

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 100597311-004

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:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="GF"/>
First Name: *	<input type="text" value="Ella"/>	Building Number:	<input type="text" value="16"/>
Last Name: *	<input type="text" value="Wishart"/>	Address 1 (Street): *	<input type="text" value="16(GF) Albany Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	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="EH1 3QB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:

City of Edinburgh Council

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

Address 1:

GF

Address 2:

16 ALBANY STREET

Address 3:

BROUGHTON

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH1 3QB

Please identify/describe the location of the site or sites

Northing

674443

Easting

325645

## 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)

This application is made to authorise the continued use of the dwelling house for short-term lets. No physical works are involved. Maximum number of guests is 4. Entry, including timing, is strictly controlled and a street key-box is not used. An electronic noise and occupancy monitoring device is installed

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

SEE STATEMENT IN SUPPORT OF REVIEW IN SUPPORTING DOCUMENTS SECTION

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 SUPPORTING DOCUMENT: Reasons for additional matters Summary: (a) To clarify why reasons given for refusal are not applicable. (b) Not set out earlier because officer didn't raise as a concern and given support of neighbours and pre-existing use, it was not imagined that these would be cited as reasons for refusal. (c) Should now be considered to ensure a fair and reasonable decision

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)

Statement in Support of Review Reason for additional matters raised APPENDICES 1. Photographs of vestibule and interior 2. List of occupants 1867 to 2023 3. Valuation roll entry, showing GF 16 Albany Street, Self-Catering Unity 4-bedroom valuation 4. Email from Assessors department, confirming entry on the roll 2010 to 2020 5. Description of property monitoring tools in operation 6. Photograph of door to first floor flat and landing 7. Letter Mrs M. Goodson 8. Letter Mr A. Anderson

## Application Details

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

22/04261/FUL

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

13/09/2022

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

11/01/2023

## 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

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

A hearing may assist in clarifying how and why the measures to prevent disturbance and any loss of amenity to neighbours are effective

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

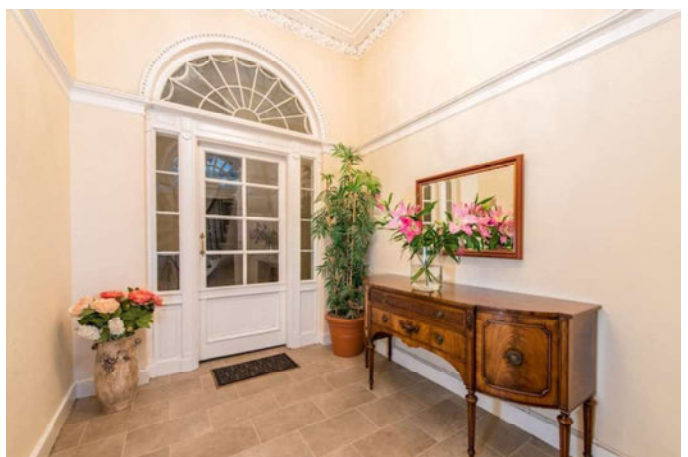
I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Ella Wishart

Declaration Date: 10/04/2023

Appendix

Internal aspects of the property



## USE AND OCCUPATION OF 16 ALBANY STREET, EH1 3QB

### **1867 – 1908 Lodgings**

Managed by Anna Douglas, a widow.

### **1909 – 1914 Greenside Young Women's' Christian Association**

Providing young women with services including accommodation, educational and vocational classes, prayer circles and social gatherings.

Then for four years the house was vacant.

