments: Guidance for Owners, Occupiers & Land Managers](#) (PDF 718K).
- 1.4 Separate guidance in this series is available on new micro-renewable technology fixtures.

## 2. WHY ARE EXTERNAL FIXTURES IMPORTANT?

- 2.1 Historic external fixtures contribute to the architectural and/or historic character of a building and townscape. Decorative ironwork, balconies, lamps, clocks, street signs, rainwater goods, machinery, and other fixtures can be integral to the architecture and reveal information about the age and use of a building and may be examples of technological advances. Beyond their functional value they are often decorative and contribute to the visual attractiveness of a historic building. External fixtures can reveal a hierarchy of spaces within a building, perhaps indicating the location of the main entrance or principal floor or room.
- 2.2 New fixtures can have a substantial impact on the appearance of a historic building, and the means of attachment can cause damage to historic fabric. The location, size and number of fixtures and the method of fixing require careful consideration to protect the character of a historic building.

## 3. IDENTIFYING THE INTEREST OF HISTORIC EXTERNAL FIXTURES

- 3.1 From early times various sorts of fixtures have been applied to buildings, from simple tethering hoops to lamps. From the



*Decorative ironwork by Charles Rennie Mackintosh fixed to the exterior of the Willow Tea Rooms in Sauchiehall Street, Glasgow.*  
© N. Haynes.



*A cast-iron balcony marking the principal room on the first floor of a townhouse in Regent Terrace, Edinburgh, part of the development planned by William Henry Playfair in 1825 and built 1826–33.* © N. Haynes.



*The weather vane at New Lanark mill village was restored in 1980, made by a local craftsman with the names of the villagers stamped on the shaft.*  
© New Lanark Trust.



An elaborate cast-iron bootscraper at the entrance to a house in Randolph Crescent (1829), Edinburgh. Such fixtures were common in the early 19th century when road surfaces were generally muddy. © N. Haynes.



A cheese press built into the wall of a farm cottage at Reay, Highland. Although the press is no longer used, it provides insight into the type of farming of the area and past methods of cheese production.



A later 19th-century cast-iron 'barleysugar' downpipe and decorative bracket in Rothesay, Isle of Bute. © N. Haynes.

18th century the range and complexity of fixtures expanded enormously. Some fixtures were planned from the outset of a building, whilst others were added at a later stage. Fixtures can demonstrate a combination of architectural, associated and historical interest:

- 3.2 **Architectural interest:** in for example the design or style of fixtures, or the way in which they relate to the architectural form of the building.
- 3.3 **Associated interest:** a fixture, such as a clock, might be connected with a significant designer, craftsman, patron, or occasionally with historical events.
- 3.4 **Historical interest:** this derives from the potential of a fixture to provide evidence about the past, illustrating social change, revealing how an object was made, advances in technology, or how a building worked. For example the widespread provision of bootscrapers at the entrances to 18th- and 19th-century houses gives an insight into life before the advent of asphalt roads and cars.

#### 4. GENERAL PRINCIPLES FOR ALTERATIONS AND REPAIRS TO HISTORIC EXTERNAL FIXTURES

- 4.1 Alterations or repairs to historic external fixtures must protect their character and special interest. Fixtures can be valuable in their own right as major elements in the design of a historic building, broader streetscape or landscape setting. Documentary research and fabric analysis will be useful in understanding the design and material properties of historic external fixtures before undertaking alterations or repairs.
- 4.2 The potential impact of repetition of alterations to fixtures in unified designs of streets and other groups of buildings should be considered.

##### Maintenance

- 4.3 Cast-iron fixtures require regular re-painting to prevent corrosion. Other types of metal may need different maintenance regimes. Where corrosion is severe and the structural integrity of the feature compromised, in rainwater goods for example, a careful record should be made and its replacement made to match in material and design. In some instances there may be a variety of styles employed and proposals to unify non-matching details should be carefully considered as they may relate to a significant historical alteration.

