

anti-social behaviour (ASB) attributed to holiday lets from 2018 to 2021, as well as making a comparison with ASB in other types of housing tenure.

33997

How many ASB complaints has the Council had against each of the tenures listed below - for the years 2018 to 2021.

City of Edinburgh Council
Private Sector Leasing
Owner Occupied
Private Rent
Housing Association
Unknown.
Short Term Lets

Please note the date range for 2021 is 1 Jan to 31 Aug 2021. 'Not recorded' are cases where no tenure has been recorded opposed to those where the Housing Officer has recorded 'Unknown'.

Tenure Type	2018	2019	2020	2021	Total
City of Edinburgh Council	294	200	206	118	818
Housing Association	16	7	15	10	48
Owner Occupied	70	53	54	38	215
Private Rent	126	58	76	37	297
Private Sector Leasing scheme	12	3	5	7	27
Unknown	783	1153	1117	827	3880
Not Recorded	155	152	97	67	471
Total	1456	1626	1570	1104	5756

	Short Term Let			
	2018	2019	2020	2021
Owner Occupied	1	1	1	
Private Rent	4	8	8	6
Unknown	1	50	19	1
Total	6	59	28	7

The data received by the ASSC for Edinburgh City Council is set out in the table which demonstrates that complaints against holiday lets remain low, especially when viewed in comparison to other types of housing tenure.

- City of Edinburgh Council: "...existing residents of flats within stairs are particularly affected by the pattern of activity which often results from STL. Guests of the short-term let properties can arrive late at night and make noise and cause disturbance in a way which residents of that stair would not, given they will know of the impacts that they have on one another and be able to manage those impacts in a neighbourly way. Examples of disturbance include bumping suitcases up stair and using washing machines in the middle of the night."

This is not an accurate or realistic description of activity and behaviours those residing in flats within stairs. For example, what evidence does the Council hold that guests in short-term rentals are more

inclined to use washing machines in the middle of the night compared to someone residing in their own home, an individual renting from a private or social landlord, or a shift worker for instance? Moreover, if “bumping suitcases” up a stair in a tenement property is an issue of noise and disturbance, surely the Council should then provide consideration to granting planning permission to ground floor flats?

On this issue, we refer you to the legal opinion provided by Brodies LLP to the ASSC in November 2022 on planning requirements for short-term letting which is relevant to the pattern of use associated with this form of accommodation:

“In determining the materiality of the change, the question is whether short stay occupation necessarily has different planning considerations/ impacts. Short stay occupation involves people living in the property, just for shorter periods. However, that does not necessarily mean the nature/ impacts of the occupation are different. There are not necessarily greater movements of people, or different times of movement. More permanent residents can have vastly different movements depending on their employment, leisure interests, family circumstances, health, etc. For example, an offshore worker might occupy his/ her house for a few weeks and then work off-shore for a few weeks; a family with teenage children might enter and leave the house many times during the day and night; a single person with care needs might be visited by carers several times a day. Users of a self-catering property are therefore unlikely to exhibit markedly different characteristics to more permanent residents. Disruptive or anti-social behaviour is just as likely in residential use as self-catering use. Servicing of self-catering accommodation is also not a differentiator, as some residential occupiers use cleaners on a regular basis, especially if the occupier is in poor health.”³

Q7. The nature and character of any services provided

ASSC Response: STRONGLY DISAGREE

- City of Edinburgh Council: *“Where there is access to a communal garden which can be used by existing residential properties, or where there is a garden that would form part of the curtilage of an STL and would be in close proximity to residential gardens, STLs will generally not be supported.”*

This again demonstrates the disproportionate scope of the proposed policy – just how many applications would be supported if they have to adhere to this guidance?

The planning hurdles for operators to overcome appear insurmountable. This will have a devastating impact for those involved in the self-catering sector in terms of their job and livelihood but will also entail a materially negative consequence for other related industries – including major events such as the Festivals, the hospitality sector, and the wider economy. A more holistic approach is desperately needed, one which comprehends an understanding of the economic impact and the major contracting accommodation threat to the Festivals in particular.

³ Brodies LLP Report on: Planning requirements for short term holiday letting. Prepared for: The Association of Scotland's Self-Caterers (ASSC). Date: 10/11/2022.

Q8. Other comments

We have five additional comments to make on the proposed guidance, and related matters, as set out below:

- (a) Timing of the draft planning guidance consultation;
- (b) Overall policy intention of the City of Edinburgh Council on short-term lets;
- (c) Relationship between short-term lets planning and licensing policy;
- (d) Threat to The Edinburgh Festival Fringe due to reduced accommodation;
- (e) Established Use; and
- (f) ASSC's short-term let policy recommendations.

(a) Timing

The revised timeframe for the licensing of short-term let properties requires all applications to have been submitted to the Council by 1 October 2023 and for planning permission to have been obtained by that date (or for an application to be pending). However, following the recent designation of the short-term let control area, this draft planning guidance is undergoing a consultation which will run until 22 December 2022.

We maintain that there must be a proper and rigorous examination of the consultation responses from stakeholders, as well as to reflect on the consultation overall, before a report is prepared and put to committee level. Notwithstanding the delay to licensing, this is a very tight timeframe to properly consider the consultation responses, make any changes to the draft guidance, and then allow operators to prepare for and submit planning applications before the October 2023 deadline.

(b) Policy intention

The Council needs to be clear in their policy intention: does the proposed guidance, in conjunction with licensing and the planning control area, amount to a de-facto ban on short-term letting within Edinburgh? Under these proposals, existing operators would have to meet the following restrictive criteria to receive planning consent: not be in a shared/communal stair; not be sharing a communal back garden; and not be in a residential area. It sets an incredibly high bar for the vast majority of self-caterers in the city which is why we request clarity in your overall policy intention. Indeed, this high bar may account for the lacklustre uptake of current applications of planning consent to date.

The ASSC is not averse to regulation but anything taken forward must strike the correct balance between community interest and supporting the local economy. The proposed guidance further tips the balance in favour of the former while not paying adequate attention to the latter.

(c) Relationship between planning and licensing

While this consultation concerns planning, we have found that there is duplication in the proposals – much of the rationale being provided for the revised policies is already covered by the licensing scheme. For instance, on anti-social behaviour, noise and disturbance, and control over properties once planning permission has been granted. While the two issues are separate, they cannot be viewed in complete isolation and the Council must ensure that they are not duplicating policies which are part of the licensing scheme.

(d) Risk to the Edinburgh Festival Fringe

It has been estimated that 18,000 people working at the Fringe require over 400,000 bed nights around the dates of the Fringe. Moreover, approximately 120,000 visitors from outside of Scotland attended the Fringe in 2022. Short-term lets provide a crucial component of the city's accommodation infrastructure alongside more traditional options like hotels.

Both the Council's proposed planning and licensing policies will have significant unintended consequences for the wider tourism and visitor economy, especially surrounding the Festival season. The Council has been warned by festival organisers that short-term let regulations pose "a very serious threat", with a shortage of rooms inevitably driving up prices even higher.⁴ Concerns have also been expressed to the Scottish Government about the danger to the Festivals.⁵

For the professional self-catering sector, there are 1,396 self-catering units on non-domestic rates in Edinburgh – **all are potentially facing closure due to restrictive policies**. The availability of short-term let accommodation stock in Edinburgh, not only for visitors but artists and those working at the Festivals in August, will be dramatically reduced.

Even at the most conservative estimate, it would seem that less than 10% of existing self-catering accommodation providers have submitted a planning application. We infer two possible reasons: first, operators are leaving the market due to the stringent nature of planning and licensing policy; and second, operators are waiting to see what, if any, changes may be made by the Council or Scottish Government to prevent an accommodation blackhole during Festival season 2023.

It is also of considerable concern that, despite the relatively low level of planning applications, over half of those still await a decision. This may imply that we are seeing a new policy approach that simply cannot be met within a reasonable timeframe to allay significant repercussions on the tourism sector and the Festivals in 2023.

The Festivals bring in approximately £350m to the economy but they are also worth much more than that; Edinburgh is a world-leading cultural capital with its unique welcoming and inclusive hospitality. However, the Council, and the city as a whole, risks serious reputational damage if we cannot house those working and visiting Edinburgh for the Festival and Fringe. That is why we need to revisit the proposed short-term let planning guidance, as well as related regulations.