### **1918 – 1923 James and Jessie Thomson**

Edinburgh School of Natural Therapeutics

### **1924 – 1981 Royal Artillery Association and Club**

Social club for members and former members of The Royal Artillery

**1981 - 2001 Alastair Forbes Brown** – Use not known

**2001 - 2020 Ronald Faulkner** – Self-catering accommodation

**2020 - 2021 Euan James Faulkner** (*son of Ronald Faulkner*) - Self-catering accommodation and occupied preparatory for sale

**2021 – 2023 Ella and Robert Wishart** – Self-catering accommodation

### Sources

1867 to 1981 Extract from

[albany street edinburgh 20thcentury](#)

[albany street edinburgh 20thcentury - 16 Albany Street \(google.com\)](#)

1981 to 2023: from title deeds

*subject to confirmation from Registers of Scotland*

# Valuation

Search Again by Address

Search Again by Property Reference Number

- [Download Document](#)
- [About Valuations](#)
- [View Relevant Practice Note !\[\]\(5774573cf757c446bb08af21f46b2969\_img.jpg\)](#)

## Valuation Sheet 2017 Revaluation

**Ref No.:**

118A31516(GF)

**Description:**

SELF CATERING UNIT

**Property Address:**

(GF), 16 ALBANY STREET, EDINBURGH, EH1 3QB

**Primary Practice Note:**

[Self Catering Units !\[\]\(f219cfc00b8db0cd1a81ae1fc9afaf28\_img.jpg\)](#)

**Final Value:**

£12,000



**Lothian Valuation Joint Board**  
17A South Gyle Crescent  
Edinburgh  
EH12 9FL

**NAV:  
Building**

<del>£12,000</del> Building RV:	Property Class	Location Code	Bed Count	Adjusted Total Bed Spaces	Bed Space Rate	Bed Space Value
SELF-CATERING ACCOMMODATION	FLAT - VERY GOOD	EDINBURGH SECONDARY	4	4	£3,000	£12,000
<del>£12,000</del> <b>TOTAL</b>			<b>4</b>	<b>4</b>		<b>£12,000</b>

**Effective Date:**

01/04/2017

<b>Final Value</b>	£12,000
<b>NAV/RV</b>	£12,000
<b>Effective Date</b>	01/04/2017

Please note that this is for information only and should not be reused or sold. This has been prepared solely for the purposes of Non-Domestic Rating and should not be used for any other purpose. It remains the property of the Assessor for Lothian.

The above valuation is an on-line version of the individual valuation adapted to fit a standard presentation. This means that the valuation in some instances is not an exact replica of the calculation done by the Assessor.

No warranty is given and neither the Assessor for Lothian nor Lothian Valuation Joint Board accepts responsibility for any loss sustained as a result of any inaccuracy in the information given.

For any enquiries or notification of change, please contact [enquiries@lothian-vjb.gov.uk](mailto:enquiries@lothian-vjb.gov.uk) or telephone 0131 344 2500.



**From:** Caris Hood [REDACTED]  
**Sent:** Thursday, March 30, 2023 10:23 AM  
**To:** [REDACTED]  
**Subject:** 16 ALBANY STREET, EDINBURGH EH1 3QB,

Good morning,

Thank you for your email.

I do apologise for the delay in responding to you.

I can see the property was first assessed as a self-catering unit from the 1<sup>st</sup> of April 2010 – 1<sup>st</sup> of April 2011. It was then inserted onto the Council Tax List from the 1<sup>st</sup> of April 2011 – 25<sup>th</sup> of June 2011 and then reinserted back onto the Valuation Roll as a self-catering unit from the 25<sup>th</sup> of June 2011 - 1<sup>st</sup> of February 2020. It has been on the Council Tax list since then.

Unfortunately our system does not clarify when the Royal Artillery Association and Club ended, however I would assume it ended on the 1<sup>st</sup> of April 2010 as this is the date the self-catering took over.

I do hope the above satisfies, however if you require any further information please don't hesitate to ask.

Kind regards

Caris

Caris Hood | Property Assistant | Valuation Section | Central Division |  
| **LOTHIAN VALUATION JOINT BOARD** | 17a South Gyle Crescent, Edinburgh, EH12 9FL |  
[REDACTED]

## Notes on Monitoring and control systems

Door entry is controlled by a system called “Nuki”

