THE CITY OF EDINBURGH COUNCIL

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100581278-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application) ☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Contour Town Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Angus	Building Name:	Flat 1
Last Name: *	Dodds	Building Number:	
Telephone Number: *	0772 987 3829	Address 1 (Street): *	16 St Johns Hill
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH8 9UQ
Email Address: *	angus@contourtownplanning.com		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	26
First Name: *	Pete	Building Number:	
Last Name: *	Maitland-Carewe	Address 1 (Street): *	Barony Street
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Edinburgh
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	EH3 6NY
Fax Number:			
Email Address: *	petermc@arklerecruitment.com		

Site Address Details

Planning Authority:	City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:	26 BARONY STREET
Address 2:	BROUGHTON
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	EDINBURGH
Post Code:	EH3 6NY

Please identify/describe the location of the site or sites

Northing	674542	Easting	325711

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Retrospective change of use from residential to short-term let apartment (sui generis)

Type of Application

What type of application did you submit to the planning authority? *

☒ Application for planning permission (including householder application but excluding application to work minerals).

☐ Application for planning permission in principle.

☐ Further application.

☐ Application for approval of matters specified in conditions.

What does your review relate to? *

☒ Refusal Notice.

☐ Grant of permission with Conditions imposed.

☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are a seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to Appeal Statement with associated appendices and Location/Floor Plan.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? * ☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Location and Floor Plan Appeal Statement Appendix 1: Officer Report of Handling Appendix 2: Email from Scottish Fire and Rescue Appendix 3: Planning Statement Appendix 4: Saunders Street Appeal Decision

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.	22/01089/FUL
What date was the application submitted to the planning authority? *	07/03/2022
What date was the decision issued by the planning authority? *	20/05/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *	☐ Yes ☒ No
Is it possible for the site to be accessed safely and without barriers to entry? *	☒ Yes ☐ No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The back garden area, which was a matter of great importance in the decision cannot be accessed without entering the property

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. * ☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? * ☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? * ☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? * ☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review * ☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Angus Dodds

Declaration Date: 04/07/2022

Proposal Details

Proposal Name	100581278
Proposal Description	Notice of Review for refusal of planning application 22/01089/FUL
Address	26 BARONY STREET, BROUGHTON, EDINBURGH, EH3 6NY
Local Authority	City of Edinburgh Council
Application Online Reference	100581278-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
Location and Floor Plan	Attached	A4
Appeal Statement	Attached	A4
Appendix 1_ Officer Report of Handling	Attached	A4
Appendix 2_ email from Scottish Fire and Rescue	Attached	A4
Appendix 3_ Supporting Planning Statement 22 01089 FUL	Attached	A4
Appendix 4_ Appeal Decision Saunders Street PPA 230 2315	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

Planning and Environmental Appeals Division

Appeal Decision Notice

T: 0300 244 6668
E: dpea@gov.scot

Scottish Government
Riaghaltas na h-Alba
gov.scot

Decision by Stuart West, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-230-2315
- Site address: Flat 1, 1 Saunders Street, Edinburgh, EH3 6TQ
- Appeal by Susan Young against the decision by City of Edinburgh Council
- Application for planning permission 20/00724/FUL dated 17 April 2020 refused by notice dated 31 July 2020
- The development proposed: Change of property use from residential to short term let.
- Application drawings 01-03
- Date of site visit by Reporter: 1 October 2020

Date of appeal decision: 19 October 2020

Decision

I allow the appeal and grant planning permission. Attention is drawn to the three advisory notes at the end of the notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan comprises the Edinburgh Local Development Plan 2016 (LDP) and the SESplan Strategic Development Plan 2013 (SDP). No specific SDP policies have been drawn to my attention in relation to this appeal.

2. Because the appeal site is situated within the New Town Conservation Area I am required by Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

3. The appeal site is currently a one-bedroom, ground floor residential flat within an area defined as urban in the LDP. Although concerns have been raised by third parties that short-term holiday accommodation places a burden on local housing supplies, I have been provided with only limited anecdotal evidence of any such effect. In the absence of planning policy that would systematically address any such issue, should it exist, or more rigorous data, it is not a point to which I can give any significant weight.

4. Having regard to the provisions of the development plan the main issues in this appeal are amenity, impacts on the conservation area, and road safety/parking. I consider each of these factors in turn below.

Amenity

5. With regards to establishing whether the principle of development is appropriate in this instance, the most relevant LDP policies are Des 5 (Development Design – Amenity) and Hou 7 (Inappropriate Uses in Residential Areas).

6. Policy Des 5 states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected. Similarly, Policy Hou 7 states that Developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

7. Paragraph 234 of the LDP states that it is the intention of the policy to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas.

8. Although non-statutory in nature, Edinburgh City Council's adopted 'Guidance for Businesses' seeks to interpret LDP policies. Pages 6 and 7 of the document provide specific information for applicants who wish to change a residential property to a commercial use.

9. The guidance advises that in the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest. The document goes on to say that the change of use in flatted properties will generally only be acceptable where there is a private access from the street.

10. Despite not forming part of the development plan, the Guidance for Businesses is a material consideration in the assessment of the proposal. Whilst the document indicates that it will prove more challenging to obtain planning permission for the change of use of a flatted development, the advice does not categorically rule it out.

11. Although the flat can be accessed via a communal external doorway and internal corridor, it does have its own dedicated access to the street via a private garden. Concerns were raised by the council that the manner by which the flat would be accessed cannot be controlled and that noise nuisance or disturbance to the existing residential properties would be possible.

12. I note from the appeal statements and submitted information that the appellant does not intend to provide an access fob to visitors and that they will need to use the dedicated private access.

13. During my site inspection I observed that the access to the private garden is immediately adjacent to the closest communal doorway. I am satisfied that it is clear how access to the flat should be taken as a visitor arriving at the property for the first time.