⁴ The Times, 'Holiday let changes 'will mean shortage of beds for festivals', 21/11/22. Url: <https://www.thetimes.co.uk/article/holiday-let-changes-will-mean-shortage-of-beds-for-festivals-7pvdssmzf>

⁵ Meeting between Neil Gray, Minister for Culture, Europe & International Development with Shona McCarthy and Benny Higgins (Edinburgh Festival Fringe), 22 September 2022. Url: <https://www.gov.scot/binaries/content/documents/govscot/publications/foi-eir-release/2022/11/foi-202200322587/documents/foi-202200322587---information-released/foi-202200322587---information-released/govscot%3Adocument/FOI%2B202200322587%2B-%2BInformation%2Breleased.pdf>

(e) Established Use

It is our recommendation that within a Short-term Let Control Area, planning permission should be granted:

1. Where extensive refurbishment of a long-term empty dwellinghouse is proposed to bring the building back into active use.
2. The proposal is for the upper floor(s) above a commercial unit.
3. It is an **established short-term secondary let property** in a long-established dwellinghouse.

‘Established short-term secondary let property’ means:

A dwellinghouse that has been trading as a short-term secondary let property before the first date of the first approval at a Council Committee meeting proposing the establishment of a short-term let Control Area.

Supporting evidence should be required to be submitted as part of the application to demonstrate that the dwellinghouse was trading as a short-term let before the committee date, this evidence might include the following:

- receipts for guests staying at the property;
- extracts from business accounts;
- Reports from the accommodation provider channel manger/platform; or
- Evidence of payment of non-domestic rates as a self-catering unit.

(f) ASSC short-term let policy recommendations

These changes on short-term let planning policy come at the worst possible moment for our sector which has yet to fully rebound from the effects of Covid-19 but who are now facing the impact of an increased regulatory burden as well the cost-of-living crisis. The absence of any form of economic analysis underpinning these draft planning proposals is deeply concerning.

The ASSC recently undertook a survey of over 1,100 self-catering operators throughout Scotland concerning the costs associated with licensing and planning policies. In terms of the respondents from Edinburgh, who are mainly engaged in secondary letting, over two-thirds (67%) were considering leaving the sector.⁶ Interestingly, of those who might sell their property as a result, 98% say it won't be available for affordable housing.

Therefore, this planning consultation is an issue of critical importance and we therefore strongly recommend that the Council take cognisance of the views of business and tourism stakeholders to reassess their plans before it is too late.

The ASSC suggests the following policy recommendations:

- Provide a moratorium on all short-term let planning applications;
- Include ‘grandfather rights for ‘established’ short-term let businesses;

⁶ ASSC Survey of 1,148 short-term let businesses across Scotland, November 2022. Further details are available upon request.

- Do not approve the proposed short-term let planning policy which will result in a de-facto ban in planning terms;
- Review the licensing approach to remove rebuttable presumption against the granting of a licence to a flat dwelling, which will result in a de-facto ban in licensing terms;
- That the Council provides a detailed assessment of the economic impact of their planning proposals;
- Leave the control of short-term letting in the city to licensing in the immediate term; and
- Take a permissive approach whereby all current operators are afforded a licence in year one of the scheme's operation.

FIONA CAMPBELL
CEO, ASSOCIATION OF SCOTLAND'S SELF-CATERERS
DECEMBER 2022

Timetable

April 2022

TOWARDS CITY CENTRE

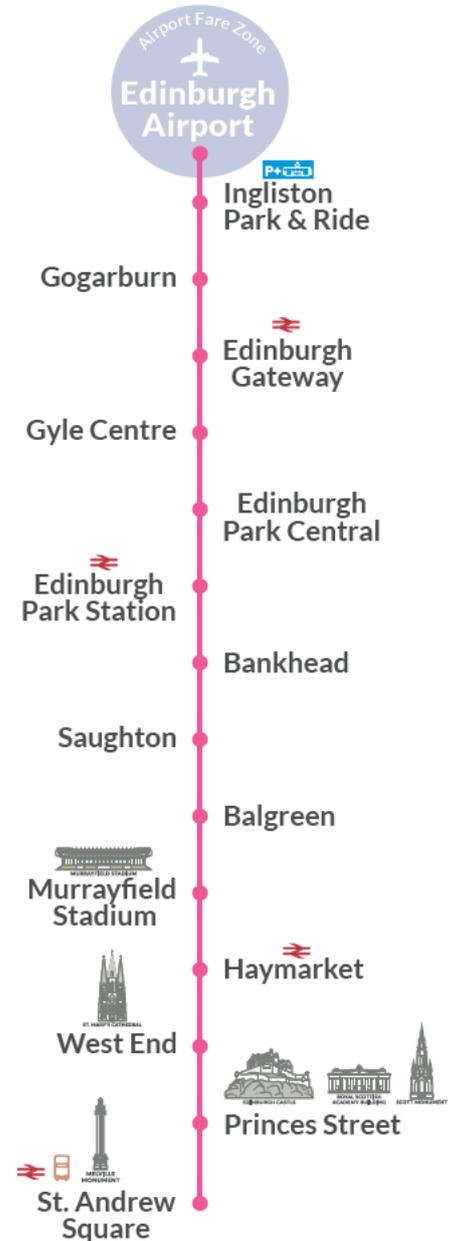
Monday to Friday						
Edinburgh Airport	-	-	06:18	-	18:53	22:48
nglis on Park & Ride	-	-	06:20	-	18:55	22:50
Edinburgh Gateway	-	THEN FROM EVERY	06:25	THEN FROM EVERY	19:01	THEN FROM EVERY
Gyle Centre	05:02	10 MINS UNTIL	06:20	06:27	19:03	22:57
Edinburgh Park Station	05:05	10 MINS UNTIL	06:23	06:31	19:06	23:01
Murrayfield Stadium	05:12	10 MINS UNTIL	06:32	06:40	19:15	23:09
Haymarket	05:15	10 MINS UNTIL	06:36	06:43	19:19	23:13
Princes Street	05:21	10 MINS UNTIL	06:42	06:49	19:25	23:19
St Andrew Sqaure	05:23	10 MINS UNTIL	06:44	06:52	19:28	23:22

Saturday & Sunday						
Edinburgh Airport	-	-	06:20	-	08:03	18:53
nglis on Park & Ride	-	-	06:22	-	08:05	18:55
Edinburgh Gateway	-	THEN FROM EVERY	06:27	THEN FROM EVERY	08:10	THEN FROM EVERY
Gyle Centre	05:02	10 MINS UNTIL	06:20	06:29	08:12	19:03
Edinburgh Park Station	05:05	10 MINS UNTIL	06:23	06:33	08:16	19:06
Murrayfield Stadium	05:12	10 MINS UNTIL	06:32	06:41	08:25	19:15
Haymarket	05:15	10 MINS UNTIL	06:36	06:45	08:28	19:19
Princes Street	05:21	10 MINS UNTIL	06:42	06:51	08:34	19:25
St Andrew Sqaure	05:23	10 MINS UNTIL	06:44	06:52	08:37	19:28

TOWARDS AIRPORT

Monday to Friday						
St Andrew Sqaure	05:32	-	06:47	-	19:02	23:32
Princes S ree	05:35	-	06:50	-	19:04	23:35
Haymarket	05:41	THEN FROM EVERY	06:56	THEN FROM EVERY	19:11	THEN FROM EVERY
Murrayfield Stadium	05:44	10 MINS UNTIL	06:59	19:14	19:14	23:44
Edinburgh Park Station	05:53	10 MINS UNTIL	07:08	19:22	19:22	23:53
Gyle Centre	05:56	10 MINS UNTIL	07:11	19:26	19:26	23:56
Edinburgh Gateway	05:58	10 MINS UNTIL	07:13	19:28	19:28	23:58
Ingliston Park & Ride	06:04	10 MINS UNTIL	07:19	19:33	19:33	00:04
Edinburgh Airport	06:07	10 MINS UNTIL	07:22	19:37	19:37	00:07

Saturday & Sunday						
St Andrew Sqaure	05:32	-	08:39	-	18:59	23:32
Princes S ree	05:35	-	08:42	-	19:04	23:35
Haymarket	05:41	THEN FROM EVERY	08:48	THEN FROM EVERY	19:11	THEN FROM EVERY
Murrayfield Stadium	05:44	10 MINS UNTIL	08:51	19:14	19:14	23:44
Edinburgh Park Station	05:53	10 MINS UNTIL	09:00	19:22	19:22	23:53
Gyle Centre	05:56	10 MINS UNTIL	09:04	19:26	19:26	23:56
Edinburgh Gateway	05:58	10 MINS UNTIL	09:06	19:28	19:28	23:58
Ingliston Park & Ride	06:04	10 MINS UNTIL	09:11	19:33	19:33	00:04
Edinburgh Airport	06:07	10 MINS UNTIL	09:14	19:37	19:37	00:07



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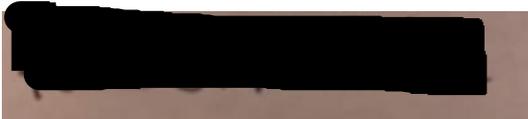
15A Manor Place,
Edinburgh,
EH3 7DH
Sunday 15th January, 2022.