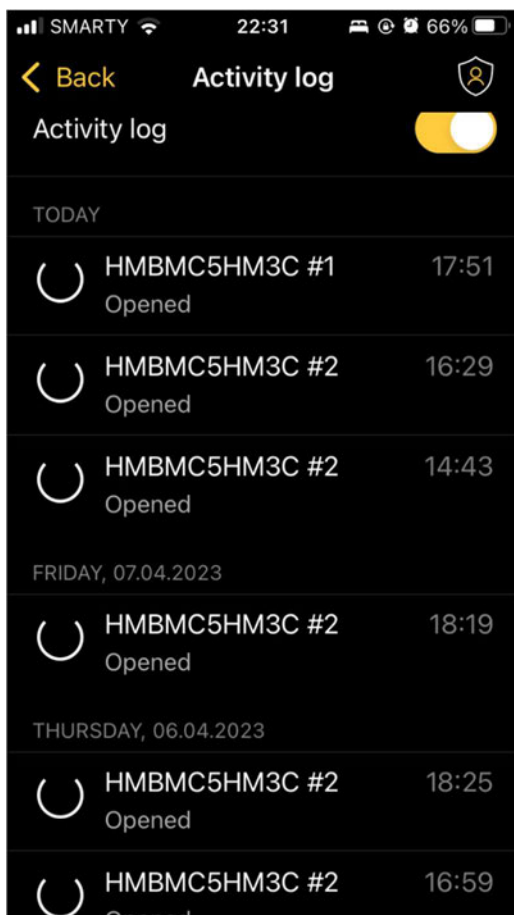
It is a Keyless electronic door lock system working from a visitor’s smart phone

Further information can be found at <https://nuki.io/en>

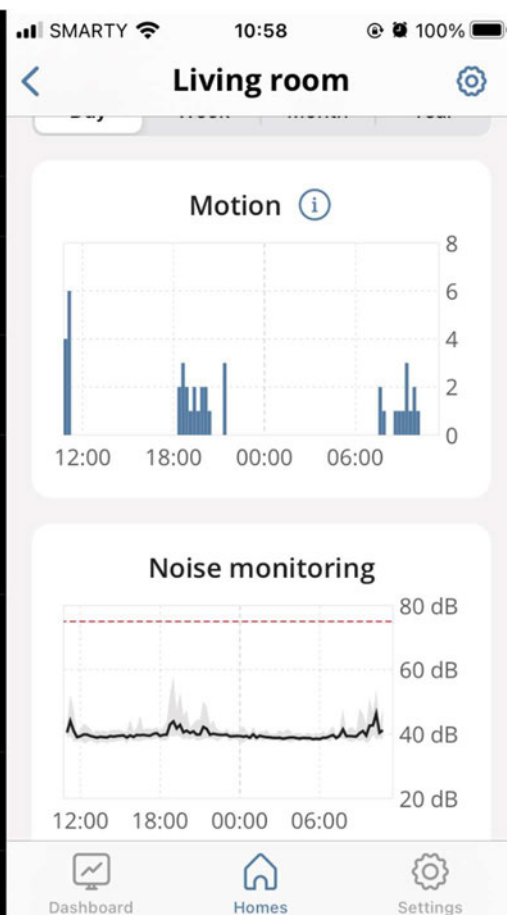
Noise and movement monitoring employs a device that measures decibels and movement provided by Minut.

Further information is available at <https://minut.com>

NUKI Activity log



Minut monitor





16 Albany Street  
First Floor Flat  
Edinburgh EH1 3QB

28<sup>th</sup> March 2023

City of Edinburgh Council  
Planning Department

*To whom it may concern*

**Reference: Application No: 22/04261/FUL  
16(GF) Albany Street, Edinburgh EH1 3QB**


I am the owner and occupier of the flat on the first floor of 16 Albany Street.

The ground floor flat, now owned by Mrs Ella and Mr Robert Wishart, has been used by them and the previous owner as self-catering accommodation on short lets over several years.

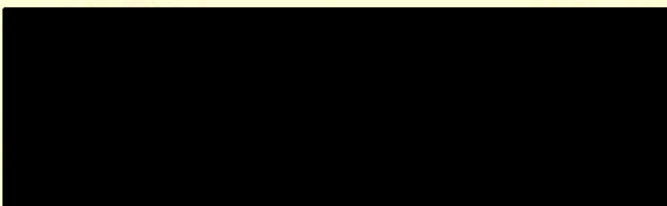
It has caused no difficulty or detriment to amenity.