14. The appellant has advised that clear flat numbering is planned for the private garden gate and that a map would be supplied to visitors showing them how to access the flat using a keysafe, which would be mounted beside the private entrance door. I am satisfied

that these measures, if implemented, would result in the dedicated private access being used by guests. However, given that the internal doorway to the communal hallway from the flat would remain, I must consider the potential impacts of visitors utilising all access points to the property.

15. In order to fully understand the situation, I observed all access points to the building during my inspection. In addition, the appellant provided video footage of the route into the flat from all communal doorways in order that consideration could be given to the potential impacts on the amenity of neighbouring residents.

16. The council has stated that visitors would behave differently to permanent residents, likely arriving at different times of the day, possibly later into the evening with luggage and being unfamiliar with the property. The council further stated that visitors would not have the same financial or emotional investment in the property or neighbourhood and this could lead to disturbance for neighbours through possible noise and late night activities.

17. I do not agree with the council that the internal access would be disruptive and would have an unacceptable effect on the living conditions of nearby residents. I am satisfied that there would be no material difference in terms of frequency of movement, or other disturbance for neighbours, than is currently possible from a full-time tenant occupying the flat.

18. Owing to the nature of the property as a one-bedroomed, ground-floor flat with its own dedicated private entrance, I find that the proposal is compatible with the surrounding residential area and thereby accords with LDP policies Des 5 and Hou 7.

Impact on the conservation area

19. LDP Policy Env 6 (Conservation Areas - Development) states that development within a conservation area will be permitted if it preserves or enhances the special character or appearance of the conservation area.

20. The proposed change of use will have no visual impact on the conservation area as there would be no physical changes to the property. I am satisfied that the proposed development will have no adverse impact on the appearance of the area and that the appearance of the area will be effectively preserved.

21. There have been concerns raised by third parties that the proposed change of use would have a detrimental impact on the surrounding shops and services, which characterise this part of the conservation area. I do not find this to be the case. It is likely that visitors, staying in a self-catering flat, would shop for supplies and visit local takeaways or bars at least to the same extent as any local resident. I am therefore satisfied that the viability of the shops and services in the conservation area would be effectively preserved.

22. The Architectural Heritage Society for Scotland (AHSS) raised concerns that there exists a clear over proliferation of holiday lets in what it describes as this important part of Edinburgh's heritage architecture. The AHSS objected to the proposal in order to avoid the loss of residential accommodation and a shift toward a more tourist-centric town centre.

23. I have considered the concerns raised by the AHSS, and the potential impacts that the proposal before me could have on the special character of the conservation area. From visiting the site and walking around the surrounding area, I am satisfied that the change of use of this specific one-bedroomed flat will not have any adverse impact.

24. I have been provided with no substantial evidence to show that there are any cumulative impacts on the special character of the conservation area that I should take into consideration. I am therefore satisfied that the special character of the conservation area will be preserved and that the proposal would accord with LDP policy Env 6.

25. The Edinburgh New Town Conservation Area forms part of the Old and New Towns of Edinburgh World Heritage Site (WHS). LDP policy Env 1 (World Heritage Sites) states that developments which would harm the qualities which justified inscription, or would have a detrimental impact on its setting will not be permitted.

26. Owing to the scale of the proposal, and to the fact that there will be no physical changes to the flat's external appearance, I am satisfied that there will be no adverse impact on the Outstanding Universal Value of the WHS or its setting. I therefore find that the proposal accords with policy Env 1.

Road safety and parking

27. Concerns have been raised within third party representations that the change of use to a short term let would have a negative impact on residential parking. It has been suggested by one neighbour that the proposal would give additional persons parking permissions in an area where residential parking is limited.

28. As the application site is a one-bedroom flat, the number of occupants will be limited to one or two. I am satisfied that the proposal would not lead to any increase in demand for parking beyond what already exists. The application site is in a controlled parking zone and the council has advised that parking attendants will continue to enforce parking regulations.

29. I am satisfied that there are no road safety or parking issues relating to the proposal.

30. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.

Stuart West
Reporter

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Pete Maitland-Carewe

March 2022

26 Barony Street, Edinburgh

Retrospective Change of use from Residential to short-term visitor accommodation (sui generis):
Planning Statement

CONTOUR
Town Planning

26 Barony Street, Edinburgh

Change of use: Residential to short-term let visitor accommodation (sui generis): Planning Statement

CONTOUR
Town Planning

Pete Maitland-Carewe

March 2022

1. Introduction

1.1.1. Contour Town Planning has been asked to provide a planning statement in support of this planning application. The proposal is to change the use retrospectively of the property known as Barony Street Edinburgh, from a residential use to a short-term rental property providing visitor accommodation.

1.1.2. The proposed visitor accommodation is considered a sui generis use. The recent Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 confirms that in certain areas, planning permission will be required for such a change. Given all of Edinburgh is currently anticipated as being such an area, the current application is being made to formalise this change and secure the benefit of planning permission.

1.1.3. For the avoidance of doubt, the change of use proposed under this application will result in no physical changes to the interior or exterior of this building necessitating planning permission or listed building consent in their own right.

1.1.4. The purpose of this report is firstly to set out the context for this planning application by describing the property, its history and setting, and then undertaking a review of all relevant planning policies, guidance and recent appeal decisions with an assessment made as to how these can all be addressed satisfactorily.

1.1.5. It is our contention that the proposed change of use of this property will provide it with a sustainable function going forward that can contribute to Edinburgh's important tourist economy and reputation as a business destination. Such a change is considered appropriate today both to the character of the building and the character of the neighbouring area.

2. Property Description and Surroundings

26 Barony Street

2.1.1. The subject of this planning application is an entirely self-contained 1-bedroom apartment set over 2 floors and with its own main door access to the street in the New Town district of Edinburgh in the City Centre Council Ward. For the avoidance of doubt, the property has no private or shared outdoor space. While there is a back door that in theory offers access to the garden, this door is locked to guests.

2.1.2. The building that plays host to the apartment dates back to the 1860's (it is shown on Johnston's 1862 Post Office Survey Plan of Edinburgh) and takes the form of a 4-storey sandstone considered typical of this part of Edinburgh. The property is unlisted but lies within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage site. It is also within the New Town Gardens Inventory Gardens and Designed Landscape.