Kate Cadzow,
13A Manor Place,
EH3 7DH

Dear Kate,

Thank you for your enquiry about our experience living next to your flat. I know you rent out your flat and we have no detrimental effect from living next to a flat that has short term rental. We put up with noise from the cathedral and the disruption caused by the route 1 cycle path being built. I have to say that this has had a detrimental effect on living in our flat but we realise that in the long run that the cycle flat may be a major asset to Edinburgh. We hear the bell ringing from the cathedral and the traffic going along Manor Place, and all the normal noise of from living in a city. So, in answer to your query your flat is not a nuisance to us in any way.

Best wishes,



Chris McCabe (Mrs K. C. McCabe)

13th January 2023

13 Manor Place
Edinburgh
EH3 7DH

To whom it May concern

Further to the application from 13a Manor place for planning permission for use as a short term let, we just wanted to say that we support the application and have absolutely no objections to make. During the 18 months that we have lived above the flat in question we have to say that we have heard little if any noise from the people who rent the property. In fact, the only things that seem to disturb us are the bins being emptied on Wednesdays and the regular noise of the trams! The vast majority of visitors appear to be holiday makers visiting the city and we are pleased to see them enjoying the city as much as we do.

Yours sincerely

Gavin & Marion Borland



APPEAL STATEMENT

CHANGE OF USE FROM RESIDENTIAL TO SHORT TERM LET PROPERTY (IN RETROSPECT)

13A MANOR PLACE, EDINBURGH, EH3 7DH

JANUARY 2023

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1. INTRODUCTION

- 1.1 This statement is submitted on behalf of Peter Ogilvy-Wedderburn (the appellant) and sets out the grounds of appeal against the decision of the City of Edinburgh Council (CEC) to refuse planning application LPA ref: 22/02963/FUL by delegated decision on 21 October 2022.
- 1.2 The detailed planning application sought consent for “*Change of use from residential to short-term let property (in retrospect)*” at 13A Manor Place, Edinburgh, EH3 7DH, a property which is owned by the appellant.
- 1.3 CEC’s only reason for refusal of the application was:
1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
- 1.4 Other than the reasons for refusal above, the other technical consultees that responded, raised no objections.

Consultee	Response
Historic Environment Scotland	No comment

- 1.5 On all other grounds the application was considered acceptable. Benefits of the proposal as stated by the officer in their report:
- The site is accessible by public transport.
 - 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 and is compliant with Policy Env 3.
 - In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area and is compliant with Policy Env 6.
 - The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community and is compliant with Policy Env 1.
 - The economic benefits of the proposal are a material consideration.



- 1.6 The remaining sections in this appeal statement comprise:
- A description of the appeal site and the proposals (Section 2).
 - The appellant's grounds for appeal (Section 3)
 - Material considerations in favour of the appeal proposals (Section 4)
 - Summary of the appellant's case (Section 5)
- 1.7 This appeal statement should be read in the context of all supporting evidence documents submitted as appendices to this appeal statement, and all those from the previous planning application which are listed below:

Appendix	Appeal Document Description
1	Locality Use Plan of the Surrounding Area
2	Brodies Legal Opinion provided to the ASSC 2018
3	Floor Plan and Site Photos
4	ASSC FOI Request - Details of ASB complaints relating to STLs
5	Tram Timetable April 2022
6	Neighbour Letters of Support
Other Relevant Documents from Original Planning Application	
	Author
CEC Decision Notice and Officers Report	CEC
Location Plan	Appellant
Planning Statement	Ferguson Planning
Management Statement	Appellant

- 1.8 We acknowledged that the Council's planning function has resourcing issues, but the appellant was disappointed that the planning officer did not discuss the application with them prior to issuing a decision, nor as far as we are aware has undertaken a site visit to assess the location for themselves in person. This is considered particularly remiss given the focus of the reason for refusal, and we would strongly encourage members to undertake a site visit as part of their own assessment of the appeal.
- 1.9 This appeal is made to the Local Review Body on the basis it was a local application, which was determined by delegated powers. For the reasons outlined in this statement, we conclude that the development is in accordance with relevant development plan policies and supported by significant material considerations. On that basis, we respectfully request that the LRB allow this appeal.

2. THE PROPOSAL

- 2.1 The proposal is retrospective to change the use of the basement property at 13A Manor Place from residential to short-term let use (sui generis), the location of which is shown in Figure 1 below.



Figure 1: Location of 13a Manor Place

- 2.2 The property at 13a Manor Place has been used to provide short term holiday accommodation, since October 2021. Prior to that it was used as an office. It has therefore never been in long-term residential use.
- 2.3 The property is accessed from a private staircase from street level and main door. The access is not shared with any other properties.
- 2.4 The floor area of the property is c.134sqm and it comprises three bedrooms, a living area, fitted kitchen and two bathrooms and a small private courtyard to the front and to the rear as shown in Figures 2 and 3. The courtyard to the rear can only be accessed via the property and is surrounded by solid high stone walls. The appellant does not provide any outdoor furniture for either of these spaces to ensure there is no outdoor noise.



Figure 2: Entrance to 13A Manor Place and courtyard area.

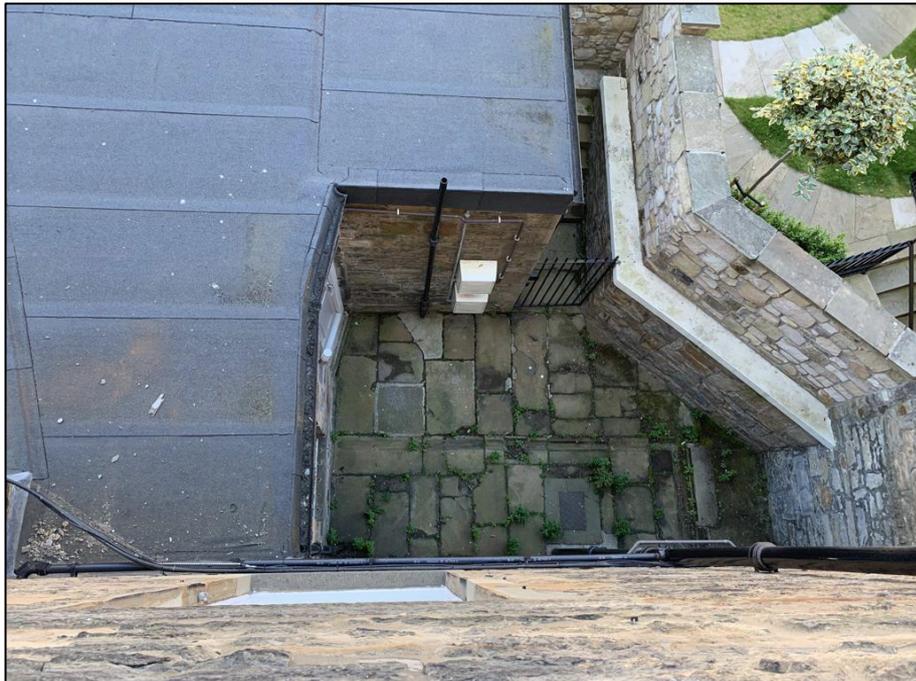


Figure 3: Rear Courtyard to 13A Manor Place showing height of surrounding walls

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Figure 4: Rear courtyard - both windows form part of 13A Manor Place

- 2.5 The property is 70m (north east) from the junction of Manor Place and Atholl Place (Shandwick Place). This is a busy vehicle and pedestrian junction. Manor Place is heavily trafficked as it is used as a route through the west end of the city by cars.
- 2.6 Atholl Place (Shandwick Place) is a key east-west thoroughfare through the city, and between the two railway stations in the city centre. It is therefore also a popular tourist route with heavy footfall during the day and into the evening. The route is served by both bus and trams, with the nearest bus stop being 100m (2-minute walk) away, and the tram stop being 300m (4-minute walk) away.