I have no objection to Mrs and Mr Wishart continuing to use their flat for self-catering accommodation and to the granting of planning consent for change of use to Short-Term Letting.

Yours faithfully



**Melanie Goodson**



**16 Albany Street  
Second Floor Flat  
Edinburgh EH1 3QB**

28<sup>th</sup> March 2023

City of Edinburgh Council  
Planning Department

*To whom it may concern*

**Reference: Application No: 22/04261/FUL  
16(GF) Albany Street, Edinburgh EH1 3QB**

I own the flat on the second floor of 16 Albany Street.

Mr and Mrs Wishart bought the ground floor flat in September 2021. Since then, they have been providing self-catering holiday accommodation.

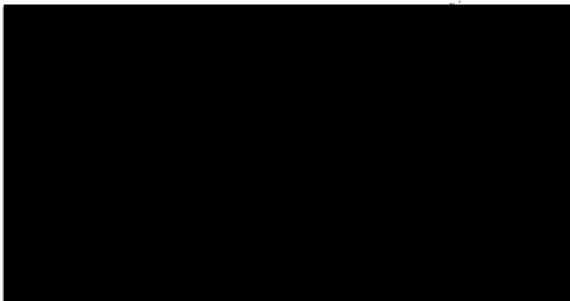
There have been no problems associated with the holiday accommodation. There is no disturbance of any kind when guests stay or enter or leave the building. In fact, it is not possible to tell on the top floor when people enter or leave the ground floor of the building.

The previous owner, Mr Faulkner, was also providing holiday accommodation over many years without any nuisance or other problems.

Mr and Mrs Wishart have made a point of ensuring that the hallway on the ground floor is clean and well looked after, including replacing hall light units that were not working. They obviously wish to offer a high standard of accommodation for their guests which improves the general amenity of the property.

I have no objection to Mrs and Mr Wishart continuing to use their flat for self-catering accommodation and to the granting of planning consent for change of use to Short-Term Letting.

Yours faithfully



## Section 8

### Matters not previously raised

- a) New material is presented to explain more clearly why the concerns stated in the refusal decision are not in the specific and particular circumstances of this application applicable and do not represent a real and present problem.

The information demonstrates that the risks of disturbance and detriment to amenity of neighbours are effectively substantially mitigated to such an extent as to remove them as a real cause for concern

- b) This was not raised with the officer before the application was determined as the issue was not raised as a concern by the officer and the applicant did not imagine it would be considered as a reason to refuse the application, given that the applicant knew it to be a FACT that:

- 1) Both neighbours had no objection to the application (now confirmed in writing);
- 2) The previous owner has been using the flat for the provision of holiday accommodation over many years without any disturbance to the neighbours;
- 3) The sound of people entering and leaving the building and walking through the hallway to the door of the apartment is not heard either inside the ground floor apartment or the apartments on the two upper floors;
- 4) There are good and effective measures in place to monitor noise and control movement;
- 5) In order to maintain the high standards expected and required for premium quality holiday accommodation, the applicant has undertaken maintenance of the hallway, and provided attractive décor and furnishings, all in consultation with the neighbours, so as to improve the hallway and **enhance** the amenity of the shared parts of the property

- c) This material and information should now be considered as part of the review to ensure that a fair and reasonable decision is made, based on the actual circumstances and facts as they exist at the property rather than presumptions that, while reasonable in the absence of knowledge of the particular circumstances, do not coincide with the actual circumstances and facts.

**Statement in support of a request  
to Review an application for planning permission**

Application Number 22/04261/FUL

**Retrospective planning permission for a change of use from residential (flatted dwelling-house) to a short term let (short term commercial visitor accommodation)**

**1. Background**

1.1 The reason given for refusal of planning permission can be broken down into three parts:

- That the proposal would have a materially detrimental impact upon the living conditions of nearby residents;
- That the proposal would have a materially detrimental impact on the amenity of nearby residents; and,
- That the proposal is therefore contrary to Local Development Plan Policy.