##### Removal

- 4.4 Certain historic fixtures may be functionally obsolete but continue to contribute to the architectural interest of a listed building and be of historical value. They should always



be retained. Should a historic fixture require removal and reattachment, non-ferrous fittings should be used and existing fixing points used where possible. Where ferrous fittings are required, an epoxy barrier must be used.

## 5. PRINCIPLES FOR THE ADDITION OF NEW EXTERNAL FIXTURES

### General

- 5.1 A great number of possible new external fixtures associated with contemporary living can be proposed that may have an impact upon historic buildings, from alarm boxes to security cameras. A number of these may be small in size but their cumulative effect in a historic place can be detrimental. Consideration should be given to the lifespan of a new fixture and whether or not change of ownership could result in replacement or removal.
- 5.2 The potential for incremental damage by numerous fixtures of a similar nature can be avoided by the shared use of equipment on buildings in multiple occupation or on buildings grouped closely together.

### Siting of new fixtures

- 5.3 New external fixtures must be sited to minimise impact on the architectural integrity and fabric of the building. Secondary elevations, outbuildings and roof valleys or flats that are out of sight from principal views can often accommodate new fixtures without significant impact. Close attention to the routing of any associated cabling or pipework away from principal elevations and features will help to minimise the visual effect of new equipment.
- 5.4 If a new fixture is necessary and no alternative to a prominent elevation is appropriate then it should be discreetly located without damaging any architectural feature. Painting the fixture to match the colour of stonework can sometimes minimise its impact. The fitting and means of fixing should always be non-ferrous to prevent damage and staining. Fixing into joints is normally the best option.

### Telecoms and satellite technology

- 5.5 Telecommunication devices and satellite dishes can have an adverse impact upon the appearance of a building. These should be positioned so as not to alter a historic profile or skyline, or where impact is minimal.
- 5.6 Antennae associated with mobile phone technology can be situated within some prominent buildings where installation does not require the removal of original fabric or where timber components can be removed and stored for later restoration. A creative approach can result in successful camouflage in some



*The cumulative effect of modern fixtures, including satellite dishes, air conditioning units, signage and street lighting, is damaging to the character of this 18th-century building.*



*These satellite dishes are positioned in a roof valley and are not visible from street level. Fixed to later service features, they do not damage architectural details. © N. Haynes.*



*The landmark tower of St Stephen's Church (1828), Edinburgh. Telecommunications antennae are positioned on either side of the clock face and on the parapet above behind GRP (glass-reinforced plastic) material that replicates the colour of the surrounding stonework. All the works are easily reversible if the technology changes or becomes redundant. © N. Haynes.*



*A small, discreet, brass plaque commemorates the reconstruction of Mitchell's Close in Haddington, East Lothian.*



*Discreet sprung wires are attached to the top surface of this cornice to deter birds. Miller Street, Glasgow.*



*Gallery of Modern Art, Glasgow. The floodlights are positioned behind a cornice and on the roof, therefore making little impact in daylight but providing atmospheric lighting after dark. © N. Haynes.*

locations. Planning authorities are able to condition the removal of equipment when it becomes redundant.

### Signage

- 5.7 New signage should be incorporated into the overall architectural composition of a building. It should not obscure or damage any architectural detail. Traditional signage materials and palettes of colour can complement the appearance of the building. Paint should not be applied directly to previously unpainted stonework. Separate guidance on shopfronts and shop signage is available in this series.

### Flagpoles

- 5.8 Flagpoles should relate to the building's character, scale, proportions and architectural detailing.

### Banners

- 5.9 Banners may sometimes be fixed to historic buildings if the means of attachment does not damage any architectural details. However, they should only be allowed on a temporary basis, and not where they would have an adverse impact upon the character or appearance of the building.

### Bird control

- 5.10 Bird control devices require careful consideration to minimise the impact upon historic character. Wire mesh and spikes can be visually detrimental whereas sprung wires are generally less obtrusive. A balance should be sought between conserving the visual characteristics and protecting the building and its users from bird nuisance: less intrusive bird control devices should be considered first.