Neighbouring Uses

- 2.7 The officer says *“Manor Place is a mix of residential and offices. The property is in the basement of a three storey Georgian terrace. The floors above are in residential use. Manor Place is close to the city centre and is well served by public transport”* [our emphasis].
- 2.8 The neighbouring properties on Manor Place, are mix of commercial and residential uses. No 15 Manor Place, directly adjacent to the north, is occupied by offices. No 11 Manor Place, adjacent to the south, is currently in residential use as is No 13 above the property. Several of the other town houses are also occupied by offices.



Manor Place is a wide street with sufficient space for three lanes of traffic, and on-street parking spaces. The property is therefore not overlooked by residential uses.

- 2.9 To the rear of the building, the property is not overlooked either from William Street South West Lane. The lane comprises a mix of garages, parking areas, and typical mews style properties, used for both residential and office use. The flat is not visible from the lane, due to the height of the walls surrounding the rear gardens and parking areas.
- 2.10 The buildings at the junction of Manor Place and Atholl Place, are generally occupied by commercial uses at ground floor, with residential and offices above. Commercial uses include offices, restaurants, professional services, and healthcare, again encouraging activity throughout the day and into the evening.
- 2.11 To the north, the property is 35m from the junction of Manor Place and William Street. William Street is commercial in nature and occupied by several independent bars, public houses, cafes, restaurants, and boutiques.
- 2.12 The property is only a short distance from the amenities of Shandwick Place, Haymarket, and Torphichen Street. The surrounding area comprises a wide range of uses, including public houses, shops, cafes, and restaurants, and it is a vibrant and bustling area. There are several hotels in the local area providing existing visitor accommodation, including Premier Inn, Capital West Guesthouse and Voco on Torphichen Street and numerous more opposite Haymarket Station.
- 2.13 As a result of this activity, there is already an established and significant level of ambient background noise in the area and a more transient population. The property therefore provides an ideal location for visitor accommodation and the location is very popular with visitors to the city as a result.
- 2.14 We have provided a Locality Use Plan at Appendix 1 to illustrate the above.

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3. GROUNDS OF APPEAL

CEC's Reason for Refusal

- 3.1 *"The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents".*

Appellant's Response

- 3.2 The supporting text to Policy Hou 7 in the LDP states that the "intention of the policy is firstly, to preclude the introduction 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 [our underlined emphasis].
- 3.3 The property lies in an area of the city which has a mixed commercial and residential character. The officer agrees, having described the site as, *"the properties in Manor Place are a mix of residential and offices"*. This is also evidenced by the Locality Use Plan we have provided at Appendix 1. We therefore do not consider the area itself can be defined as 'predominantly residential'. The proposal should therefore not be automatically precluded.
- 3.4 It remains therefore in policy terms, to consider if the proposals will result in "further deterioration in living conditions in more mixed-use areas".
- 3.5 It is considered that the proposal does not represent a significant or unacceptable risk to residential amenity. Given the description of the area above, the continued use of the property for short term let use, will not result in any appreciable change in the character of the area. In fact, the STL use of the property is a commercial use, in keeping with previous use of the property as an office.
- 3.6 This is a retrospective application and therefore the absence of impact upon living conditions, can be evidenced by the fact that there have been no complaints to CEC relating to the use of the property for short term lets and associated noise since the property started operating in October 2021. The appellants have a good relationship with the upstairs residential neighbours too, who have been supportive of the use and how it is managed.
- 3.7 We explore this further by addressing the specific comments that the officer raises in their report to justify their refusal of the application in line with Policy Hou 7. These are highlighted in bold text, and our response is below.

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- 3.8 *The use of this property as a short term let would have the potential to introduce an increased frequency of movement to the flat at unsociable hours.*
- 3.9 Brodies produced a Legal Opinion for the ASSC in 2018 (Appendix 2) which considers whether short stay occupation, necessarily has different planning considerations/impacts. Whilst they noted that cases will need to be assessed on their individual merits, they did note that short stay occupation does not necessarily equate to greater movements of people, or different times of movement. Their view, which we would agree with is that *“more permanent residents can have vastly different movements of people or different times of movement. More permanent residents can have vastly different movements depending on their employment, leisure interests, family circumstances, health etc. For example, an off shore worker might occupy his/her house for a few weeks and then work off-shore for a few weeks; a family with teenage children might enter and leave the house many times during the day and night; a single person with care needs might be visited by carers several times a day. Users of a self-catering property and therefore unlikely to exhibit markedly different characteristics to more permanent residents. Disruptive or anti-social behaviour is just as likely in residential use as self-catering use”.*
- 3.10 The officer has produced no evidence to support their claim to the contrary. We therefore do not consider that this provides a substantive reason for refusal.
- 3.11 *The proposed three-bedroom short say use would enable six or more 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.*
- 3.12 We would strongly contest the officer’s assumption that “six or more guests” could stay in the property and argue that this is somewhat of an exaggeration.
- 3.13 The floor plan below and at Appendix 3, clearly shows that whilst the property has 3 bedrooms, the second (to the right of the entrance) is a smaller double and the third is arguably a box room (to the rear of the flat overlooking the courtyard), in which the appellants only have room to install children’s bunk beds. However, there is no room for any other furniture or little else, given the small size of the room.

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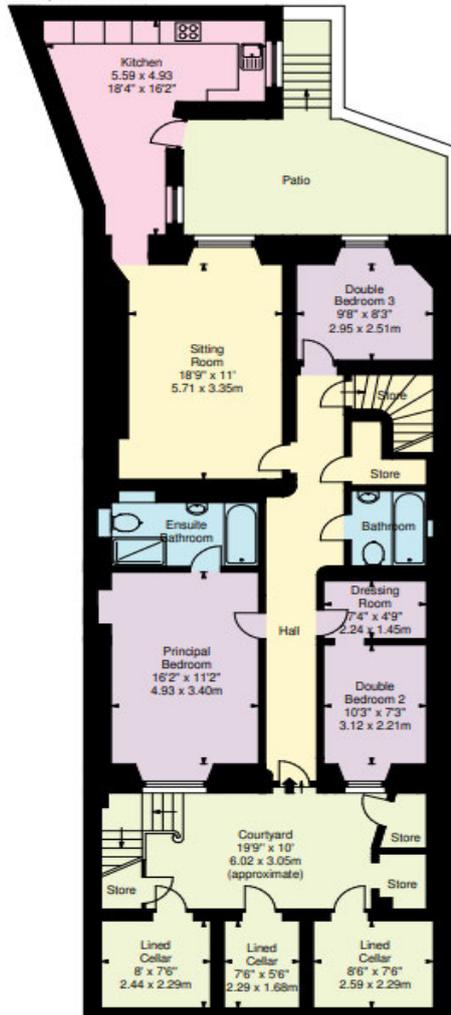
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**Manor Place,
Edinburgh,
Midlothian, EH3 7DH**



Approx. Gross Internal Area
1449 Sq Ft - 134.61 Sq M
(Including Lined Cellars & Stores)
For identification only. Not to scale.
© SquareFoot 2020



Lower Ground Floor

3.14 Given this layout, the appellant finds that typically, most guests are families who have come to visit Edinburgh for 3 to 4 nights. The agent also has many bookings from visitors who are in Edinburgh for work, and therefore often looking for space to work remotely in their accommodation. Overall, guest occupancy is typically 3 to 4 people, and the third bedroom, which is currently set up as a child's bedroom with bunk beds given its size would not be used.