1.2 The Applicants submit that the delegated decision does not fully take account of the material considerations that should be taken into account in making the decision including:

- The nature and operational characteristics of the proposed use;
- The fact and degree to which the property is used for short term lets;
- The historic use of the property;
- The quality and character of the surrounding area;
- The nature and source of objections to the proposal;
- Impact on the living conditions and amenity enjoyed by neighbours; and
- The degree to which conditions can mitigate any concerns about impact on amenity.

**2. The nature and operational characteristics of the proposed use.**

2.1 A *sui generis* use stands to be considered on the operational characteristics specific to the proposal. Edinburgh City Council's non statutory guidance for businesses states:

"The change of use from a residential property to short term commercial visitor accommodation may require planning permission.

In deciding whether this is the case, regard will be had to:

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

2.2 Whilst this Non-Statutory Guidance is phrased as deciding whether or not planning permission is required rather than whether it should be granted it is nevertheless a material consideration in determining this particular application.

2.3 The property is a modest (approx. 80.7 m<sup>2</sup>) ground floor flatted dwellinghouse with two bedrooms. It can accommodate a maximum of 4 persons and is let on that basis. The nature of the accommodation provided is of a high standard and can reasonably be described as being at the luxury end of quality that might be expected of a short term let. (See photographs at Appendix 1) This is reflected in the tariff that those letting the property are expected to pay.

2.4 The property is accessed via a common hallway. A stairway from the hall services the upper floor flatted dwellinghouses. The Applicant maintains the hall to a high standard in order that it reflects the standard of the accommodation provided. Visitors access the property via the hallway. They do not use the stairway and therefore do not impinge upon the privacy of the upper floors.

2.5 The Applicant recognises that noise must be controlled and has installed an occupancy and noise monitoring system that can be accessed remotely. There have been no issues with neighbours regarding noise or disturbance from use of the property for short term visitor accommodation (see below).

2.6 The Applicants also employ an electronic door entry system (Nuki) that enables and records entry to the property. The Applicants can therefore demonstrate, factually, that the pattern of movement is no greater than and may even be less frequent than movements to and from the property if it was occupied as a dwellinghouse. The pattern of movements is normally entry upon arrival, exit in the morning presumably for the purposes of sightseeing around Edinburgh, entry early evening then exit presumably for the purposes of say finding a local restaurant, then entry again before bed. On many days of the year, there is no movement in or out of the flat at all. Guests are unfailingly courteous and well behaved. The suggestion that this pattern of movement causes disturbance does not stand scrutiny.

2.7 Finally it is worth considering the reason why the property is attractive to short term visitors. It is of a significantly high standard of accommodation and is located in the historic New Town of Edinburgh and within walking distance of Edinburgh's tourist attractions. A short-term visit to Edinburgh is usually a part of a longer-term visit to Scotland. If no permissions are to be granted for short term commercial visitor accommodation in Edinburgh the diversity of accommodation available to visitors will suffer and may result an adverse impact on the tourist driven economy of Edinburgh.

### **3. The fact and degree to which the property is used for short term lets.**

3.1 The property is used as both a second home and for the for the purpose of short term lets. The split between use as a second home and use for short term commercial accommodation is currently 52/48. In 2022 the property was used as short-term commercial accommodation for 174 nights. The average length of stay was just over 3 nights.

### **4. The historic use of the property.**

4.1 Historically the property has been used as a "lodging house" and from 1924 to 1981 as a "social club" (see appendix 2). The property was purchased by the Applicant and her husband in August 2021. The flat had previously been used as a holiday let from at least 2010 to 2020.

4.2 The Non-Domestic Valuation roll records the property as being a commercial "self-catering unit" with four beds for a period of more than 10 years prior to the property being purchased by the Applicants (see Appendix 3 & 4). This is new information not known to the Applicant prior to submission of the application which was only made because the Applicant was advised that it is a requirement of the Licensing Authority that operators of short-term commercial visitor



accommodation obtain planning permission. It may therefore be possible for the Applicant to claim established use. The views of the planning authority would be welcome in this respect.