### Lighting

- 5.11 Street and floodlighting must be considered carefully to minimise detrimental impact on the character of the building.
- 5.12 Street lighting fixed to a principal elevation should only be considered where independent lighting poles are not appropriate. The lamp and the associated cabling should be carefully integrated within the architectural composition.
- 5.13 The innovative and imaginative use of lighting can be an important component in enhancing the distinctiveness and character of a building or conservation area. Fixtures should always be located unobtrusively, on a basement wall for example.
- 5.14 New lamps to light an entrance should be sympathetic to the design and materials of the building.

### Alarm boxes and utility meters

- 5.15 Alarm boxes and utility meters should be fixed in discreet positions without damaging architectural composition or details.

Lesser elevations, basement walls or beneath a platt may be appropriate solutions.

### Security cameras

- 5.16 Security cameras require prominent positions to achieve maximum surveillance but should not be permitted in positions that damage the architectural character or appearance of a historic building. Careful consideration should be given to the size of the camera. Positioning of security cameras and cabling should be discrete.

### Eye bolts and brackets

- 5.17 Eye bolts for window cleaning access or the attachment of seasonal street decorations should only be permitted where they will be situated discreetly and without damaging architectural details. The material and means of fixing should be non-ferrous, preferably coloured to match adjacent stonework.
- 5.18 Temporary scaffolding should not be anchored into stonework as the fixings will leave permanent damage. Scaffolding should be fixed around architectural features, ensuring no damage occurs during construction or dismantling. Protective materials fixed between steel scaffolding ends and stonework will help prevent accidental damage.
- 5.19 The location and number of hanging baskets and their associated fixings should be carefully considered, and where possible incorporated within the composition of an elevation. The baskets and fixings should not damage or obscure any architectural detailing.

## 6. CONSENTS

- 6.1 Listed building consent is required for any work to a listed building that affects its character. The local authority determines the need for consent.
- 6.2 Where listed building consent is required, an application is made to the local authority. This should include accurate scale drawings showing both the existing situation and the proposed works in context. It is normally helpful to provide detailed technical information and photographs. A brief description of the interest of the external fixture and an explanation of the impact of the alterations are always useful in assessing change.



*Here the corner profile of the building is broken by the brackets for a security camera, an old lamp, and modern street lamp. High Street, Edinburgh.*



*Discreet stainless steel eye-bolts are re-used each year for the Christmas decorations in Bo'ness. © N. Haynes.*



## Other selected Historic Scotland publications and links

[Maintaining your Home – A Short Guide for Homeowners](#) (2007) (PDF 1.4MB)

*Inform Guide: Finials & Terminals* (2008)

*Inform Guide: The Maintenance of Cast-iron Rainwater Goods* (2007)

*Inform Guide: Maintenance of Iron Gates and Railings* (2007)

*Inform Guide: Boundary Ironwork - A Guide to Reinstatement* (2005)

*Inform Guide: Bird Control on Buildings* (2008)

*Inform Guide: Bronze - The Care & Maintenance of Monumental Bronze* (2005)

For the full range of Inform Guides, Practitioner Guides, Technical Advice Notes and Research Reports please see the [Publications](#) section of the Historic Scotland website.

## FURTHER INFORMATION AND ADVICE

Details of all individual scheduled monuments, listed buildings, designated gardens and designed landscapes, and designated wrecks can be obtained from Historic Scotland (see contact details below) or at: [www.pastmap.org.uk](http://www.pastmap.org.uk). Details of listed buildings can also be obtained from the relevant local authority for the area.

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Web: [www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk)

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**Cover images** (all © N. Haynes)

*Bronze torchère lamp (1929), Younger Hall, St Andrews, Fife.*

*Later 19th-century cast-iron window grille, Vicar Street, Falkirk.*

*Eighteenth-century sundial, Linton Kirk, Scottish Borders.*



HISTORIC  
ENVIRONMENT  
SCOTLAND

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# 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
- a ‘sense of place’: the overall experience of an asset which may combine some of the above factors
- 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

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.

