

Planning & Building Design Ltd.  
FAO: Keith Owens  
24 West Nicolson Street  
Edinburgh  
EH8 9DA

Allytta Property Consultants.  
3F2 112A West Bow  
Edinburgh  
EH1 2HH

**Decision date: 12 June 2024**

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

Formalise the use as a short term holiday let.  
At 3F2 112A West Bow Edinburgh EH1 2HH

**Application No: 23/05043/FULSTL**

**DECISION NOTICE**

With reference to your application for Planning Permission STL registered on 6 November 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 proposal complies with sections 64 and 59 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 result in a loss of the residential accommodation and an unacceptable impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan 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 Lizzi Smyth directly at [lizzi.smyth@edinburgh.gov.uk](mailto:lizzi.smyth@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  
3F2 112A West Bow, Edinburgh, EH1 2HH**

**Proposal: Formalise the use as a short term holiday let.**

**Item – Local Delegated Decision  
Application Number – 23/05043/FULSTL  
Ward – B11 - City Centre**

## **Recommendation**

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

## **Summary**

The proposal complies with sections 64 and 59 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 result in a loss of the residential accommodation and an unacceptable impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan 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 comprises a studio style third floor flat within a traditional tenement building, with a kitchen area, living/sleeping space and shower room. The property is accessed from a communal ground floor front door and stair shared with other residential dwellings within the building. The main door entrance is pedestrian accessed, via Edmonstone's Close from West Bow.

The surrounding area is of a mixed character, with a high volume of retail and hospitality uses at street level with tenement flats above. There are high levels of tourist

activity and pedestrian traffic. Despite the busy, mixed-use nature of West Bow, the neighbouring residential properties within the shared stair can expect a high level of residential amenity especially due to the fact that the property's entrance is accessed from a small close off the main street.

The premises is within a Category B listed building (LB29910, 14/12/1970) and is part of the Old Town Conservation Area and the Edinburgh Old and New Towns World Heritage Site.

There are further STL uses within the shared stair, however at the time of determination of this application the lawful use of these properties is residential.

### **Description Of The Proposal**

The proposal is for the change of use from a private residential dwelling to a short term let (STL) in retrospect.

### **Supporting Information**

A supporting statement has been provided.

### **Relevant Site History**

23/06456/CLESTL  
3F2 112A West Bow  
Edinburgh  
EH1 2HH  
Use of the property as a short-term holiday let.

### **Other Relevant Site History**

23/05044/FULSTL  
Change of Use of a residential flat to form an STL at 2F3, 112A West Bow  
Refused

26 April 2024

22/04934/FUL  
Change of Use of flat to STL at 3F3, 112A West Bow.  
Refused

5 May 2023

On 11 October 2023 the Local Review Body (LRB) upheld the decision as there was a shared stairwell and this would have a negative impact on residential amenity so the proposal was contrary to LDP Policy Hou 7 and NPF 4 Policy 30(e) (i). The loss of residential accommodation was not justified so the proposal was contrary to NPF Policy 30(e) (ii) (23/00126/REVREF).

23/06312/FULSTL.

Change of Use of flat to STL at 3F3, 112A West Bow.  
Refused

10 May 2024

23/04563/CLESTL

STL use since 2018 at 1F1, 112A West Bow  
Not yet determined

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 12 June 2024

**Date of Advertisement:** 10 November 2023

**Date of Site Notice:** 10 November 2023

**Number of Contributors:** 1

## **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 application form states that the proposed operation of the property as a short term let commenced in 2013. This is prior to 5 September 2022, when the Edinburgh STL 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 STL is a material change of use.

Granting planning permission would change the use from a residential dwelling to STL. The use of the property as a STL, as a result of the granting of planning permission, would constitute a material change in the use of the property under section 26 of the Town and Country Planning (Scotland) Act 1997, given the associated characteristics of STL use in this location and property type.

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

The following HES guidance is relevant in determining 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.

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 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 impact on the character or appearance of the conservation area. Therefore, the proposal does not conflict with the objective of preserving or enhancing the character or 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 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 (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.



## Listed Building, Conservation Area and Edinburgh World Heritage Site

The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a).

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.

### *Amenity*

The location of the property, in the heart of Edinburgh's Old Town and immediately adjacent to the Grassmarket, where there is a higher degree of activity area within this area. Consequently, the introduction of an STL use in this location will have no further deterioration in the amenity of the surrounding area. However, the use of this property as an STL would introduce an increased frequency of movement to the property and through the shared stair, enabling visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home.

The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in 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.

Despite the location of the site being close to a busy mixed-use environment, the immediate location of the property within the shared stair it is predominantly residential. The proposed STL use would be significantly different from the amenity found that neighbouring residents within the communal stair might reasonably expect, and consequently will have a significantly detrimental effect on their living conditions and amenity. There could also be a negative impact on community cohesion and residents' safety.

The applicant has indicated that other flats in the tenement are also operating as STLs. However, a search of planning register details that no certificates of lawfulness or

planning permissions have been granted for this address. In the absence of this, the planning status of other properties in the stair is as residential dwellings and their amenity needs to be judged as such.

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.

The current lawful use of the property is for residential accommodation. 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. As such, the proposal does not comply with NPF 4 30(e) part (ii).

#### Transport

No parking is proposed. This is acceptable as there are no parking requirements for STLs. The change of use of one property to a short term let will not result in a significant impact to traffic congestion in the local area.

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 visitor accommodation in this case it does not outweigh the loss of residential accommodation or 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

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. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. 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 proposed modifications have been fully considered.

### 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 attracted one representation in objection. A summary is provided below:

#### *material considerations in objection*

- The proposal will lead to a loss of residential accommodation. Assessed in section c).
- The proposal will lead to a loss residential amenity in terms of noise and safety. Assessed in section c).

#### *non-material considerations in objection*

- The proposal could lead to guests misusing domestic appliances and causing flooding or other nuisance.
- The proposal could lead to guests incorrectly using refuse and recycling facilities.

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

The 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 64 and 59 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 result in a loss of the residential accommodation and an unacceptable impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan 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 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: 6 November 2023**

### **Drawing Numbers/Scheme**

01-02

Scheme 1

**David Givan  
Chief Planning Officer**

**PLACE**  
**The City of Edinburgh Council**

Contact: Lizzi Smyth, Assistant Planning Officer  
E-mail: [lizzi.smyth@edinburgh.gov.uk](mailto:lizzi.smyth@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: Lizzi Smyth

Date: 28 May 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): Lynsey Townsend

Date: 12 June 2024