

Mr Zhen  
14 Abbotsford Road  
Galashiels  
TD1 3DS

**Decision date: 15 March 2023**

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

Retrospective change of use from residential to short term let (sui-generis).  
At 90 East Crosscauseway Edinburgh EH8 9HQ

**Application No: 22/04946/FULSTL**

**DECISION NOTICE**

With reference to your application for Planning Permission STL registered on 30 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 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 James Armstrong directly at [james.armstrong@edinburgh.gov.uk](mailto:james.armstrong@edinburgh.gov.uk).

A handwritten signature in black ink, appearing to read 'James Armstrong', with a long horizontal flourish extending to the right.

**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 STL  
90 East Crosscauseway, Edinburgh, EH8 9HQ**

**Proposal: Retrospective change of use from residential to short term let (sui-generis).**

**Item – Local Delegated Decision  
Application Number – 22/04946/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 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. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

## **SECTION A – Application Background**

### **Site Description**

The application site is a two bedroom ground floor flat, located on the northern side of East Crosscauseway. The property has its own main door access.

East Crosscauseway is predominantly of residential character, though a number of commercial uses including a restaurant, dance school and retail uses are present, while the surrounding area is more mixed. Bus links are relatively accessible from the site.

The application site falls within the South Side Conservation Area.

### **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**

- Applicant Statement
- Planning Statement
- Title Deeds
- Photos 1 and 2

### **Relevant Site History**

99/01022/FUL  
90 East Crosscauseway  
Edinburgh  
EH8 9HQ  
Change of use from shop to two flats (amended to one flat)  
Granted

28 May 1999

### **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:** 11 November 2022

**Date of Site Notice:** 11 November 2022

**Number of Contributors:** 2

## **Section B - Assessment**

### **Determining Issues**

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

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

This report will then consider the proposed development under Sections 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 harm the character or appearance of the conservation area?**

The following HES guidance is relevant in the determination of this application:

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."

South Side Conservation Area Character appraisal states:

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

As stated previously, there are no external changes proposed. Therefore, the impact on the character and appearance of the conservation area is acceptable.

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

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

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

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 NPF 4 and LDP 2016 policies to be considered are:

- NPF 4 Sustainable Places Tackling the climate and nature crises Policies 1 and 7
- NPF 4 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.

#### Conservation Area

There are no external or internal works proposed and as such there will not be a significant impact on historic assets or places. The proposal complies with NPF 4 Policy 7.

#### Proposed Use

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

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (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 planning statement provided by the applicant does not seek to address whether the proposed STL use will provide an economic benefit, though it does outline that there will be no loss of residential accommodation as the application is retrospective.

However, the retrospective nature of the application does not change that the lawful use of the property is as a residential unit. The use of the property as an STL would therefore 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.

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, and the ability to make contributions to the local community.



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

### Parking Standards

There is no vehicle parking and no cycle parking. Zero parking is acceptable as there is 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. 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.

### **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:

2 objections  
0 in support  
0 neutral

### *material considerations in objection*

- Impact on neighbouring residential amenity. Addressed in Section B.
- Impact on the local community. The change of use of one Short Term Let will not have a significant impact on the local community.
- Loss of residential accommodation. Addressed in Section B.
- Impact on waste and recycling services. The property contains suitable refuse and recycling facilities for their proposed use.
- Impact on motor vehicle parking availability. Addressed in Section B.

### *non-material considerations*

- Impact on rental prices.
- Cause anti-social behaviour.
- Contrary to Scottish Planning Policy.

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

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

### **Overall conclusion**

The proposal complies with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The 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. 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:** 30 October 2022

### **Drawing Numbers/Scheme**

01, 02

**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 22/04946/FULSTL

## Application Summary

Application Number: 22/04946/FULSTL

Address: 90 East Crosscauseway Edinburgh EH8 9HQ

Proposal: Change of use from self-catering unit to short term holiday let.