2.1.3. The majority of buildings in the blocks immediately surrounding the property are for a residential use, although there is a mixed character to the street with a lawyer's practice and an art gallery directly opposite the property, and many shops, restaurants and bars on Broughton Street which is less than 100 metres away. Broughton market which can be accessed directly from Barony Street plays host to a range of small businesses as well as City of Edinburgh Council's Museums Collection Centre depot. In addition it is understood that there are numerous other properties operated as short-term let visitor accommodation both on Barony Street and in the surrounding area.

2.1.4. The property does not have its own private outdoor space, nor does it enjoy its own car-parking space. However given the central location of the property it is situated only around half a mile from Waverley station. In addition the terminus of Edinburgh's tram service is only a 3 minute walk from the front door of the property, as are the many bus services that can also be accessed from York Place.

Barony Street Today

2.1.5. Barony Street today is a predominantly residential street albeit with a significant mix of non-residential uses set just to the west of the dynamic, and mixed-use area of Broughton Street. In the Adopted Local Development Plan 2016, Broughton Street is recognised as one of 61 'Local Centres' across the city. Through policy Ret 5 the Local Development Plan supports the continued existence of retail uses in such areas in order to protect their important function for local communities. The front door of the property at 26 Barony Street is approximately 95 metres from the junction of Barony Street and Broughton Street where such a zone is found.

2.1.6. In addition to its protected retail function as recognised through the local Development Plan, Broughton Street also plays host to a wide variety of other high-footfall generating services including bars, restaurants, beauty services and some of the most interesting non-convenience retailing in the city. In the circumstances, the important food and drink function that it serves means that this is a street that is lively both during the day and at night. Creating a decidedly livelier ambience than many areas even within the central part of the city.

3. Policy Context

3.1.1. While the property has been operated as a permanent short-term let since Autumn 2021, at the time of writing its planning status is as a residential property. Commentary on the policy context for the Change of Use of residential accommodation to short-term let visitor accommodation is presented below.

3.1.2. National and local planning policies for Edinburgh typically deal with tourism as a whole rather than focussing on such changes of use in particular. Separate non-statutory guidance on change of use for business has also been produced. Both policies and guidance are therefore examined in this section of the planning statement.

3.2. Development Plan Context

3.2.1. Under Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended), the determination of planning applications is to be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan does not include either the National Planning Framework for Scotland 3 (NPF3 (2014)), or the current Scottish Planning Policy (SPP (2014)), which do not have the status of Development Plan for planning purposes.

3.2.2. The City of Edinburgh sits within the SESplan strategic development plan area. Accordingly the Development Plan for this area currently comprises SESplan (SESplan (2013)) and the Adopted Edinburgh Local Development Plan (LDP (2016)).

3.3. SESplan Strategic Development Plan (Adopted June 2013)

3.3.1. Within its Vision, SESplan notes (paragraph 13) that "the key sectors of financial and business services, higher education and the commercialisation of research, energy, tourism, life sciences, creative industries, food and drink and enabling (digital) technologies are central to the regional economy."

3.3.2. The SESplan chapter on economic growth follows up on this statement (paragraph 96) where it states that "The following sectors are considered to be of strategic importance to the economy of the SESplan area: financial and business services, higher education and the commercialisation of research, energy, tourism, life sciences, creative industries, food and drink and enabling (digital) technologies

3.3.3. Paragraph 98 of SESplan examines the hierarchy of the network of centres across the SESplan region. In this regard it recognises the important role that Edinburgh plays as a service centre within Scotland and beyond. It notes that "Edinburgh City Centre is the largest centre and is positioned at the top of the network of centres. It performs a broad range of regional and national functions including shopping, office, leisure, culture, tourism and government and competes with other regional centres in Scotland and the North of England".

3.4. Edinburgh Local Development Plan (LDP) (Adopted November 2016)

3.4.1. Part 1 of the written statement of the Adopted LDP does not contain any planning policies and deals instead with site specific proposals providing an overarching narrative to explain the spatial strategy. As part of this narrative, paragraph 56 states that *"the strength of Edinburgh's economy is based on a range of key sectors, for example tourism, financial services, life sciences and higher education".*

3.4.2. Part 2 of the LDP contains planning policies, although none that deal specifically with proposed changes of use of residential properties to visitor accommodation. Indeed overall, part 2 of the Adopted LDP makes relatively few references to tourism within any of its policies.

3.4.3. While not directly relevant to the determination of this planning application, the supporting text for Policy Emp10 'Hotel Development' provides some useful narrative setting out the need for visitor accommodation in the city:

"Tourism is the third biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Maintaining and developing this key sector in the city's economy relies upon sufficient provision of high-quality tourist accommodation. In 2006 a study looking at tourist accommodation demand and supply was commissioned by the Council and others. The study identified the particular importance of hotels to generating economic benefit from growth in tourism and satisfying the main sources of demand for accommodation. The study identified a theoretical requirement for 4,000 new hotel rooms in Edinburgh by 2015 to help meet predicted growth in demand. The city centre is the preferred location for most visitors, but accessible locations with good public transport accessibility within the urban area also offer opportunities for new hotel development".

3.4.4. The policy in the Adopted LDP which is considered most relevant to this application at this time is policy HOU7 'Inappropriate uses in residential areas'. This notes:

"developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted"

3.4.5. The policy goes on to explain that its intention is to:

"preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions. This policy will be used to assess proposals for the conversion of a house or flat to a House in Multiple Occupation (i.e. for five or more people). Further advice is set out in Council Guidance"

3.4.6. The area immediately to the east of Barony Street is considered as performing an important mixed-use function particularly as part of the night-time economy of which it is considered to play a city-wide role of importance. The street plays host to relatively high-footfall uses such as retail, food and drink, and sui generis uses such as hot food takeaways and bars. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless has an important residential function.