#### **5. The quality and character of the surrounding area.**

5.1 The Report of Handling of the application states that “Albany Street is of mixed character, featuring residential, office and other commercial uses” and that it is “situated in an urban area and the city centre as defined by the adopted Edinburgh City Local Development Plan.” The report fails to mention that the other commercial uses include hotels, bars, restaurants and a gym. It does, however go on to conclude that the impact on the amenity of neighbouring residential properties of short-term commercial visitor accommodation is acceptable.

5.2 The reason for refusal is therefore solely grounded on the impact of the proposal on the two residential properties accessed via the communal hallway.

#### **6. The nature and source of objections to the proposal.**

6.1 Whilst the Applicant fully accept that representations received by the planning authority on an application for planning permission are material to its consideration of that application appropriate weight needs to be given as to the source and nature of the representations made. In this instance the representations are from lobby groups and broad in nature and not specific to the application before the Council as planning authority. The Report of Handling gives weight to the objection based upon impact on neighbouring residential amenity but as stated above concludes that given the quality and character of the surrounding area the impact on the amenity of neighbouring residential properties of short-term commercial visitor accommodation is acceptable.

6.2 The persons living in the neighbouring properties accessed from the hallway leading to the stairs did not object. This should be of no surprise to the Review Body. Generally, where neighbours do not object to a proposal or indeed find it acceptable, they will seldom submit representations. Appropriate weight should be applied to the fact that the immediate neighbours did not object. It would be reasonable to conclude that the immediate neighbours have not experienced and do not anticipate that their living conditions and amenity are affected.

6.3 Since receiving the Report of Handling the Applicant’s neighbours have submitted written representations, copied to both the Applicant and the Council as planning authority, as to the impact of use of the ground floor flat for short term commercial visitor accommodation on their living conditions and amenity (see Appendix 7 & 8). This confirms that there is no adverse impact on their living condition or upon the amenity and enjoyment of their properties.

#### **7. Impact on the living conditions and amenity enjoyed by neighbours.**

7.1 The Applicant has sought advice as to what is meant by living conditions and understand this to mean “the circumstances affecting the way in which people live, especially with regard to their well-being”. There may be a different definition in planning law or guidance, however the Applicant has been unable to find such a definition.

7.2 Use of the property as short term commercial visitor accommodation does not impact upon the essential utilities serving the building, nor does it impact upon the fabric of the building in a manner that might affect individual or collective wellbeing.

7.3 Notwithstanding the Applicant has taken steps to monitor and control both movements and noise. The Applicant is prepared to attest that noise and disturbance from use of the ground floor hallway cannot be heard from the first or second floor flats and that furthermore noise and disturbance from use of the hallway cannot be heard from within the application property. This is confirmed by the recent representations submitted by the neighbours.

7.4 The Applicant assumes that the reference to amenity is to residential amenity. So far as the Applicant is aware residential amenity is not defined in planning law but is used to refer to the character of an area and elements that contribute to the overall enjoyment of an area. The Report of

Handling clearly concludes that the proposal does not adversely impact on the amenity of the surrounding area but solely on the amenity of the two flatted dwellinghouse accessed from the hallway and stair serving them.

7.5 The Applicant submits that when assessing the impact of use of the property for the purposes of short-term commercial visitor accommodation the following material considerations should be taken into account:

- Privacy - how does/would the proposed use affect privacy levels of two properties. The Applicant submits that use of the hallway by persons accessing the ground floor property has only minimal impact on the privacy of the occupants of the upper floors.
- Overbearing affects - would the nature and operational characteristics of the proposed use result in an oppressive environment. The Applicant submits that the nature and operational characteristics of the proposed use as managed by them does not have an overbearing impact on the occupants of the upper floors. Any change in management can be mitigated by a condition requiring that any permission should inure for the benefit of the Applicant only thereby protecting the occupant of the upper floors from the impact of a change in ownership.
- Noise and disturbance - would the proposed use result in unacceptable levels of noise and disturbance. The Applicant submits that any impact arising from noise or disturbance can be controlled by the imposition of conditions and limitation on the number of days in a calendar year the property can be used for the purposes of short-term commercial visitor accommodation.
- Design - how does the design of the building impact upon a reasonable standard of amenity. The Applicants submit that the design of the building, in particular the substantial ceiling heights, the thickness of the barrier between ceiling and upper floor, ground floor hallway and stair leading to the upper floors mitigates against any adverse impact on residential amenity (see Appendix 6).