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- 3.15 Maximum occupancy would therefore not exceed 6 people, and when this threshold was reached it would typically only be because of the addition of small children to the booking.
- 3.16 This use would not be dissimilar to the property being let on a full-time basis to a family, and therefore we disagree that the manner of occupation would be any different to that of permanent residents. The case officer provides no further justification or evidence for this assertion in their statement.
- 3.17 Furthermore, the officer makes no reference to the new licensing scheme. This will require all short-term lets to comply with mandatory conditions, including maximum occupancy, and will ensure by being legally enforceable, that no more than 6 people can stay in the property at any time.
- 3.18 *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 neighbour's amenity than long standing residents.*
- 3.19 As above, we do not consider this to be a justified reason for refusal, unless the Council can provide evidence to support this claim.
- 3.20 As a property, renovated recently to the highest standards, it provides high quality accommodation, for guests (often families) who wish to stay collectively, with the amenities of a home, and live like residents in the city for extended periods of stay. Such guests will be more inclined to treat the property like their own home and therefore be respectful of the surrounding neighbours. The appellants also vet each guest booking to ensure that they will be appropriate for the flat, given it is in their interest to maintain high standards and good relationships with their neighbours, as so many bookings are received on the basis of excellent reviews and referrals.
- 3.21 An FOI request was submitted by the ASSC to CEC to understand the reported incidences of anti-social behaviour attributed to holiday lets from 2018 to 2021, as well as making a comparison with ASB in other types of housing tenure. Those results, included in full at Appendix 4 are outlined in the ASSC response to CEC's draft STL guidance. They clearly show that complaints against holiday lets are low, when viewed in comparison to other types of housing tenure. We therefore do not believe the Council have supported their claim that transient visitors have less regard for neighbouring amenity, and that this is not a valid reason for refusal considering the evidence presented by the FOI request.
- 3.22 Similar findings were reported by the ASSC Report '[More than Just Housing](#)' which found that the frequency of antisocial behaviour complaints in each key destination

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local authority (including Edinburgh) is negligible compared to the number of available properties and occupancy levels. Therefore, the evidence concludes that anti-social behaviour is not a problem which is exacerbated by the presence of STR.

3.23 *This would be significant different from the ambient background noise that residents might reasonably expect.*

3.24 The area is busy throughout the day and evening and residents will already be accustomed to an existing level of ambient background noise from existing businesses, and the increased movement of people.

3.25 In the immediate local area, this includes:

- Tram passing on Shandwick Place which is in very close proximity to the property, as shown in Figure 5. The tram runs from Edinburgh Airport and St Andrews Square between 5.02am and 00.07 every day of the week. Trams run from every 7 minutes throughout the daytime, 7 days a week. In the early morning and during the evening trams run from every 10 minutes. Please refer to the timetable at Appendix 5. It is clear when standing outside the property that the tram provides significant existing background noise, both from the vibration of travel on the tracks and from its bell which can even be heard above the vehicular traffic.
- Vehicles queuing and traffic directly outside the property on Manor Place to junction with Shandwick Place - refer to the image at Figure 6.
- Staff and deliveries coming and going from neighbouring offices and other commercial premises.
- Pedestrian footfall accessing the shops, restaurants, and bars of Shandwick Place (65m from the front door) and William Street (20m from the front door).
- Music, traffic, and pedestrian movements associated with weddings, events, and religious services at St Marys Episcopal Cathedral diagonally opposite the site (90m).

3.26 The officer does not reference or remark on the above noise sources in any detail in their report. They do not appear to take into account the level of noise generated by the tram and vehicular traffic in their assessment of the background ambient noise. If they had travelled to site, it would be clear to them that this is a constant source of noise for residents on Manor Place throughout the day and evening. We do not believe that the comings and goings of visitors to the STL would be noticeable above this existing level of noise, which residents are accustomed too.

3.27 This is confirmed by the two letters of support from the adjacent residential neighbours at 13 and 15a Manor Place at Appendix 6. Both confirm that they are disturbed by the noises listed above, but not guests of the property.



Figure 5: The proximity of the tram to the property provides a significant level of background noise.

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Figure 6: Evidence of cars queuing throughout the day directly outside the property (Photo taken on Thursday 19 Jan at Middy). Manor Place is a busy thoroughfare and joins a major junction with Shandwick Place.

3.28 The promotion of mixed uses must be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

3.29 We do not believe that the case officer has properly balanced the need to maintain a mix of uses in their decision, nor taken into account that prior to use as a short-term let, the former use of the property was commercial office use. Commercial uses have therefore already been established and accepted in this location, operating harmoniously alongside other uses. As evidenced elsewhere in this report, we do not consider there will be any negative impact on residential amenity.

3.30 The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with Policy Hou 7.

3.31 The officer describes how the properties in Manor Place are a mix of residential and offices and how in 2017 planning permission was obtained (17/05476/FUL) to convert this property along with the floors above (no 13) and the property adjacent (no.11) from commercial to residential. They correctly state that No 13 was reinstated as a single dwelling (including lower ground floor at 13A) and No 11 was converted from offices to a lower ground floor flat and townhouse above. Nos. 11



and 13 are still in residential use. They seem to focus their concern about the STLs impact on the amenity of these two properties closest to the application property.

3.32 The benefit of this proposal is that is it submitted in retrospect. The effect on the living conditions of neighbouring properties has therefore already been tested for at least 12 months (since October 2021).

3.33 Evidence therefore exists that during this time there have been no complaints from neighbours, either directly or indirectly to either the Police or City of Edinburgh Council.

3.34 Neither were any objections submitted by neighbours during the consultation period on the planning application, which is now the subject of this appeal, and 18 people were notified of the submission and given the opportunity to do so.

3.35 In fact, both neighbouring properties, at 13 (above) and 15A Manor Place (adjacent), have both supported the appeal and their letters are enclosed at Appendix 6, Within their letters, they say:

- *"We have no detrimental effect from living next to a flat that has short term rental"*
- *"We put up with the noise from the cathedral and the route 1 cycle path being built"*
- *We hear the bell ringing from the cathedral and the traffic along Manor Place, and all the normal noise of living in a city"*
- *"Your flat is not a nuisance to us in any way"*
- *"We support the application and have no objections to make"*
- *"We have heard very little if any noise from the people who rent the property. In fact the only things that seem to disturb us are the bins being emptied and the regular noise of the trams"*

3.36 Both neighbouring residents are in support of the application and note that the ambient background noise is such, that the presence of an STL nearby is undetectable. Given this evidence collected from the neighbours which the officer claims will be affected, we would strongly contest this reason for refusal.

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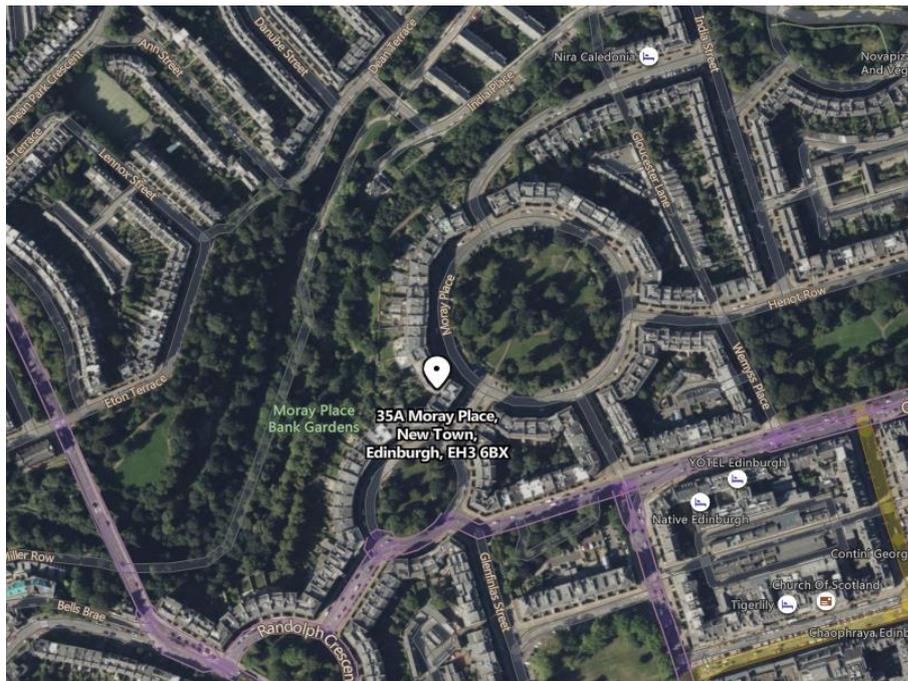
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4. MATERIAL CONSIDERATIONS IN FAVOUR OF THE APPEAL PROPOSALS

Other STL Approvals

- 4.1 Whilst all proposals are considered on their merits, we believe the applications below, demonstrate that a different (and more positive) approach has been taken to the assessment of the impact of the STL use on the local area by the planning officers at CEC. We reference cases with similar characteristics to those at Manor Place, either in location, size, or outdoor space and highlight the key conclusions drawn by officers in their recommendations for approval.
- 4.2 It has been recognised in all these cases, that residents in similar mixed-use areas are already used to a degree of activity and therefore the introduction of a short term let, would be unlikely to have an adverse impact on residential amenity. We do not believe that the officer had a full understanding of the impacts of noise from the existing road traffic and tram at Manor Place, when making their decision. If they had, we consider there would have been a different outcome. We ask that members of the LRB apply a fair and consistent approach.