3.4.7. While every application is considered on its own merits and on a case by case basis, when considering whether this use in this location is likely to result in a 'further deterioration of living conditions', it is perhaps instructive to compare these proposals with the application recently approved across the street and several doors along at 41 Barony Street (21/02615/FUL) Both it and the current proposals relate to small properties (the property at 26 is smaller than the consented property at 41), without private outdoor spaces, on the same street near the mix of uses described above, where busy, footfall generating commercial uses during daytime and night-time are long-established.

3.4.8. When application 21/02615/FUL was assessed against policy HOU7, in that instance, when taking into account both the size constraints of the property, and the character of the property's environs, the Planning Officer's Report of Handling noted the following:

"Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity". (BS)

3.4.9. When assessed against the tests in policy HOU7, the property at 26 Barony Street is also likely to have a similarly negligible impact on its qualifying interests, given living conditions for nearby residents are already largely dictated by the street's proximity to the Broughton Street. Moreover, in this case the stringent management controls already in place for this property, coupled with its excellent location for its use, mean that it has already been operated as a short-term let with no reported incidents by either the police or the Council's planning enforcement team. This is considered useful as highlighting how no '*materially detrimental effect*' is being occasioned on the living conditions of nearby residents. Considering all of this in the round, it is challenging to see how the change of use sought here could be considered contrary to policy HOU7.

3.5. Council Guidance

3.5.1. The City of Edinburgh Council does not have any statutory Planning Guidance considered to be relevant to this application. However as noted in policy HOU7 it has published non-statutory guidance to support its LDP policies.

3.5.2. Among the suite of such guidance, the most relevant appears to be the Guidance for Householders. The earliest iteration of this Guidance was produced in 2012, but it has been updated periodically ever since. The latest version of the Guidance has just been republished and dates from November 2021.

3.5.3. The Guidance for Business contains some detailed discussion on changes of use from residential to short-term commercial visitor accommodation, as well as on changes of use in flatted properties. This guidance has been referenced both in recent planning applications and in recent appeal decisions. At present the content of this guidance would constitute a material planning consideration.

3.5.4. The guidance notes the following in terms of short-term commercial visitor accommodation: *"The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had 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.*

3.5.5. The same section then goes on to examine amenity as an issue that will need to be considered for such applications. It states that

"proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents…In the case of short stay commercial leisure apartments, the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest"

3.5.6. A further statement specifically on flatted properties is made on page 7 of the document where it notes:

"Change of use in flatted properties will generally only be acceptable where there is a private access from the street"

3.5.7. As regards the property at 26 Barony Street which enjoys its own private main-door street access, it is considered that the change of use proposed here is in accordance with the non-statutory Guidance. For the reasons already rehearsed in relation to policy HOU7, it is not considered that there are any potential adverse impacts on residential amenity that would warrant an overall assessment that such a use in this location was unacceptable.

3.6. National Planning Policy Context

3.6.1. As noted above, NPF3 (2014) and SPP (2014) do not have the status of forming part of the Development Plan but are relevant material considerations for all planning applications. National planning policy and advice currently comprises: the National Planning Framework for Scotland 3 (2014); Scottish Planning Policy (2014 (Revised December 2020)).

3.7. The National Planning Framework for Scotland 3 (NPF3)

3.7.1. NPF3 represents a spatial expression of the Scottish Government's aspirations for sustainable economic growth in Scotland over the next 20-30 years. It sets out at the national level, the Scottish Government's strategy for the country's development, in terms of how we are to develop our environment and includes development proposals identified as schemes of national importance. Whilst it is not prescriptive, NPF3 will form a material consideration when determining applications and, as such, will be a consideration in determining the application for any proposed development.

3.7.2. Of particular relevance to this proposal therefore is paragraph 1.7 of the document which recognises tourism as one of Scotland's key economic sectors, as well as page 12 of the document which states *that "Edinburgh is one of Europe's most important centres for financial services and tourism, and the world's foremost festival city".* Further, page 13 of the document goes on to note that *"Within Edinburgh, the city centre, the waterfront, West Edinburgh and South-East Edinburgh will be a focus for growth. The city centre is the civic, cultural, tourism and commercial hub, with its world-renowned built heritage as a key asset".* Finally, in the section 'Further key actions', the document notes that *"Planning authorities will support VisitScotland's Tourism Development Framework in their development plans".*

3.8. Scottish Planning Policy (SPP)

3.8.1. Scottish Planning Policy (SPP) (2014) is a statement of Scottish Government policy on land use planning.

3.8.2. Where relevant to the current proposals, SPP recognises tourism as one of the "key sectors for Scotland with particular opportunities for growth".

4. Recent Appeals

4.1.1. There have been a number of recent planning decisions taken by the Planning Authority where the impact of recent planning appeals was taken into account as a material consideration. The respective Reports of Handling have all noted that the reasoning set out in the appeals are germane in helping to assess whether short stay letting is acceptable or not. The Reports of Handling in each case have referred to the main determining issues as comprising the following matters which are considered individually below in paragraphs 5.1.2 to 5.1.6:

The location of the property and in particular whether it is part of a common stair shared by residents. Typically appeals are successful where the property has its own access;

The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally the smaller the flat the less likelihood of disturbance to neighbours;

The impact on the character of the neighbourhood. Again this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;

The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/disturbance;

These appeals have also found that short-stay visitor accommodation units can be acceptable in predominantly residential areas.

4.1.2. The property at 26 Barony Street enjoys its own private access and does not rely on any communal areas.

4.1.3. The property at is of a small scale and will only ever be let as a maximum to 2 adults with children if staying as a family group. This is not considered an unusual overall quantum of people to be using a property of this type. The specific movements of a small group renting the property for tourism purposes are difficult to anticipate but would be expected to be mostly characterised by more frequent movements during office hours when shops, services and attractions are open, with perhaps single movements both from and to the property as guests go out for the evening.

