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**Decision date: 16 August 2023**

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

Change of use from residential (Class 9) to short term let (Sui Generis).  
At 32 Old Church Lane Edinburgh EH15 3PY

**Application No: 23/02726/FULSTL**

**DECISION NOTICE**

With reference to your application for Planning Permission STL registered on 23 June 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 National Planning Framework 4 Policy 30(e) part (ii) in respect of Loss of Residential Accommodation. 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 proposal complies with sections 59 and 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 and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The change of use of this property to a Short Term Let (STL) will not have an unacceptable impact on neighbouring amenity. The proposal is considered to comply with NPF 4 30(e) part (i) and LDP policy Hou 7.

However, 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 loss of residential accommodation. The proposal, therefore, does not comply with the Development Plan policy NPF 4 policy 30(e) part (ii). There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

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 Craig Turnbull directly at [craig.turnbull@edinburgh.gov.uk](mailto:craig.turnbull@edinburgh.gov.uk).



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

## NOTES

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

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

# Report of Handling

**Application for Planning Permission STL  
32 Old Church Lane, Edinburgh, EH15 3PY**

**Proposal: Change of use from residential (Class 9) to short term let (Sui Generis).**

**Item – Local Delegated Decision  
Application Number – 23/02726/FULSTL  
Ward – B14 - Craigentinny/Duddingston**

## **Recommendation**

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

## **Summary**

The proposal complies with sections 59 and 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 and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The change of use of this property to a Short Term Let (STL) will not have an unacceptable impact on neighbouring amenity. The proposal is considered to comply with NPF 4 30(e) part (i) and LDP policy Hou 7.

However, 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 loss of residential accommodation. The proposal, therefore, does not comply with the Development Plan policy NPF 4 policy 30(e) part (ii). There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

## **SECTION A – Application Background**

### **Site Description**

The application property comprises a two-bedroom detached lodge set within private grounds on Old Church Lane.

The property is accessed via a private entrance and contains a private garden area and driveway with space for two cars. The property is contained by a well-established hedgerow which surrounds the site.

The property is located at the western end of Duddingston which is a predominantly low density residential area. It is situated at the south-eastern entrance to Holyrood Park. The closest residential building to the property is number 66 The Causeway, which is located approximately 50 metres to the east.

The property is located within the Duddingston Conservation Area and is a category B listed building (ref: LB49511: date of listing 07.10.2003)

### **Description Of The Proposal**

The application seeks permission to change the use of the property from residential (Class 9) to short-term letting (sui generis). No internal or external physical changes to the building are proposed.

### **Supporting Information**

Planning statement.

### **Relevant Site History**

No relevant site history.

### **Other Relevant Site History**

No other relevant planning site history.

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 29 June 2023

**Date of Advertisement:** 7 July 2023

**Date of Site Notice:** 7 July 2023

**Number of Contributors:** 0

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
  - (i) harming the listed building or its setting? or

(ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 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 reserving or enhancing the character or appearance of that area."

The Duddingston South Conservation Area Character Appraisal emphasises the substantial green setting which provides a rural appearance, the landscaped setting around Duddingston House, the predominance of traditional building materials and the mainly residential use.

There are no external changes proposed. The change of use from a residential premises to a short term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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

The proposals are acceptable with regard to 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 policies to be considered are:

- NPF4 Sustainable Places Policy 1.
- NPF4 Historic Assets and Places Policy 7.
- NPF4 Productive Places Tourism Policy 30.
- LDP Housing Policy Hou 7.
- LDP Transport Policies Tra 2 and Tra 3.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

The non-statutory 'Guidance for Businesses' (2023) is a material consideration that is relevant when considering change of use applications.

## Listed Building and Conservation Area

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 proposals do not involve operational development and therefore, 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 relates 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 property is located at the western end of Duddingston which is a predominantly low density residential area. The surrounding area comprises many detached residential buildings and the application property does not share access with any other residential units and is located within its own private grounds. There is a small public car park to the west of the property and trees to its north.

The closest residential building to the application property is 66 The Causeway, which is located approximately 50 metres to the east. The rear garden of 66 The Causeway extends towards the applicant's property. Within the garden at 66 The Causeway is a two-story ancillary building which is approximately located 10 metres away from the private garden area of the applicant's property.

The applicant provided a supporting Statement which addressed NPF 4 policy 30 e. In terms of amenity the applicant asserts that the property is located on its own private land well away from other residential properties and is well contained by mature hedges. It is accessed via a private entrance and driveway, which eliminates any potential for conflict with neighbouring residents.

It is not considered that the STL use would have a significant detrimental impact on neighbouring amenity or the existing character of the area. The STL use is therefore considered acceptable with regards to neighbouring amenity and the character of the area. The proposal complies with NPF 4 30(e) part (i) and LDP policy Hou 7.



### *Loss of residential accommodation:*

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.

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

The applicant's planning statement expresses that the proposal will have positive economic benefits for the wider area, with visitors helping to drive local spending. The applicant asserts that turning a day visit into an overnight stay increases local visitor spend by over 80% according to Visit Scotland and therefore the proposal will support economic growth.

The use of the property as an STL would result in a loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh is important to retain, where appropriate.

Furthermore, residential occupation of the property also contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

The evidence in the applicant's planning statement relates to generalised information surrounding the economic benefits from overnight stays of visitors in Scotland. In this instance it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits arising from the STL use. As such, the proposal does not comply with NPF 4 30(e) part (ii).

### Parking Standards

The property contains a private driveway. There is no requirement for cycle parking for STLs. Cycles could be parked inside the property or within the private garden. 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 acceptable 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 loss of residential accommodation. The proposal complies with NPF 4 policy 30(e) part (i) and LDP policy Hou 7 but does not comply with the Development Plan policy NPF 4 policy 30(e) part (ii).

### **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.

#### 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.

#### 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.

#### Public representations

A summary of the representations is provided below:

##### *material considerations*

- None.

##### *non-material considerations*

- None.

#### **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 proposal complies with sections 59 and 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 and does not harm the character of the listed building, its setting, or the setting of neighbouring listed buildings.

The change of use of this property to an STL will have not have an unacceptable impact on neighbouring amenity. The proposal is considered to comply with NPF 4 30(e) part (i) and LDP policy Hou 7.

However, 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 loss of residential accommodation. The proposal, therefore, does not comply with the Development Plan policy NPF 4 policy 30(e) part (ii). 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;

### **Reason for Refusal**

1. The proposal is contrary to National Planning Framework 4 Policy 30(e) part (ii) in respect of Loss of Residential Accommodation. 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:** 23 June 2023

### **Drawing Numbers/Scheme**

01-02

Scheme 1

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

Contact: Craig Turnbull, Assistant Planning Officer  
E-mail: [craig.turnbull@edinburgh.gov.uk](mailto:craig.turnbull@edinburgh.gov.uk)

Appendix 1

## **Consultations**

No consultations undertaken.

## 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: Craig Turnbull

Date: 14 August 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): Lynsey Townsend

Date: 15 August 2023