35a Moray Place (22/00672/FUL) - Approved July 2022



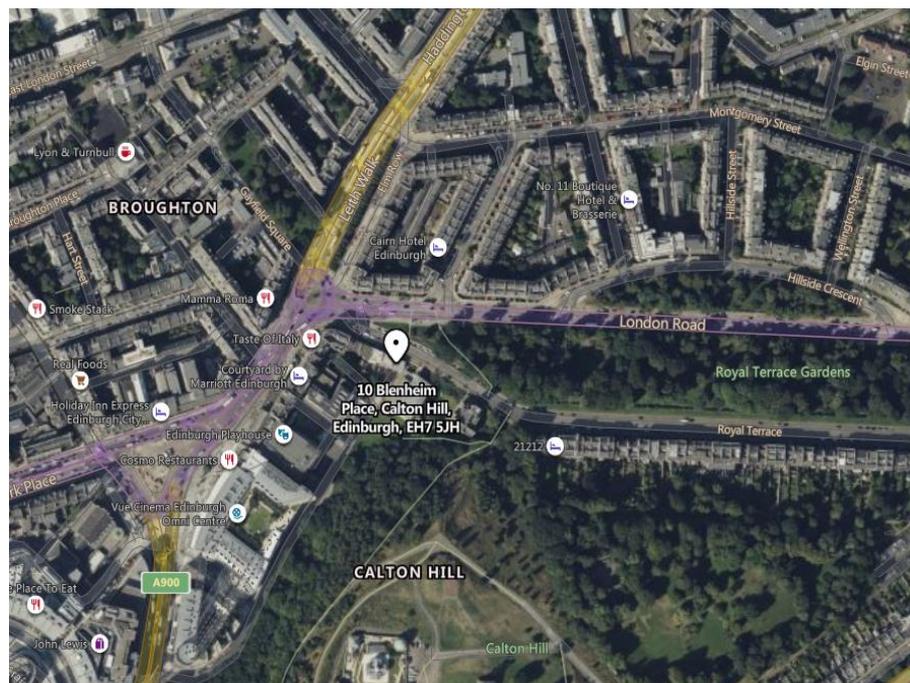
- 4.3 A one-bedroom basement floor residential property entered via a private external staircase. The officer noted that, *“whilst the area is primarily residential in character, the property is located adjacent to a wide cobbled road, which has indirect access*

to busier city centre streets including Heriot Row and Queen St. It is considered that current vehicular use along Moray Place would bring a level of existing ambient noise to the area”.

4.4 In this example, it was noted that the property has access to a private external space, like the proposal. In that case, the officer considered that, “its size is limited and is tightly enclosed by boundary walls located below street level. In this regard it is not good quality amenity space and is unlikely to be frequently used by guests in this city centre location; with local access to a range of amenities and large public green space nearby”.

4.5 As evidenced by the pictures of the patio space at Manor Place, which has similar characteristics to those described above, we believe a similar conclusion could be drawn in the assessment of this appeal to the outdoor space. Arguably, Moray Place is also a much quieter street than Manor Place. The officer also considers it to be primarily residential, rather than mixed use, and so there is a greater potential for harm. Yet, in this case, the application was supported by officers due to background noise from the road. We believe the appeal proposals will have no greater impact than the proposal at Moray Place.

10A Blenheim Place (21/06615/FUL)



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- 4.6 A two-bedroom lower ground floor flat in a converted terraced dwellinghouse with residential uses directly above it. The officer says, *"The entrance for the ground floor property is directly above the entrance door to the application property. Any outside noise conflicts will be from the road outside to the front or the roads and parking areas to the rear of the building. Due to the location of the property near two main thoroughfares and in an area of mixed uses including commercial and entertainment and leisure uses, there is already a degree of activity."*
- 4.7 Regarding size *"This is a two-bedroom property...it is unlikely it will be used for large numbers of visitors which may impact on neighbour's amenity"*.
- 4.8 The officer in this instance considered any noise conflicts would only arise from the road outside, as it has its own entrance, and that neighbouring traffic created existing background noise. This application was also for a larger two-bedroom property, and it was not considered this would cause any harm.

Flats 1, 2, 3 and 4A Dewar Place Lane – Appeal Allowed

- 4.9 Demonstrates and sets a precedent that larger flats can be acceptable in mixed use areas. Flats 2 and 4A at Dewar Place Lane are three-bedroom properties. These appeal decisions are therefore an important material consideration in the assessment of this proposal and provide a precedent for the acceptability of flats of this size.
- 4.10 In their decision, the Reporter stated that, *"I would observe that any resident of Dewar Place Lane already lives in an area subject to a considerable degree of transient activity associated with the comings and goings of visitors to the city, and other activity". "Overall, I conclude that it is unlikely that the continued short term let use of this building will cause a significant increase in external noise or disturbance, to the extent that the local residents will be subjected to a significant loss of amenity"*.
- 4.11 Specifically, in relation to the size of the flats, the Reporter considered that, *"The flats in the appeal building are all quite small and there is no amenity outside space, other than the dedicated car park through the pend. From this and the photographs of the property I find it unlikely that this building would be attractive to anybody looking for a 'party house'"*.
- 4.12 In this case, the appellant entered a planning obligation, to provide a restriction on the number of individuals which may occupy each flat at any one time. For flat 2, which has three bedrooms, this was a maximum of 6; and for flat 4A with two bedrooms and a lounge bed, a maximum of 6 occupants. We understand that the Council are reluctant to engage in such agreements, but if that is the case, we



consider that such an agreement would be unnecessary in this case and will be superseded by the forthcoming licensing scheme, as noted above. A mandatory condition of the licensing scheme will be maximum occupation, and so the Council will have powers to enforce this.

8&9 Albyn Place (22/01636/FUL) – 20 STL Apartments - Approved January 2023

- 4.13 Proposal for 20 studio and one-bedroom apartments. The officer describes how, the *“application site is in a busy city centre street with a mix of uses as well as much residential use. There is a level of ambient background noise and level of activity. In these circumstances, there will already be activity on the street at different times of the day and night and although the proposal will introduce more footfall to the street, the application site is a city centre street near the city centre core where such activity already takes place”*.
- 4.14 *“The proposal is for a change of use from one commercial use to another commercial use. In this context, the proposal will not result in an unreasonable loss to neighbouring residential amenity and will not have a materially detrimental effect on the living conditions and amenity of nearby residents”*.
- 4.15 *“One unit will be accessed from the car park at basement level and will have a garden/patio area. Two other rear basement units will have a small patio/small garden area. Some noise will be expected to be created from these rear basements outside spaces. However, there are rear gardens in the surrounding area. Anti-social behaviour such as noise disturbance can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts”*.
- 4.16 This raises a number of similar issues in terms of background ambient noise, outdoor amenity space and mixed-use areas, but has been treated more pragmatically than the proposals which form this appeal. We ask that members apply a consistent approach to these matters across the city.

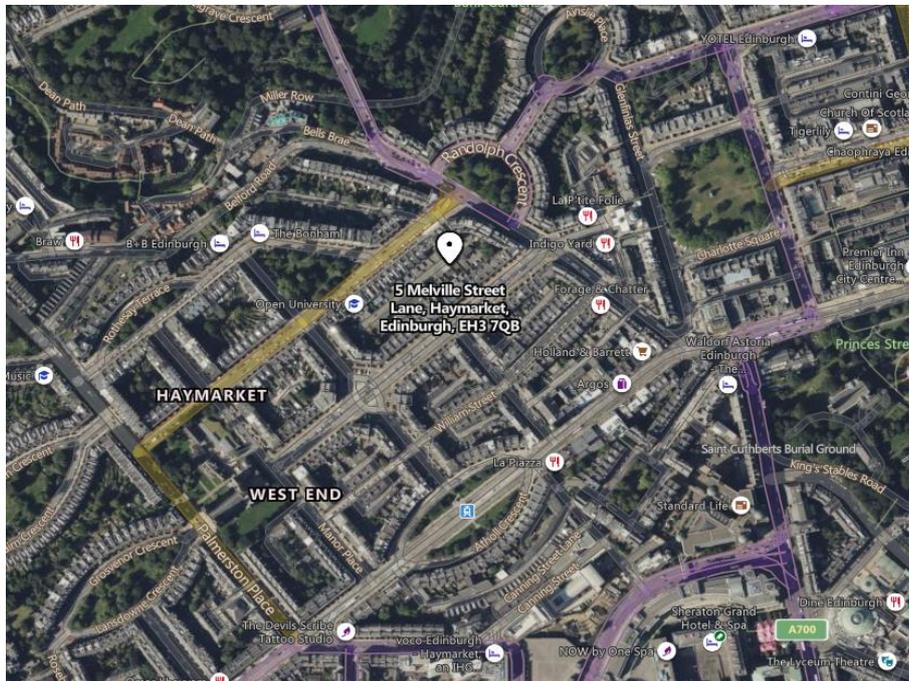
13-17 Forth Street and 6 Broughton Street Lane (22/00147/FUL) – Approved June 2022