4.1.4. In terms of shopping and using local services, the domestic scale of the property makes it likely that guests will use this largely in the same way as long-term residents. There is a well-provisioned medium format supermarket on Picardy Place that the applicant suggests from experience is the main destination for guests undertaking convenience food shopping. There are in addition a number of smaller convenience shops and local specialist food retailers on Broughton Street. Overall it is considered unlikely that guests would order a large online food delivery to the property. The presence of so many good restaurants nearby also means that the likelihood of hot food delivery to the property must be considered as being no greater than to neighbouring residential properties, with the proximity of the property to hot-food takeaways making collection from such establishments perhaps more likely. Over-arching all of these speculations, for practical reasons the diminutive size of the property means that food-delivery and extraordinary food and shopping activity seems highly unlikely.

4.1.5. The property is located less than 100 metres from Broughton Street, a key shopping street recognised in the Adopted Local Development Plan as providing a 'Local Centre' retail function and considered to perform a function of city-wide importance in terms of its functioning night-time economy.

4.1.6. The acceptability of short-term lets in predominantly residential areas is noted. However, in this case, and as was the case under planning application reference 21/02615/FUL, it is considered that the immediate area would be characterised as a mixed use area that retains an important residential function. Given the

above analysis of the property in the context of the determining factors for an application such as this, it is contended that this is exactly the type of property where such a use can be assimilated with minimal potential for adverse impacts on neighbouring residential uses.

4.1.7. Overall, when assessed against the main determining issues identified by the Directorate of Planning and Environmental Appeals, and recognised by City of Edinburgh Council Planning Officers, the continued use of this property for short-term letting is considered to be acceptable.

Conclusion

The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated.

The forthcoming licensing regime looks set to confirm that planning permission for change of use will be a necessary pre-condition to securing a licence. The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that in reality, very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence.

The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. Such properties if located in appropriate locations and settings and managed according to best practice, can play an important role in diversifying the visitor accommodation offer across the city. These can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is not appropriate.

It is the applicants' contention that the property at 26 Barony Street is one such property that can make a valuable contribution in this way. This is a small and self-contained property in an area that is home to a dynamic mixture of uses including retail, commercial, and residential, where occasional uses such as this can be successfully assimilated into the urban environment with minimal adverse impact on other uses.

Most importantly in the context of policy HOU7 therefore, should this application be approved, it is considered that there will be no adverse impact on the amenity of existing residential neighbouring properties, or indeed on the overall vibrancy of the area. Throughout the time that a short-term let use here has successfully operated it has shown itself as being capable of assimilating easily with its surrounding uses with no deterioration of living conditions for any neighbours. In contrast to any likely adverse impact, it is considered that if this application is approved, 26 Barony Street will be a continuing asset to the local area and the city's wider tourism landscape, especially in the context of a far smaller quantum of short-term letting accommodation being available elsewhere in the city in the coming years.

Taking all of the foregoing into account, it is hoped that Officers will be able to support this application, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. There are not considered to be any policy matters that would warrant refusal of this application, and accordingly it is respectfully requested that this application be recommended for approval.

Angus Dodds MRTPI
Director

angus@contourtownplanning.com

CONTOUR
Town Planning

Pete Maitland-Carewe

July 2022

26 Barony Street, Edinburgh

Local Review Board Appeal Statement

CONTOUR
Town Planning

26 Barony Street, Edinburgh

Local Review Board appeal statement

CONTOUR
Town Planning

Pete Maitland-Carewe

July 2022

1. Introduction

1.1.1. This supporting paper is presented on behalf of the appellant to this local review of the decision to refuse application 21/01089/FUL at 26 Barony Street. The decision notice for this application seeking “Change of Use from Residential to Short Term Let Visitor Accommodation” is dated 20 May 2022.

1.1.2. The originally submitted supporting Planning Statement, the Officer Report of Handling, one recently successful appeal decision, and an email from Scottish Fire and Rescue Service are all cited within this paper. Full copies of these documents are provided as appendices 1 - 4.

2. Matters for Local Review Body consideration

2.1.1. The Officer Report of Handling **(appendix 1)** for the application acknowledges that the proposals would not result in any adverse impact on the Conservation area status of the area surrounding the proposals site. The main matter to be assessed is therefore the proposed use itself.

2.1.2. In considering this component of the proposal, the Officer's Report of Handling recognises in pages 5 and 6 that the key material considerations are Adopted Local Development Plan policy HOU7, the Council's non-Statutory Guidance for Businesses, and appeal decisions.

2.1.3. Accordingly, the appellant considers that the key paragraphs in the Officer's Report of Handling which directly lead to the only reason for refusal, are found toward the bottom of page 4. These paragraphs read:

> *"The proposed one-bedroom short stay use would enable two or more related or unrelated 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 also 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 long standing residents.*
>
> *The property has the benefit of own main door access from the pavement. However, the property on the lower ground floor has a rear access door to communal garden and this has potential to interfere with the amenity of other occupiers of the building. The Supporting Statement states that the rear door would be locked. This does not provide sufficient reassurance that access to the rear garden would be prohibited. Controlling rear access to the garden would not meet all the six tests of an effective planning condition under Circular 4/1998 in terms of monitoring and enforcing. In addition, controlling rear access to the garden is a fire safety issue.*
>
> *Barony Street is overwhelmingly in residential use and character. The supporting statement states that a number of properties on Barony Street are in short stay let use. However, each application for a short stay let is assessed on own merits. The site is a short walking distance from Broughton Street which has a mix of uses, including pubs, restaurants, shops and hairdressers. The application site is relatively sheltered from a degree of ambience noise. It is therefore expected that existing residents would be accustomed to low background noise during day and evening times. The potential access to the rear garden means that a frequent turnover of two or more related or unrelated visitors has the potential to disturb nearby residents.*
>
> *The Supporting Statement states that the property would be used by two adults with children. It is expected that a turnover of two or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy".*

2.1.4. Firstly, it seems important to address a number of small matters which are mentioned in the Officer's assessment above that are considered by the appellant to be relevant to the Review. The first is to stress the appellant's statement at paragraph 2.1.1 that the rear door remains locked to guests. It is noted that the Officer's Report of Handling considers both that locking the rear door does not '*provide sufficient reassurance that access to the rear garden would be prohibited*' but also that '*controlling rear access to the garden would not meet all 6 tests of Circular 4/1998 in terms of monitoring and enforcing*'. One obvious route from this seeming impasse that would meet the tests of Circular 4/1998 and could be implemented under permitted development rights at this property, would be to require by condition that the rear door be stopped up and turned into a window. Nevertheless, while this is an option available to the Council, for reasons that will be set out later in this statement, the appellant considers that there are less onerous ways that have been accepted by the DPEA in the past as being effective at achieving the same outcome of preventing guests from taking access to the rear garden.

