

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

Mr Ryan Gattis.
4 Blackie House
Edinburgh
EH1 2NY

Decision date: 5 November 2024

**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). This property is available for letting all year.
At 4 Blackie House Wardrop's Court Edinburgh EH1 2NY

Application No: 24/04539/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 18 September 2024, 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 property 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 property as a

short term let will result in an adverse impact on local amenity and the loss of a residential property that 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 is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character and 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 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 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.

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.



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
4 Blackie House, Wardrop's Court, Edinburgh**

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). This property is available for letting all year.

**Item – Local Delegated Decision
Application Number – 24/04539/FULSTL
Ward – B11 - City Centre**

Recommendation

It is recommended that this application be **Refused** 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 preserve the character and 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 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 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 A – Application Background

Site Description

The application property is a fourth floor, three-bedroom flat, which forms part of a six-storey and attic tenement, situated between North Bank Street and Wardrop's Court. Access is gained via a shared main door access from Wardrop's Court into a communal stair and lift that is accessed by five further residential properties.

The surrounding area is mixed use and includes commercial properties located on the northern elevation of Blackie House at street level, however, these properties are accessed via North Bank Street. On the southern elevation is Wardrop's Court a large pedestrian courtyard that is accessed via North Bank Street and Lawnmarket.

The property forms part of a category 'A' listed building (51522) designated on the 14/12/1970 and is in the Old and New Towns of Edinburgh World Heritage Site and the Old Town Conservation Area.

Description Of The Proposal

The proposal is for a retrospective change of use from residential to STL use. No physical changes are proposed.

Supporting Information

The applicant has submitted a statement alongside information in relation to the operations of Blackie House Museum and Library. This is available to view on the Planning and Building Standards Online Service.

Relevant Site History

23/04543/FULSTL

4 Blackie House

Wardrop's Court

Edinburgh

EH1 2NY

Use of flat for short term let use (Sui Generis) and residential flat (in retrospect). This property is available for letting all year.

Refused

24 April 2024

Other Relevant Site History

24/00118/REVREF

4 Blackie House

Wardrop's Court

Edinburgh

EH1 2NY

Considered at Local Review Body meeting on 11 September 2024.

Decision - To uphold the decision by the Chief Planning Officer to refuse planning permission (issued 24 September 2024).

24/00642/ESHORT

Enforcement enquiry

4 Blackie House

Wardrop's Court

Edinburgh

EH1 2NY

Pending consideration

Consultation Engagement

Historic Environment Scotland

Publicity and Public Engagement

Date of Neighbour Notification: 5 November 2024

Date of Advertisement: 27 September 2024

Date of Site Notice: 27 September 2024

Number of Contributors: 6

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

The application is in retrospect. The applicant stated within the application form that the short term let use commenced in November 2021. This is prior to 5 September 2022, when the Edinburgh short term let control area came into effect. As the designation does not have a retrospective effect it is necessary to consider whether the use of the property as a commercial short stay let is a material change of use.

Granting planning permission would change the use from a residential dwelling to STL. On the basis of the application form, the description of development, drawings, supporting information, and location of the site it is considered that the proposal constitutes a material change of use under Section 26 of the Town and Country Planning (Scotland) Act 1997.

a) The proposals harm the listed building or its setting?

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

- Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent.
- 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.

The proposed change of use does not involve building operations. Accordingly, the proposal will not cause harm to the special architectural or historic interest of the listed building, its setting, or the setting of neighbouring listed buildings.

Conclusion in relation to the listed building

The proposal is 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 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.

There are no external changes proposed and the change of use would not have an adverse impact on the character or appearance of the conservation area. Therefore, the proposal does not conflict with the objective of preserving the character or appearance of the conservation area.

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 policies to be considered are:

- NPF4 Sustainable Places, Tackling the climate and nature crises Policy 1.
- NPF4 Sustainable Places, 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 NPF 4 Policy 7.