- 4.17 Proposal for an apart-hotel with 55 rooms. The officer says that *“Forth Street and Broughton Street Lane are quiet streets in comparison to the busier streets close by such as Broughton Street, Picardy Place and Leith Walk. Although much of Forth Street and Broughton Street Lane are residential in nature, there is a mix of uses found in both streets including offices, hotels and a bar/restaurant. Due to the existence of such commercial uses in both Forth Street and Broughton Street Lane, there is an element of ambient background noise and activity including in the*

evening and at night time. However, the surrounding area is a busy city centre area where hotel use is an established land use. The street will experience a higher level of activity and footfall as a result of the proposed development; however, they are city centre streets and adjacent to the city centre core where such activity already takes place. The proposal will not result in an unreasonable loss to neighbouring residential amenity”.

4.18 Arguably Forth Street is a much quieter residential street than Manor Place, as it is not a busy vehicular thoroughfare, nor is it in such close proximity to the tram. The proposals are also concentrating much greater numbers of visitors within a residential location, than is proposed at Manor Place, yet this was approved. We ask that members take a proportionate approach to the proposals at Manor Place in light of this.

5 Melville Street Lane, Edinburgh (22/01939/FUL) - Approved December 2022



4.19 Proposal is for a one-bedroom studio flat on the first floor with its own private entrance. The officer describes how, “The application site is in close proximity to the junction of Melville Street Lane and Drumsheugh Gardens which has a range of residential and commercial uses. The lane itself has a mix of garages, car parking and residential uses. The application site is located close to the junction mitigating the effect that guests could have on the residential amenity of the street. Furthermore, the site is located directly behind a large hotel, which is associated with

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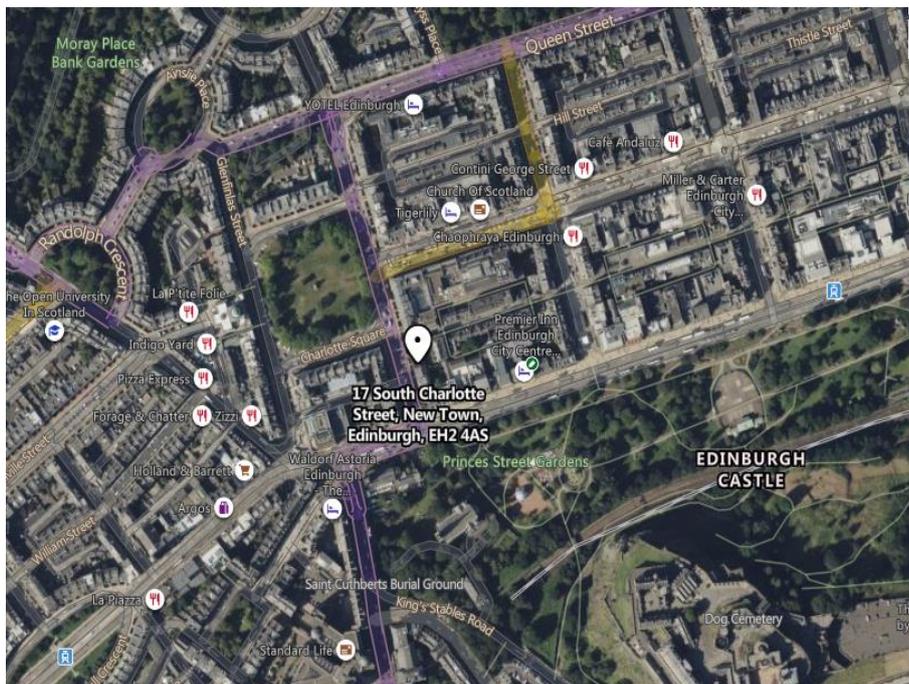
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high levels of visiting guests. An objection has raised concerns regarding noise and anti-social behaviour in the lane. A STL Licensing Scheme is now in place which can investigate and manage noise disturbance and antisocial behaviour associated with the STL use. The nature of this vicinity is one in which STL use can be supported in principle”.

4.20 In this case, the officer recognised that the role of the licensing scheme can be used to provide further safeguards against issues with STLs. We would argue that the same approach can be taken regarding maximum occupancy at Manor Place.

17 South Charlotte Street (22/02650/FUL) – Approved December 2022



4.21 The property has two bedrooms, a living dining area, kitchen, and bathroom and has its own main door at basement level, accessed from South Charlotte Street.

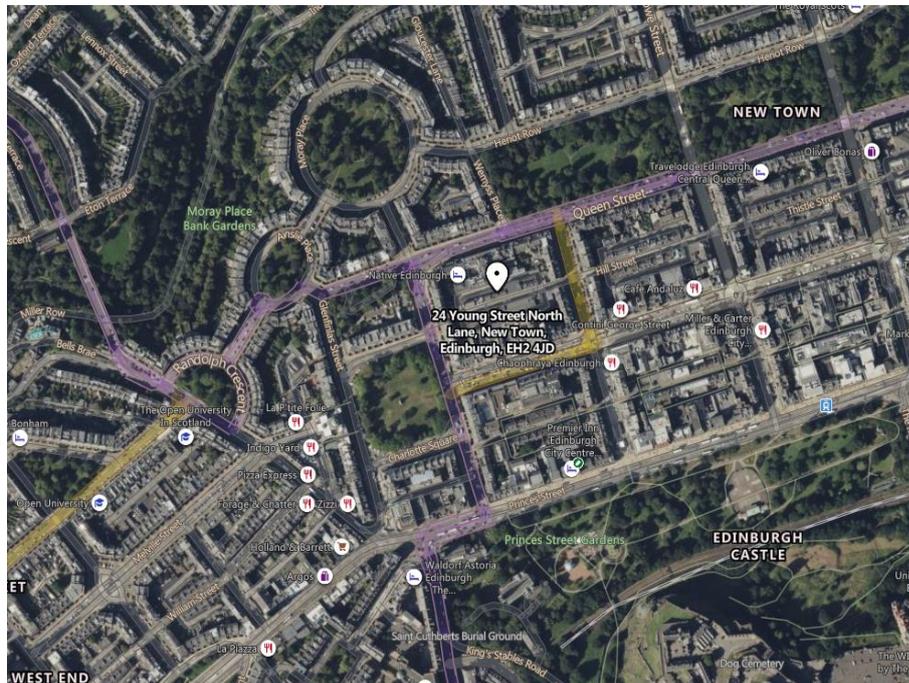
4.22 South Charlotte Street is a mix of residential uses and offices. The property is in the basement of a four storey Georgian terrace. The floors above are in residential and self/catering residential use. South Charlotte Street is in the city centre and is well served by public transport.

4.23 In this case, the officer concluded that, “Whilst the properties above the application site are in residential use, the character of South Charlotte Street is one of a very busy thoroughfares, with a considerable pedestrian footfall and ambient noise levels that remain high during the day and night. The application site is near several restaurants,

pubs, bars, and other premises that operate into the early hours, resulting in an amenity level for residents that is below that which would be experienced in other, quieter locations within the city centre. Despite the proximity of residential properties on the floors above, the impact of the STL use would essentially be masked by the background noise levels created by the uses and resultant activities that exist within the vicinity of the application property”.

4.24 Again, this is a similar case to Manor Place, but here the officer took a view that the background noise of the street would mask any impact of the STL. We would argue the same can be applied to Manor Place.

