

Houghton Planning Ltd.
FAO: Paul Houghton MRTPI
Alloa Business Centre
Whins Road
Alloa
Clacks
FK10 3RF

Mr & Mrs Lingard
Caim House
Cavendish Road
Matlock
DE4 3GY

Decision date: 2 October 2023

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

Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect).
At Flat 4 5 Albyn Place Edinburgh EH2 4NG

Application No: 23/03460/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 2 August 2023, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

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

Reason for Refusal:-

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short term let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling

as a short term let will result in an adverse 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:

The change of use of this property to a Short Term Let (STL) will have an adverse 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.

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

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



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

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

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

Report of Handling

**Application for Planning Permission STL
Flat 4 5 Albyn Place, Edinburgh, EH2 4NG**

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect).

**Item – Local Delegated Decision
Application Number – 23/03460/FULSTL
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 a Short Term Let (STL) will have an adverse 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.

SECTION A – Application Background

Site Description

The application relates to a two-bedroom, third floor flat at F4 5 Albyn Place. The flat is situated within a three-storey and basement traditional tenement property converted from office back to residential use.

The property is accessed via a shared front door and communal stair. This access is used by three further residential dwellings.

The character of the local area is mixed use, with levels of both commercial and residential uses including a hotel across the road.

The property is within the New Town Conservation Area, is a category A listed building (28234), listed on 14/12/1970 and is within Edinburgh's World Heritage Site.

Description of The Proposal

The application is for a change of use from residential to short-term let use (Sui Generis) and residential flat (in retrospect).

Supporting Information

- Planning Statement
- Economic Impact Study
- Further Supporting Documents

Relevant Site History

No relevant site history.

Other Relevant Site History

No further relevant site history.

Consultation Engagement

Historic Environment Scotland

Publicity and Public Engagement

Date of Neighbour Notification: 2 October 2023

Date of Advertisement: 18 August 2023

Date of Site Notice: 18 August 2023

Number of Contributors: 2

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 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 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 area character appraisal states *"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."*

There are no external alterations. 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 comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) 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 NPF 4 Policy 7.

The non-statutory Guidance for Business (April 2023) 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 Buildings, Conservation Area and Edinburgh World Heritage Site

Historic Environment Scotland were consulted as the building is category A listed and made no comment on the proposals. 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.

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

The proposal complies with NPF 4 Policy 7.

Proposed Use

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

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

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

The non-statutory Guidance for Businesses (2023) states that an assessment of a change of use of dwellings to a short term let will have regard to:

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

Amenity

The proposed property is situated in a mixed-use area with levels of both commercial and residential activity. Access to the dwelling is via a shared front door that is used by three further residential dwellings. The development is within proximity to immediate neighbouring residential properties.

The agent's supporting statement refers to the management guidelines which are in place. However, planning permission is granted to property rather than individuals, which means that property can change hands and be operated in a different way than was intended by the applicant for planning permission. Because of this, when considering the pattern of activity associated with a use, only limited regard is given to how an applicant manages the property.

The use as a short term let would allow visitors to come and go from the premises for inconsistent periods of time on a regular basis throughout the year in a manner dissimilar to that of a permanent resident. A transient visitor may also have less regard for neighbours' amenity than individuals using the property as a principal home. The use as a short term let is not consistent with the existing neighbouring residential uses. The effect on nearby immediate residential properties is increased by the use of a communal stair.

A change of use would increase the level of ambient background noise beyond what is reasonably expected by neighbouring residents and will have a significant detrimental effect on the living conditions and amenity of nearby residents. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

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

The applicant's agent provided a planning statement in response to NPF4. The supporting statement commented that VisitScotland suggests an overseas visitor to Scotland spends £60 per day locally, so based upon a occupancy rate of 90%, and two adult visitors occupying the flat, it will generate a spend of well over £19,000 contributing to the local economy.

The supporting statement also highlighted the importance that the tourist economy provides to Edinburgh citing Frontline Consultants 2021 study which states the industry provided over £91,000,000 in 2020 and supported over 2,500 full-time equivalent jobs within the city.

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

It is important to recognise that having the property within residential use also contributes to the economy, using local services and fulfilling employment opportunities across the City. Long term residents can also make consistent and long-term contributions to the local community.

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

Parking Standards

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. The proposal does not comply with the Development Plan policy NPF 4 policy 30(e) and LDP policy Hou 7.

d) 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.

Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only limited weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

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

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

Public representations

The application received two objections. A summary of the representations is provided below:

material considerations in objection

- Concern that a change of use would reduce the residential housing stock of Edinburgh's City centre and that this loss is not justified. This has been discussed within section c).
- Concern that a change of use would have a negative effect of the neighbouring residential amenity. This has been discussed within section c).
- Concern that the proposed use would have a detrimental effect on the World Heritage Site. This has been discussed within section b).
- Concern that the proposed use would have a detrimental effect on the Listed Building and setting. This has been discussed within section a) and b).

Conclusion in relation to identified material considerations

Identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

Overall conclusion

The change of use of this property to a short term let will have an adverse 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;

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 term let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short term let will result in an adverse 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: 2 August 2023

Drawing Numbers/Scheme

01 - 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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

Appendix 1

Consultations

NAME: Historic Environment Scotland

COMMENT: No comments to make.