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 the current Secretary of the Southside Community Council and I am submitting an objection on their behalf:

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 exacerbating this by removing properties from the private rental market or diverting them from being sold on. Even if an application is retrospective, and a location has already been operating as an STL, it would be preferable to return flats to normal residential use. For Example, This property, with two large bedrooms, could work as a flat for a small family, and is in a relatively central location with good transport connections, very convenient 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. Some STLs are even marketed specifically as "party flats", but even if they are not, 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.

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. This makes it harder to get to know and cooperate with residents on the stair, and at extreme levels can even be actively isolating. 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. 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 22/04946/FULSTL

## Application Summary

Application Number: 22/04946/FULSTL

Address: 90 East Crosscauseway Edinburgh EH8 9HQ

Proposal: Change of use from self-catering unit to short term holiday let.

Case Officer: Improvement Team

## Customer Details

Name: Mr Stewart Wilson

Address: 199 Pleasance Edinburgh

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this development:

1) The change in use is contrary to Scottish Planning Policy on "socially sustainable places" and "supporting delivery of accessible housing".[1]

2). The development would have unacceptable impacts on neighbourhood amenity.

Applications for short term visitor accommodation (Airbnb type rentals) are usually rejected on amenity grounds (2). Scottish Government Policy already exists to reject applications on the basis of community cohesion and accessible housing grounds (1).

Scottish Government Policy is listed as a material consideration under "Planning Circular 3/2013: Development management procedures, possible material considerations".[2]

Edinburgh has a housing crisis, and accessible housing crisis[3]. The Strategic Housing Investment Plan states the rapid growth in short term lets is creating further pressure on supply, rent levels and house prices in some areas as properties are purchased for short term let rather than long term rent or owner occupation.[4]

To demonstrate the scale of the problem, independent research for the Scottish Government finds 12.78% of all City Centre dwellings are listed as entire-property short-term lets on Airbnb alone.[5] In the Old Town, one in four properties are listed on Airbnb.[6] Very few have planning authorisation. Short-term letting affects the ability of the area to function as a "socially sustainable place".

It has been concluded at thirty-three (and rising) DPEA planning appeals, that short-term lets have a materially detrimental impact on the living conditions for close neighbours, such as in this case.

Significant impacts on neighbours include: increased antisocial behaviour, noise, disruption, intrusion by a frequent turnover of strangers, loss of community, loss of security and impacts on bins and parking.[7] Main door properties such as this one have been found unacceptable for short-term letting when they are close to other residential properties and/or share communal spaces,[8],[9],[10],[11],[12],[13]. Furthermore, the demand for main door housing in Edinburgh is so great that incentivising any main door housing for short-term holiday lets is contrary to Scottish Planning Policy on "supporting delivery of accessible housing".

[1] <https://www2.gov.scot/Resource/0045/00453827.pdf>

[2] <https://www.gov.scot/publications/planning-series-circular-3-2013-development-management-procedures/pages/12/>

[3] <https://www.equalityhumanrights.com/en/publication-download/housing-and-disabled-people-scotlands-hidden-crisis>

[4] <https://democracy.edinburgh.gov.uk/mgConvert2PDF.aspx?ID=10135>

[5] <https://www.gov.scot/publications/short-term-lets-consultation-regulatory-framework-scotland-analysis-consultation-responses/>

[6] <https://www.theguardian.com/technology/2020/feb/20/revealed-the-areas-in-the-uk-with-one-airbnb-for-every-four-homes>

[7] <https://docs.google.com/document/d/1MV0-bfYx8B3bkCjF0i16ksV9QytfUmP4RGEevRAXEP8/edit>

[8] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120999>

[9] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120857>

[10] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=120050>

[11] <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120492>

[12] <http://dpea.scotland.gov.uk/CaseDetails.aspx?ID=120047>

[13] <https://www.russell-cooke.co.uk/media/1039650/2012-ewca-civ-1202.pdf>