

# Development Management Sub-Committee Report

**Wednesday 23 October 2024**

**Application for Planning Permission STL  
Flat 2 259 Canongate, Edinburgh, EH8 8BQ**

**Proposal: Retrospective change of use from residential to temporary short-term letting for the six-week period commencing 22nd July and ending 31st August in each year noting that the property has been used as a short term let for at least the last 8 years.**

**Item – Committee Decision  
Application Number – 24/02891/FULSTL  
Ward – B11 - City Centre**

## **Reasons for Referral to Committee**

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

### **Recommendation**

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

### **Summary**

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

The short term let (STL) proposal is acceptable with regard to impact on residential amenity and the character of the area. It complies with policy Hou 7 of Edinburgh's 2016 Local Development Plan (LDP) and policy 30(e) part(i) of National Planning Framework 4 (NPF4). However, the proposal does not fully comply with NPF4 policy 30(e) due to it not being in accordance with part(ii). The proposal has not demonstrated that the loss of residential accommodation is outweighed by demonstrable local economic benefits.

Whilst there is non-compliance with NPF4 policy 30(e) (ii) the loss of residential accommodation is for a temporary limited period (41 days) every calendar year during part of July and all of August. The number of visitors to the city increases significantly during this period and use of the property as an STL will support the supply of visitor accommodation and therefore benefit Edinburgh's tourism sector. Accordingly, the 41-day period of non-residential use each year is considered acceptable in this case.

Overall, whilst the proposal does not fully comply with the provisions of the Development Plan exception has been justified in this instance. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

## **SECTION A – Application Background**

### **Site Description**

The application property relates to a ground floor flat within a four-storey tenement building on the north side of Canongate. It comprises two bedrooms, a living room, kitchen, and shower room and is one of seven flatted dwellings at 259 Canongate. The property is accessed via a communal main door into the building that serves all seven flats. The property is the only flat located on the ground floor of the shared entrance.

The immediate area is mixed use in nature, with nearby commercial uses occupying the ground floor with residential properties above. There is a high volume of pedestrian and vehicular movements in the vibrant city centre area. Public transport links are readily accessible from the application site.

The property forms part of a category 'B' listed building (LB49076) designated on the 24 January 2003 and is in the Old and New Towns of Edinburgh's World Heritage Site and the Old Town Conservation Area.

### **Description of the Proposal**

Planning permission is sought for a retrospective change of use from residential to temporary short-term letting for the six-week period commencing 22nd July and ending 31st August in each year. No internal or external physical changes are proposed.

### **Revised Drawing**

The application's initial location plan for was not accurate for the 21-day publicity/consultation period. A revised accurate location plan has been provided and neighbours were renotified. The accurate location plan is reflected in the revised drawing 01A.

### **Relevant Site History**

23/05080/FULSTL

Flat 2 259 Canongate

Edinburgh

EH8 8BQ

Change of use from residential to short-term letting (in retrospect).

Refused

16 May 2024

### **Other Relevant Site History**

No other relevant planning site history.

## Pre-Application process

There is no pre-application process history.

## Consultation Engagement

No consultations undertaken.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 18 September 2024

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 28 June 2024

**Site Notices Date(s):** 25 June 2024

**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**

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

### **a) The proposals harm the listed building and its setting.**

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

- Managing Change in the Historic Environment: Guidance on the principles of listed buildings
- Managing Change in the Historic Environment: Setting

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

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

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

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

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

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

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

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

The Old Town Conservation Area Character Appraisal states: "emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community."

As stated previously, there are no external changes proposed. The change of use will not have a material impact on the character or appearance of the conservation area. The character and appearance of the conservation area will be preserved.

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

The proposal is 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 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 (January 2024) is a material consideration that is relevant when considering LDP Policy Hou 7 and NPF4 policy 30.

The Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

#### Historic Assets and Places

The impact on the listed building, its setting and the setting of the neighbouring listed building has been assessed in section a). Additionally, the proposal does not conflict with the objective of preserving and protecting the Old and New Towns of Edinburgh's World Heritage Site.

The proposal complies with NPF 4 Policy 7.

## Proposed Use

With regard to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposal 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.

## *Amenity*

The application property is a flatted dwelling within a four-storey mid terrace tenement block. It comprises two bedrooms, a living room, kitchen, and shower room and is one of seven flatted dwellings at 259 Canongate.

The surrounding area is mixed in character with a high volume of commercial activity, motor traffic, and historical attractions that contributes to a vibrant city centre area, with high levels of activity. The introduction of an STL in this location would be compatible with the character of the surrounding area.

The arrival and departures of STL guests from the property would be at varied hours and they are likely to come and go throughout the day and into the evening. The STL will enable visitors to arrive and stay at the premises for a short period of time in a manner dissimilar to that of permanent residents, however this will be for a limited period of 41-days every calendar year.

Whilst there is no guarantee that transient visitors will have the same regard for neighbours' amenity than individuals using the property as a principal home, the proposed STL use is for during the peak tourist season where the number of visitors to the city increases significantly due to internationally recognised events and festivals. Considering the location of property, heightened activity in the area during the summer, in addition to the property being the only accommodation accessed on the ground floor within the tenement (immediately adjacent to the communal entrance) the proposed STL use will have a limited impact on existing residential amenity.

Furthermore, a condition has been attached for the proposal to only be permitted for three years to allow the circumstances in relation to amenity to be reassessed again in the future.

On balance, in this instance, the change of use for a temporary limited period every year will not have a materially detrimental effect on the living conditions of neighbouring residents.

The proposal complies 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 established planning use of the property is for residential accommodation. The proposed temporary use of the property as an STL will result in a loss of residential accommodation for 41 days per year. As no information has been submitted by the applicant in relation to demonstrating that the loss of residential is outweighed by demonstrable local economic benefits and there will be a temporary loss of residential accommodation every year the proposal does not satisfy NPF 4 30(e) part (ii).

Given the recognised need and demand for residential accommodation in Edinburgh it is important for it to be retained, where appropriate. However, it is also recognised that the tourism sector is important to the city's economy and the period of STL use sought is during the peak tourist season where the number of visitors to the city increases significantly due to internationally recognised events and festivals.

The loss of residential accommodation (for 41 days per calendar year) is not outweighed by demonstrable local economic benefits. However, the proposal provides potential for the application property to meet tourist accommodation needs outlined above in a vibrant part of the city whilst retaining the dominant residential use.

Therefore, on balance, exception to NPF 4 30(e) part (ii) is justified.

### Car and Cycle Parking

No car parking spaces are proposed. The site is accessible by public transport. There are no cycle parking standards for STLs. Cycles could be parked within the property if required.

The proposal complies with LDP Policies Tra 2 and Tra 3.

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

The proposal is acceptable with regard to impact on residential amenity and the character of the area. It complies with LDP policy Hou 7 and NPF 4 policy 30(e) part (i). However, the proposal does not fully comply with NPF4 policy 30(e) due to it not being in accordance with part(ii). The proposal has not been demonstrated that the loss of residential accommodation is outweighed by demonstrable local economic benefits.

Whilst there is non-compliance with NPF4 policy 30(e) (ii) the loss of residential accommodation is for a temporary limited period (41 days) every calendar year during part of July and all of August. The number of visitors to the city increases significantly during this period and use of the property as an STL will support the supply of visitor accommodation and therefore benefit Edinburgh's tourism sector. Accordingly, the 41-day period of non-residential use each year is considered acceptable in this case.

Overall, the proposal does not fully comply with the provisions of the Development Plan. Specifically, the proposal does not comply with NPF4 policy 30 (e) (ii), however, an exception has been justified in this instance.

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

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024, the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. On 27 June 2024, the Council accepted the recommendations and modifications required to the Proposed City Plan 2030.