The non-statutory Guidance for Business (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 of the proposals on the category A listed building and Conservation Area have been assessed in sections a) and b) respectively. Additionally, the proposal does not conflict with the objective of preserving and protecting the Old and New Towns of Edinburgh 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 relates to STL proposals.

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

Amenity:

The applicant's statement details that 1 Blackie House operates as a museum and library where visitors use the common stair and/or lift. An objection comment from the owner-occupier of 1 Blackie House details that the museum has an independent entrance at 6 Wardrop's Court. This information does not hold material relevance to the assessment of the application. The established planning status of all flats in the common stair (1 to 6 Blackie House) is residential and therefore have been considered as such for the purposes of this assessment.

Although the property is located within a mixed-use city centre area, it is a fourth-floor unit accessed via a shared communal front door and internal stairway and lift with five neighbouring residential flats. As such, the common stair is of residential nature.

The use of the property as an STL 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. There may be a negative impact on residents' sense of security within the shared stair and community cohesion, with neighbours in objection to the proposal highlighting concerns in relation to this.

Additional servicing is required for an STL which would likely result in an increase in disturbance, 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 an unacceptable 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.

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.

However, the current lawful use of the property is residential. Consequently, the use of the property as an STL would result in the loss of this residential accommodation, which given the recognised need and demand for housing in Edinburgh it is important to retain, where appropriate.

Further, it is important to recognise that residential occupation of the property 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, resultant employment, and by making 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.

The proposal does not comply with NPF 4 30(e) part (ii).

Transport

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

The proposal complies 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 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.

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.

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

The application received eight comments all in objection. These include three objections from residential neighbours and the Edinburgh Old Town Association. A summary is provided below:

material considerations

- Loss of residential accommodation. Addressed in section c).
- Negative impact on amenity. Addressed in section c).
- The site is in breach of planning controls. The Planning Enforcement service has received an enquiry which is pending consideration.

- Questioning how many times the applicant is entitled to apply. The planning authority cannot decline determine this application as it does not satisfy the requirements under Section 39 of Town and Country Planning (Scotland) Act 1997.

non-material considerations

- Details in relation to when maintenance/restoration works were done to the listed building.
- Factoring issues in relation to the shared stair.
- Disagreement with the applicant's statement in relation to Blackie House Museum and Library.
- There are purpose-built hotels in the area to cater for visitors. Each application is assessed on individual merit.

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 is acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character and 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 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 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;

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 property 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 property as a

short term let will result in an adverse impact on local amenity and the loss of a residential property that 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: 18 September 2024

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

Appendix 1

Consultations

NAME: Historic Environment Scotland

COMMENT: No comments.

DATE: 8 October 2024

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: Craig Turnbull

Date: 1 November 2024

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: 4 November 2024



By email to:
craig.turnbull@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: 300075725
Your ref: 24/04539/FULSTL
08 October 2024

Dear City of Edinburgh Council

Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013

4 Blackie House Wardrop's Court Old Town Edinburgh EH1 2NY - Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). This property is available for letting all year.

Thank you for your consultation which we received on 20 September 2024. We have assessed it for historic environment matters on which we have an [advice-giving role](#) and consider that the proposals affect the following heritage assets:

Ref	Name	Designation Type
100018438, LB51522	Edinburgh World Heritage Site Boundary, 2-6 (INCLUSIVE NOS) NORTH BANK STREET AND WARDROP'S COURT, BLACKIE HOUSE	World Heritage Sites, Listed Building

Your archaeology and building conservation advisers will also be able to offer advice on impacts on the historic environment. This may include matters covered by our advice-giving role, and other matters such as unscheduled archaeology, category B and C listed buildings, and conservation areas.

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.

Further Information

This response applies to the current proposal. An amended scheme may require another consultation with us, which should be sent to HMConsultations@hes.scot.



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

Decisions that affect the historic environment should take the [Historic Environment Policy for Scotland](#) (HEPS) into account as a material consideration. Our series of [Managing Change in the Historic Environment Guidance Notes](#) supports national policy on the historic environment, including HEPS, and explains how it should be applied. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Yours faithfully

Historic Environment Scotland

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

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