2.1.5. Secondly, it also seems important to address concerns in the Officer Report of Handling that controlling access to the rear garden will be a fire safety issue. **Appendix 2** to this appeal statement is an email received from a Watch Commander at Scottish Fire and Rescue. In her view "*although use of the door would be an advantage, the fact that there is an escape window next to it would allow escape from the kitchen and therefore, we do not consider this to be a fire safety issue"*. Should it be considered necessary following the Review to stop up the door as suggested in the paragraph above as a means of making this proposed change of use acceptable, the requisite planning condition can stipulate any fire safety requirements if considered appropriate and necessary.

2.1.6. Finally, the appellant considers it important to address a statement made repeatedly within the Officer Report of Handling that seems slightly misrepresentative of the manner in which the property is managed. At several points within the Report it describes the guest capacity of the property as "*two or more related or unrelated visitors*". It seems important to emphasise that this is a small one-bedroom property, and within the originally submitted Planning Statement **(appendix 3)** only once, at paragraph 4.1.3, does it mention the flat's capacity. Here it states that the property can accommodate "*2 adults with children if staying as a family group*". In practice therefore, this property will be used by either: a single person; a couple; or a very small family group. There is justifiable concern that the phraseology used repeatedly in the Officer Report of Handling suggests a rather more disordered and chaotic arrangement than is the case. This is simply a small, one-bedroom property, and the numbers and types of guests that will be accepted here are entirely reflective of what would be expected in such a small property.

2.1.7. Turning now to perhaps the most important part of the appellant's representation to the Local Review Body, it is noted that in the Officer's Report of Handling on page 4, it is acknowledged that appeal decisions are material considerations when determining applications of this kind. One recent successful appeal to the DPEA for a short term let property, is considered to be particularly relevant to this Local Review as it deals with access to shared spaces that can be taken from a one-bedroom property.

2.1.8. Planning appeal reference PPA-230-2315 overturned the refusal of planning application 20/00724/FUL at Flat 1, 1 Saunder Street, Edinburgh for the Change of Use of a residential property to a short-term let. A copy of the full decision letter is attached as **appendix 4**

2.1.9. Of particular interest within the Reporter's decision letter is the section (in paragraphs 11-18) where the Reporter considers concerns that had been expressed by the Council that visitors could in theory access the property through a shared door rather than the preferred private access.

2.1.10. The Reporter here notes at paragraph 12 that as part of the appellant's submission documents (and just as spelled out at paragraph 2.1.1 of the originally submitted Planning Statement for the property on Barony Street), the appellant *"did not intend to provide an access fob to visitors and that they will need to use the dedicated private access".* At Barony Street, the situation is even clearer in terms of initial access to the property, as this can only be taken from Barony Street and therefore not from the rear garden area itself.

2.1.11. Following the Reporter's site visit on Saunder Street, he further records at paragraph 14 that he feels reassured that general on-site management practices on the part of the appellant will mean that in practice, guests would be in no doubt as to which entrance they were able to use, and which to avoid. In a similar way it is considered that simple and clear instructions to guests would suffice to ensure that they do not try and use the rear garden area; to which the access door is now and will continue to be locked.

2.1.12. The Reporter's decision goes further, by questioning the extent to which the potential occasional use of a communal area might have a real or material impact on the living conditions of local full-time residents. In this regard he queries the concerns of the Council about such impacts. As detailed above at paragraph 2.1.3 such concerns are also expressed in the Officer Report of Handling on Barony Street with regard to the potential use of a shared rear garden space. The Reporter sets out his analysis of this at paragraph 17:

"I do not agree with the council that the internal access would be disruptive and would have an unacceptable effect on the living conditions of nearby residents. I am satisfied that there would be no material difference in terms of frequency of movement, or other disturbance for neighbours, than is currently possible from a full-time tenant occupying the flat".

2.1.13. As already noted at paragraph 2.1.4 of this appeal statement, paragraph 2.1.1 of the originally submitted planning statement is quite clear that the back door to the property at 26 Barony Street will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunder Street, where as detailed above, the Reporter did not agree with the Council's general view that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application.

2.1.14. It is the appellants view here that the Saunder Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 26 Barony Street as delivering a simple and workable way to safeguard living conditions.

2.1.15. Taking such a view would of course also save the expense and disruption of having to stop-up the door using a planning condition and permitted development rights. This option, which could be delivered through a planning condition, would not be the appellant's preferred way of addressing concerns around use of the rear garden area. Nonetheless, it would deliver an outcome that clearly addresses the only reason for refusal of this planning application. Accordingly such a condition could be added if the Local Review Body considered that the Officer decision should be overturned but felt that the ongoing management practices were not sufficient to safeguard living conditions for other residents using the rear garden space.

3. Conclusion

3.1.1. This is a small 1-bedroom property, that in practice will only ever be let to single people, couples and very small families. Unlike the appeal example on Saunder Street, there is no dubiety at 26 Barony Street about how initial access might be taken to the flat that could lead to ‘user conflict’ with the residents of other flats within the block. The only matter of contention on 26 Barony Street therefore seems to be how access to a shared garden area can be controlled.

3.1.2. In reality once inside the property with the rear door locked and fire escape available through rear windows, guests will not be able to access the rear garden but will be able to escape the property in the event of a fire. In this way, the concerns articulated in the Officer report to provide support for the reason for refusal are not considered in practice to be likely to materialise.