DATE: 28 August 2023

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

Appendix 2

Application Certification Record

Case Officer

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: Benny Buckle

Date: 25 September 2023

Authorising Officer

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Damian McAfee

Date: 28 September 2023

Comments for Planning Application 23/03460/FULSTL

Application Summary

Application Number: 23/03460/FULSTL

Address: Flat 4 5 Albyn Place Edinburgh EH2 4NG

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect).

Case Officer: Benny Buckle

Customer Details

Name: Mr Eric Hughes

Address: 3 Wemyss Place Mews Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Objection to Planning Application for Short-Term Rental Use at Flat 4, 5 Albyn Place

I am writing to express my strong objections to the planning application for short-term rental use at Flat 4, 5 Albyn Place. I live at 3 Wemyss Place Mews directly behind the property, and this is the 3rd application for short term tenancy I have seen in the last 12 months.

While I appreciate the need for diverse housing options, I believe that this proposal poses potential problems that could adversely affect the community and the area's quality of life.

One of the primary concerns I have is related to noise and disruption caused by short-term tenants, particularly those using platforms like Airbnb. In my experience, short-term tenants often have a transient nature, which can lead to inconsistent behaviour and a lack of consideration for the local community. I have experienced noise disturbance, such as people talking loudly and leaning out of windows, especially late at night. This is especially true during events like the Festival/Fringe and New Year's eve, and has been a significant source of disruption as recently as this week. While I cannot confirm whether this disturbance originated from this specific rental property, it is undeniable that such disruptions do not contribute positively to the neighbourhood's atmosphere.

In contrast, long-term tenants tend to be more invested in the community as they live in the area permanently. They make better neighbours, respecting the local norms and fostering a sense of belonging. The transient nature of short-term rentals, on the other hand, can lead to a lack of accountability and responsibility for the well-being of the community.

Furthermore, considering the housing shortage in Edinburgh, converting residential properties into

short-term rentals could exacerbate the already limited housing availability. It is crucial to prioritise long-term housing solutions that can accommodate the needs of permanent residents and contribute to the stability of the area.

In conclusion, I am in full support of maintaining the residential character of Albyn Place through responsible, long-term tenancy arrangements. I believe that short-term rentals have the potential to undermine the tranquillity of the community and exacerbate noise-related issues, especially during events like the festival. The well-being of our neighbourhood and the broader housing situation in Edinburgh should be considered paramount in making decisions about property usage.

Thank you for taking these objections into consideration during your deliberation process

Comments for Planning Application 23/03460/FULSTL

Application Summary

Application Number: 23/03460/FULSTL

Address: Flat 4 5 Albyn Place Edinburgh EH2 4NG

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect).

Case Officer: Benny Buckle

Customer Details

Name: Dr The Architectural Heritage Society of Scotland

Address: 15 Rutland Square, Edinburgh EH1 2BE

Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The AHSS Forth & Borders Cases Panel has examined the proposals for the change of use to short-term let in an A-listed subdivided townhouse by James Gillespie Graham, designed 1822, which lies within the New Town Conservation Area and World Heritage Site, and objects.

- 1) The proposals only relate to one property within the tenement, which is accessed from a shared stair. This would have a detrimental impact on the residential amenity of neighbouring properties, and limits the future of the flats not included within the application.
- 2) The change of use would contribute to the unsustainable growth of the short term let (STL) sector in Edinburgh. The economic benefits of tourism for Edinburgh are clear, and we celebrate the role that our architectural heritage plays in this sector. However, the current rising rate of STLs threatens the sense of place and community which are part of the city's attraction, and this is especially acute in the World Heritage Site.
- 3) Scottish Government Research has highlighted the links between STLs and the negative impacts of reduced availability of affordable housing, congestion and reduced quality of life through noise and disturbance (People, Communities and Places, October 2019, pp. iv-v)
- 4) With particular reference to architectural heritage the responsibility for the care and maintenance of communal areas and aspects of joint responsibility in listed buildings and conservation areas is diminished by the increase of short-term occupants. The change of use does not respect the special characteristics of history and place reflected in the building's designation and location in the World Heritage Site and would increase the negative impacts caused by the growth of STLs in Edinburgh.

The proposals contradict Edinburgh Council's Local Development Plan policies DES1, DES5, ENV4, and HOU7. It also conflicts with NPF4 30(e) part (ii), as it would result in the loss of residential accommodation. We therefore object to the application.



By email to:
benny.buckle@edinburgh.gov.uk

City of Edinburgh Council
Planning and Strategy
4 Waverley Court
East Market Street
Edinburgh
EH8 8BG

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
HMConsultations@hes.scot

Our case ID: 300067678
Your ref: 23/03460/FULSTL
28 August 2023

Dear City of Edinburgh Council

Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013
Flat 4 5 Albyn Place Edinburgh EH2 4NG - Use of flat for short-term let use (Sui Generis)
and residential flat (in retrospect)

Thank you for your consultation which we received on 15 August 2023. We have assessed it for our historic environment interests and consider that the proposals affect the following:

| Ref | Name | Designation Type |
|------------|---|-------------------------|
| LB28234 | 1-11 (INCLUSIVE NOS) ALBYN PLACE, INCLUDING RAILINGS, WITH 2-4 (INCLUSIVE NOS) WEMYSS PLACE MEWS | Listed Building |

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

Our Advice

We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Yours faithfully

Historic Environment Scotland