Burghead 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](mailto:info@rcahms.gov.uk)  
Web: [www.historicenvironment.scot](http://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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# INTERIM GUIDANCE ON THE PRINCIPLES OF LISTED BUILDING CONSENT APRIL 2019



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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 LISTED BUILDING CONSENT**

1. Historic buildings and structures are a highly visible and accessible element of Scotland's rich heritage. They cover a wide range of uses and periods, which together chart a great part of the history of Scotland. They encompass all aspects of life, from education to recreation, to defense, industry, homes and worship. Much of Scotland's social and economic past and its present is expressed in these exceptional buildings. Listing recognises their importance.

2. Listed buildings are protected under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. This establishes that any work which affects the character of a listed building will require listed building consent. It is a criminal offence to carry out such work without listed building consent.

3. In assessing an application for listed building consent, the planning authority is 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 possesses (Scottish Planning Policy paragraph 141-142).

4. Works of like-for-like repair or other works which do not affect a building's character, would not normally require listed building consent. Such works could include repointing a wall or altering part of a building which does not contribute to the overall special interest.

5. Listed building consent is separate from the statutory planning process but there is a close relationship between them and this guidance should therefore be read in conjunction with current Scottish Government planning policy

for the historic environment. The two systems may run in parallel in cases where planning permission is also required, and such cases are normally dealt with most effectively if applications for planning permission and listed building consent are submitted at the same time. It is not possible to seek or to be given outline listed building consent.

6. The majority of listed buildings are adaptable and have met the needs of successive generations while retaining their character. Change should therefore be managed to protect a building's special interest while enabling it to remain in active use. Each case must be judged on its own merits but in general terms listing rarely prevents adaptation to modern requirements but ensures that work is done in a sensitive and informed manner.

7. In the context of listed buildings the sustainable use and management of the historic environment means recognising the advantages to be gained from retaining existing buildings and ensuring that their special interest is protected.

8. Once lost listed buildings cannot be replaced. They can be robbed of their special interest either by inappropriate alteration or by demolition. There is, therefore, a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting.

9. Listed buildings will however, like other buildings, require alteration and adaptation from time to time if they are to remain in beneficial use, and will be at risk if such alteration and adaptation is unduly constrained. In most cases such change, if approached carefully, can be managed without adversely affecting the special interest of the building.



10. Knowing what is important about a building is central to an understanding of how to protect its special interest. Applications should demonstrate that in arriving at a strategy for intervention, the importance of the building has been clearly understood and those features which contribute to its special interest have been identified.

11. In general the more extensive the intervention which is proposed, the more supporting information applications should provide. Where proposals involve significant intervention, evidence that less intrusive options have been considered should be provided. Where the application would have a significantly adverse effect on the building's special interest, but is believed to offer significant benefits to economic growth or the wider community, applicants should prepare a statement which justifies the intervention in relation to these benefits. This statement should demonstrate that the benefits could not be realised without the intervention proposed.

12. Planning authorities should satisfy themselves, as soon as applications are received, that they include an appropriate level of supporting information.

13. Where a proposal protects or enhances the special interest of the building, for example through the like-for-like replacement of a window or door which is beyond repair or the reinstatement of important detailing, consent should normally be granted.

14. Where a proposal involves alteration or adaptation which will sustain or enhance the beneficial use of the building and does not adversely affect the special interest of the building, consent should normally be granted.

15. Where a proposal involves alteration or adaptation which will have an adverse or significantly adverse impact on the special interest of the building, planning authorities, in reaching decisions should consider carefully:

- a. the relative importance of the special interest of the building; and
- b. the scale of the impact of the proposals on that special interest; and
- c. whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest; and
- d. whether there are significant benefits for economic growth or the wider community which justify a departure from the presumption set out in paragraph 8.