On 10 September 2024 Scottish Ministers issued a Direction under section 20(5) of the Town and Country Planning Scotland Act 1997 that City of Edinburgh Council consider modifying the proposed City of Edinburgh Local Development Plan 2, City Plan 2030 as detailed within the annex to the direction. The required modifications are being reviewed and will be considered at a further meeting of the Planning Committee and then further Full Council.

At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the adoption of the plan.

Equalities and human rights

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

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

Public representations

No public representations were received.

**Overall conclusion**

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

The proposal is acceptable with regard to impact on residential amenity and the character of the area. It complies with LDP policy Hou 7 and NPF 4 policy 30(e) (i). However, the proposal does not fully comply with NPF4 policy 30(e) with it not being in accordance with part (ii) as the loss of residential accommodation has not been outweighed by demonstrable local economic benefits.



Whilst there is non-compliance with NPF4 policy 30(e) (ii) the loss of residential accommodation is for a temporary limited period (41 days) every calendar year during part of July and all of August. The number of visitors to the city increases significantly during this period and use of the property as an STL will support the supply of visitor accommodation and therefore benefit Edinburgh's tourism sector. Accordingly, the 41-day period of non-residential use each year is considered acceptable in this case.

Overall, the proposal does not fully comply with the provisions of the Development Plan. Specifically, the proposal does not comply with NPF4 policy 30 (e) (ii), however, an exception has been justified in this instance. There are no material considerations that outweigh this conclusion. The proposal is acceptable.

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

The recommendation is subject to the following;

### **Conditions**

1. Planning permission hereby granted is limited to a temporary change of use to short-term let for the period 22nd July to 31st August in every calendar year. From 1st September to 21st July in every calendar year the premises shall revert to its authorised use as a residential dwelling.
2. This consent is valid for 3 years from the date of this notice.

### **Reasons**

1. In order to protect amenity and prevent the loss of residential accommodation.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.

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

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

### **Further Information - Local Development Plan**

**Date Registered: 18 June 2024**

### **Drawing Numbers/Scheme**

01A - 02

Scheme 2

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

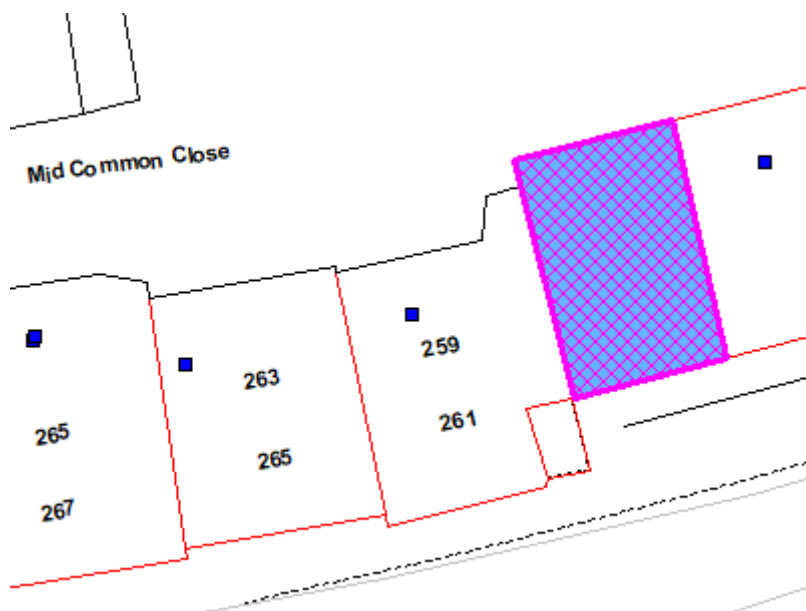
Contact: Craig Turnbull, Assistant Planning Officer  
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Appendix 1

## **Summary of Consultation Responses**

No consultations undertaken.

### **Location Plan**



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