#### **8. Is the proposal contrary to Development Plan Policy and can concerns about impact on living conditions and amenity be mitigated by conditions?**

8.1 The determining issue is whether the proposal accords with the development plan and if it does not are there any material considerations that support approval, including where appropriate the mitigation of impacts by the imposition of conditions.

8.2 The Report of Handling states that “the proposal does not comply with LDP Policy Hou 7, as the change of use of this property to an STL would materially harm neighbouring amenity. The proposal does not comply with the Development Plan”.

8.3 LDP Policy Hou 7 is titled “Inappropriate Uses in a **Residential Area**”. The Report of Handling notes at Section A (Site Description) that Albany Street is of **mixed** character, featuring residential, office and other commercial uses. The adjoining property, Kingsford House 14 Albany Street is dedicated to the provision of Serviced Offices, Co-working and Meeting Rooms. The report notes at page 5 that the proposal will provide accommodation for tourists and individuals visiting the city, within an area of **mixed** use.

8.4 Within LDP Policy Hou 7 at paragraph 234 it is explained that the intention of the policy is firstly, to preclude the introduction or intensification of *non-residential* uses **incompatible** with *predominantly* residential areas.

8.5 The Applicant submits that:

- a. Albany Street is not a *predominantly* residential area, but rather, as stated in the Report of Handling, an area of **mixed** use.
- b. The history of the property, and in particular its use as a self-catering unit since at least 2010, demonstrates that its use as a Short Term Let has not proved to be incompatible with the area and moreover, the proposal does not represent an introduction or intensification of non-residential use, but rather a continuation of an existing use that has caused no problem. and therefore, in this regard, the proposal is not contrary to LDP Policy Hou 7.

8.6 The Applicant notes that the Report of Handling states that loss of residential accommodation is not a material consideration.

8.7 Within LDP Policy Hou 7 at paragraph 234 it is further explained that the intention of the policy is secondly, to prevent any further deterioration in living conditions in more mixed-use areas which nevertheless have important residential functions.

8.8 The Applicant submits that:

- a. The proposal does not represent a further deterioration in living conditions, either for the area or for the residents of the two flatted properties on the upper floors of the building as the proposal represents a continuation of an existing use that has caused no problem.
- b. The enhanced property management arrangements (monitoring of noise, number of people and door entry control) along with improved maintenance of the common hallway fully addresses and deals with concern about a deterioration in living conditions. and therefore, in this regard as well, the proposal is not contrary to LDP Policy Hou 7.

8.9 The Applicant is aware that the notes on the justification for Hou 7 state that any change of use of residential properties to commercial uses can have a detrimental impact on the amenity of residents particularly where there is a high density of people occupying a building with communal areas.

8.10 The Applicant further submits that the occupancy level of the building in three flats cannot be reasonably described as high density.

8.11 The Report of Handling states that the Guidance for Business states in relation to short term commercial visitor accommodation that the Council “will not normally grant planning permission in respect of flatted properties where the adverse impact on residential amenity is greatest”.

8.12 The use of the phrase “not normally” in statutory planning policy and guidance is generally accepted to mean that there will be instances dependent upon the material considerations where permission will be granted, usually but not always, subject to conditions.

8.13 The Applicant submits that on balance, and taking full account of the matters and material considerations set out above, planning permission should in this instance be granted subject to conditions.

Should the Review body agree, the Applicant suggests the following conditions be applied:

1. That the permission shall inure for the benefit of the Applicant only.
2. That the property may only be used for the purpose of short-term visitor accommodation for not more than 180 days in any one calendar year.
3. That the applicant shall install and shall at all times maintain in working order a suitable occupancy and noise monitor and shall ensure that noise levels from the property and the hallway shall not exceed 80db.