3.1.3. Accordingly, it is respectfully requested that the Local Review Board re-considers this application and accepts either the existing management arrangements, or the more onerous and in the appellant’s view, somewhat unnecessary step of stopping up the door as a means to address concerns set out in the Officer Report of Handling.

Angus Dodds MRTPI
Director

angus@contourtownplanning.com

CONTOUR
Town Planning

Report of Handling

Application for Planning Permission
26 Barony Street, Edinburgh, EH3 6NY

Proposal: Retrospective change of use from residential to short-term let apartment (sui generis).

Item – Local Delegated Decision
Application Number – 22/01089/FUL
Ward – B11 - City Centre

Recommendation

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

Summary

The proposal does not comply with policy Hou 7 in the Edinburgh Local Development Plan. The existing rear access door to communal garden has the potential interfere with the amenity of other occupiers of the building. The change of use to a short stay let is therefore unacceptable and there are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a one-bedroom ground floor flat set over two floors and is located on Barony Street with its own main door access from the pavement. The property forms part of a four-storey tenement and has lower ground floor access to the rear communal garden. The property was previously a ground floor commercial unit before its conversion to residential.

Barony Street is mainly in residential use. The property is within walking distance to Broughton Street, a local centre as defined in the Edinburgh Local Development Plan map.

The site lies within the New Town Conservation Area.

Description Of The Proposal

The proposal is for retrospective planning permission for a change of use from residential to short stay let (STL).

No external or internal physical alterations are proposed.

Supporting Information

• Supporting Statement

Relevant Site History
No relevant site history.
Other Relevant Site History

No other relevant site history.

Consultation Engagement
No Consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 16 March 2022
Date of Advertisement: 25 March 2022
Date of Site Notice: 25 March 2022
Number of Contributors: 0

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

• Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

• 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 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

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:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- 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 character or appearance of the conservation area?

The New Town Conservation Area represents a planned urban concept of European significance with an overriding character of Georgian formality. Stone built terrace houses and tenements, built to the highest standards, overlook communal private gardens; to the rear are lanes with mews buildings, many of which are now in housing use. The importance of the area lies in the formal plan layout of buildings, streets, mews and gardens and in the quality of the buildings themselves.

Conclusion in relation to the conservation area

There are no external alterations and the development preserves both the character and appearance of the conservation area. The change of use from a one-bedroom domestic flat 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.

The proposal does not harm the conservation area. Therefore, it is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 6
- LDP Housing policies Hou 7

<u>Principle</u>

The main policy that is applicable to the assessment of short-stay lets (STL) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted. There are no policies relating specifically to the control of short stay commercial visitor accommodation (STL) in the current Local Development Plan (LDP).

The non-statutory Guidance for Businesses states that an assessment of a change of use of dwellings to STL 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.

The guidance states that a change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs.

In connection to short stay lets it states - "The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest".

There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:

- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
- The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
- The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
- The nature of the locality and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.

These appeals have also found that short stay visitor accommodation units can be acceptable in predominately residential areas.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.

The supporting statement does not indicate how long the property has been used as a short-term let. However, there is no record of planning permission for this and the use requires be considered as a new proposal under current policies.

The proposed one-bedroom short stay use would enable two or more related or unrelated 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 also 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 long standing residents.

The property has the benefit of own main door access from the pavement. However, the property on the lower ground floor has a rear access door to communal garden and this has potential to interfere with the amenity of other occupiers of the building. The Supporting Statement states that the rear door would be locked. This does not provide sufficient reassurance that access to the rear garden would be prohibited. Controlling rear access to the garden would not meet all the six tests of an effective planning condition under Circular 4/1998 in terms of monitoring and enforcing. In addition, controlling rear access to the garden is a fire safety issue.

Barony Street is overwhelmingly in residential use and character. The supporting statement states that a number of properties on Barony Street are in short stay let use. However, each application for a short stay let is assessed on own merits. The site is a short walking distance from Broughton Street which has a mix of uses, including pubs, restaurants, shops and hairdressers. The application site is relatively sheltered from a degree of ambience noise. It is therefore expected that existing residents would be accustomed to low background noise during day and evening times. The potential access to the rear garden means that a frequent turnover of two or more related or unrelated visitors has the potential to disturb nearby residents.

The Supporting Statement states that the property would be used by two adults with children. It is expected that a turnover of two or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.

Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.

Conservation Area

There are no external alterations and the development preserves both the character and appearance of the conservation area. The proposal complies with LDP policy Env 6.

Conclusion in relation to the Development Plan

Despite the small size of the property and befitting from its own main door access, the rear access door to communal garden has the potential to interfere with the amenity of other occupiers of the building in terms of noise. The principle of a change of use to a short stay let is therefore unacceptable as it will have a materially detrimental effect on the living conditions of nearby residents. The proposal does not comply with LDP policy Hou 7.

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

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not comply with Paragraph 29 of SPP in terms of protecting the amenity of existing residents.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

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

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

Public representations

No comments were received.

Conclusion in relation to identified material considerations

The other material considerations have been addressed and there are no new material issues to resolve.

Overall conclusion

The proposal does not comply with policy Hou 7 in the Edinburgh Local Development Plan. The existing rear access door to communal garden has the potential interfere with the amenity of other occupiers of the building. The change of use to a short stay let is therefore unacceptable and there are no material considerations that outweigh this conclusion. It is recommended that the application be refused.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the existing rear access to communal garden has the potential to interfere with the amenity of other occupiers.

Background Reading/External References

To view details of the application go to the Planning Portal

Further Information - Local Development Plan

Date Registered: 7 March 2022

Drawing Numbers/Scheme

01.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer
E-mail:laura.marshall@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

From Scott, Alison <Alison.Scott@firescotland.gov.uk>

Reply | Reply All | Forward | More

Subject **RE: planning appeal assistance**

06/06/2022, 12:12

To Me

Hi Angus

It would be the opinion of the Scottish Fire and Rescue Service, that although use of the door would be an advantage, the fact that there is an escape window next to it would allow escape from the kitchen and therefore, we do not consider this to be a fire safety issue.
The door from the kitchen should be a self-closing fire door, allowing people on the upper floor to escape safely if a fire started in the kitchen.
If there is a change of use (i.e. domestic to non-domestic), there may be the requirement for suppression to be installed, under the Scottish Technical Handbook. That is something that would be looked at by the building standards officer at the time.

Kind regards
Alison

(working from home)

SCOTTISH
FIRE AND RESCUE SERVICE
Working together for a safer Scotland

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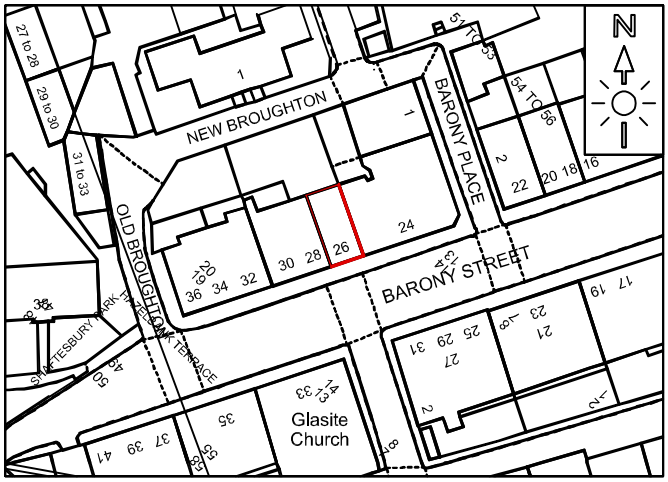
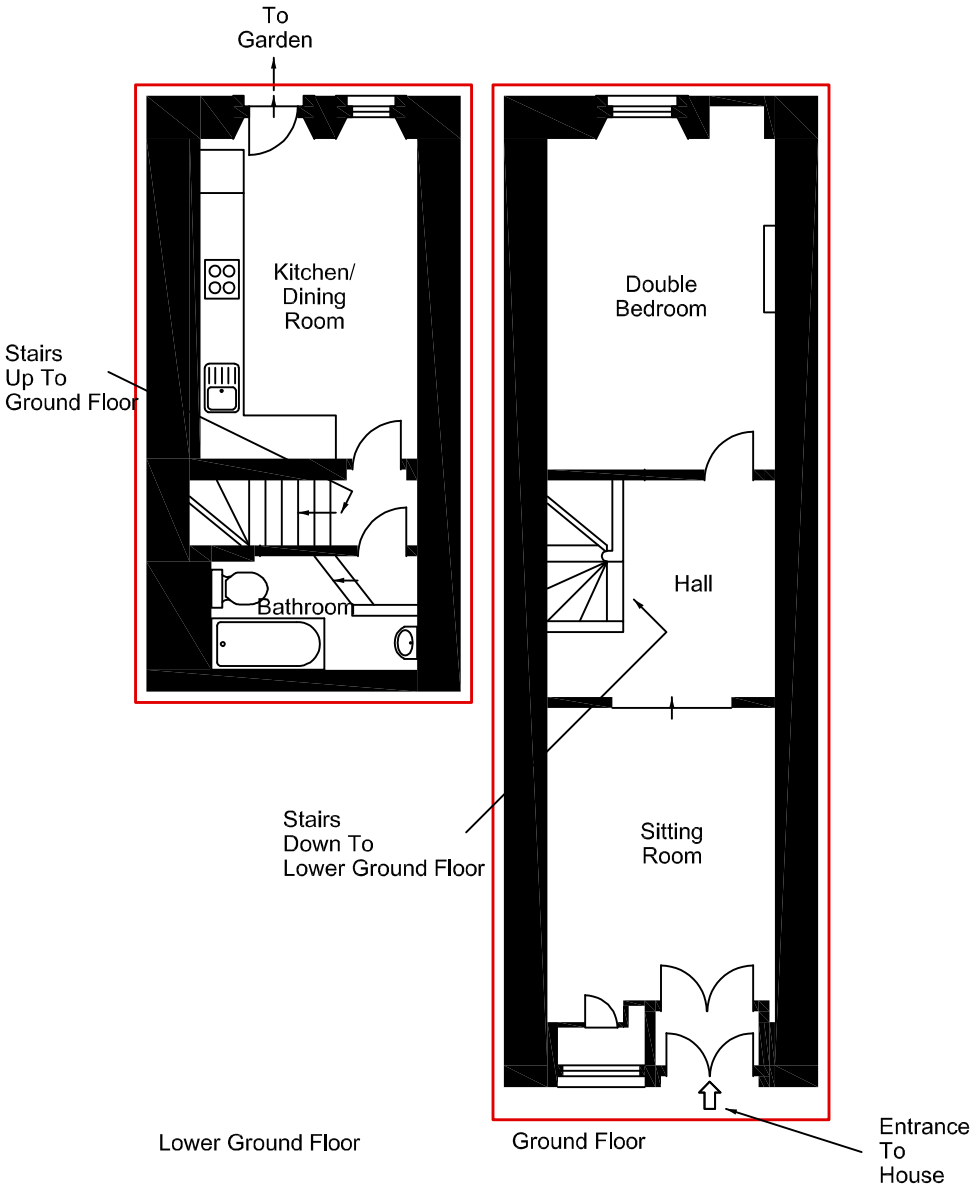
W:0131 344 5037 | M: 07787266399 | e: alison.scott@firescotland.gov.uk

Working together for a safer Scotland



SCALE 1:1250



SquareFoot

0 1 2 3 4 5 SCALE (METRES)

26 Barony Street,
Edinburgh,
Midlothian, EH3 6NY

CHANGE OF USE FROM RESIDENTIAL TO SHORT-TERM LET

EXISTING/ PROPOSED FLOOR PLAN

SCALE 1:100 PRINT AT A4

PLANS DRAWN: MAR 2022

N