24 Young Street North Lane (22/02316/FUL) - Approved December 2022



4.25 This proposal is for a first floor, two-bedroom flat with its own access to the street. The officer describes how, “*The overall character of Young Street North Lane is a mix of residential and commercial uses, with a moderate degree of activity in the immediate vicinity of the property, though this is reduced at night. In this case the property has its own access, with the front door to the property exiting directly into the street, meaning any noise and disturbance will be in the street outside. On balance, the impact of the STL use would be minimal given the background noise levels created by the existing uses.*”

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4.26 Again, like the example at South Charlotte Street, background noise has been considered to mask the impact of the STL.

Summary

4.27 This list is by no means exhaustive, and other examples could have been provided. These examples show that the size of the property, outdoor space and location have all recently been accepted elsewhere.

4.28 As the property at 13a Manor Place has its own private access, and main door, there will be no direct interaction of guests with other residential neighbours. Whilst there is a modest element of outdoor space, we consider, like in the example above at 35a Moray Place that it will not be used by guests, given its limited amenity value. To further safeguard against any adverse impacts of this nature, there is no outdoor furniture provided with the property. Modest outdoor space has also been recently accepted in the example of Albyn Place above.

4.29 Given the very similar circumstances of the successful cases above, regarding the characterisation of the area and its suitability for short term let use, it is our view that Manor Place should be supported and there will be no adverse impact on residential amenity, compliant with Policy Hou 7.

Economic Benefits of the Short Term Let Sector

4.30 Whilst the officer notes that economic benefits are a material consideration, we do not consider the Council are giving sufficient weight to the real impact of the loss of well-managed STLs such as this one, in their decision making, and the effect on tourism trade going forward.

4.31 In June 2018, the Association of Scotland's Self-Caterers (ASSC) commissioned a report entitled 'Far More Than Just Houses: The Benefits of the Short-Term Rental (STR) Sector to Scotland'. It identifies that:

- STR is a major component of Scotland's growing tourism offering, making a substantial contribution to the tourist economy.
- In 2016, there were 14.45 million tourism trips to Scotland.
- Estimates from Visit Scotland show that approximately 17% of all tourist visitors stay in self-catering accommodation and will play an important role in accommodating ever-increasing number of visitors to and within Scotland.
- In Edinburgh and Lothians, the proportion of all trips as self-catering trips is at 36%.

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4.32 In August 2022, the ASSC published a number of facts about Short Term Letting in Edinburgh stating that:

- Self-catering generates £867m across Scotland.
- In Lothian self-catering is worth £71m to the local economy

4.33 Not only do self-catering properties offer incomes and livelihoods for their owners, but they create benefits to local suppliers, cafes, pubs, restaurants, gift shops, and tour operators both in the management of the STL, and by attracting a greater number of visitors to the local area. The impact of the loss of STLs in years to come should not be underestimated in the decisions which are taken now.

National Planning Framework 4

4.34 NPF4 is due to be adopted on 13 February 2023. We have therefore addressed Policy 30 (Part e) for completeness.

4.35 Policy 30 (Part e) says that *“Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:*

- i. An unacceptable impact on local amenity of the character of the neighbourhood or area; or*
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.*

4.36 We have demonstrated in earlier parts of this appeal statement why we do not consider there will be an unacceptable impact on local amenity. The proposals are therefore compliant with part e (i).

4.37 As noted previously, the property has never been in residential use. The property was converted from a commercial office use to short term let. There is therefore no loss of residential accommodation.

4.38 Nevertheless, we consider there are demonstrable local economic benefits, and these have been highlighted already above. The proposals are therefore compliant with part e (ii) and Policy 30 in full.

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5. CONCLUSIONS

5.1 The submitted appeal, supported by this statement, seeks the Local Review Body's approval to *"Change of use from residential to short-term let property (in retrospect)"* at 13A Manor Place, Edinburgh.

5.2 For the reasons outlined in this statement and summarised below we believe the LRB should allow this appeal because:

- The property has its own private access, and main door, there will be no direct interaction of guests with other residential neighbours.
- The change of use will not result in the loss of residential use, as the property has been converted from a commercial office use.
- Due to the location of the property in a mixed-use area and proximity to busy transport routes and tram which runs through the day and night, there is already an established and significant level of ambient background noise in the area which would mask any noise from the STL. We do not believe that has been fully accounted for by the officer in their assessment.
- This is a retrospective application and therefore evidence that there have been no complaints to CEC relating to the use of the property for short term lets and associated noise since the property started operating in October 2021.
- Neighbouring properties, which the case officer flags for potential harm, have both supported the appeal and their letters are enclosed. They note that the ambient background noise is such, that the presence of an STL nearby is undetectable.
- Maximum occupancy would not exceed 6 people and can be enforced through the licensing regime.
- Outdoor space is modest and unlikely to be used by guests. We highlight examples above where the Council have supported similar courtyard areas connected with STLs and considered they would have no adverse impact on neighbouring amenity.
- The property serves an important gap in the tourist accommodation market, which cannot be serviced by hotels or guests houses and provides a significant local economic benefit.

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5.3 In contrast to the officer's report, we consider the proposals are compliant with Policy Hou 7 and will have no adverse impact on neighbouring amenity. There are also several material planning considerations that weigh in its favour. We respectfully request that this appeal is therefore allowed by the Local Review Body on that basis and that consistency is applied with other decisions that have been made recently by the local authority and DPEA.

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Ms Ogilvy-Wedderburn
Silvie House
Blairgowrie
PH11 8NA

Mr Ogilvy-Wedderburn
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Alyth
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PH11 8NA

Decision date: 21 October 2022

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

Change of use from residential to short-term let property, (in retrospect).
At 13A Manor Place Edinburgh EH3 7DH

Application No: 22/02963/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 14 July 2022, 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;

Conditions:-

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

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:

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 Lesley Porteous directly at lesley.porteous@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

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

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

Report of Handling

**Application for Planning Permission
13A Manor Place, Edinburgh, EH3 7DH**

**Proposal: Change of use from residential to short-term let property,
(in retrospect).**

**Item – Local Delegated Decision
Application Number – 22/02963/FUL
Ward – B11 - City Centre**

Recommendation

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

Summary

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

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is a self-contained, basement flat in Manor Place, in the west end area of the city. The property has three bedrooms, a living area, kitchen and two bathrooms. It has its own main door which is accessed via a set of steps from Manor Place. There is a small private courtyard to the front and a private patio to the rear.

Manor Place is a mix of residential and offices. The property is in the basement of a three storey Georgian terrace. The floors above are in residential use. Manor Place is close to the city centre and is well served by public transport.

The application site is an A listed building (ref: LB 29296: date of listing 14.12.1970).

The application site is in the World Heritage Site and the New Town Conservation Area.

Description Of The Proposal

The application seeks permission to change the residential use to a short term let apartment. No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since October 2021. The application is therefore retrospective.

Supporting Information

Supporting statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

17/05476/FUL

Consultation Engagement

Historic Environment Scotland

Publicity and Public Engagement

Date of Neighbour Notification: 18 July 2022

Date of Advertisement: 22 July 2022

Date of Site Notice: 22 July 2022

Number of Contributors: 0

Section B - Assessment

Determining Issues

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

- a) Is there a strong presumption against granting planning permission due to the proposals:
- (i) harming the listed building or its setting? or
 - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?

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

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

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 listed building and its setting?

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

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

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

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

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

Conclusion in relation to the listed building

The proposal harms neither the listed building, its setting or the conservation area. It is therefore acceptable with regard to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act

b) The proposals harm the character or appearance of the conservation area?

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. In terms of the character of the conservation area, the proposal will provide accommodation for tourists and individuals visiting the city, within an area of already mixed use. The proposal will not have a negative impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposals are acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

c) The proposals comply with the development plan?

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 policies Env 1, Env 3, and Env 6.
- LDP Housing policy Hou 7.
- LDP Transport policies Tra 2 and Tra 3.
- LDP Delivering the Strategy policy Del 2.

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

The non-statutory 'Guidance for Businesses' is a material consideration that is relevant when considering policy Hou 7.

Listed Building

LDP Environment policy Env 3 (Listed Buildings - Setting) states that development affecting the setting of a listed building will be permitted only if not detrimental to the appearance or character of the building, or to its setting.

The impact on the listed building, its setting and the setting of neighbouring listed buildings has been assessed in section a) above which concluded that the special architectural and historic interest of the building would not be harmed and the setting of the listed buildings would be preserved. As the proposal complies with the statutory test, it therefore also complies with LDP policy Env 3.

Conservation Area

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 and is consistent with the relevant conservation area character appraisal and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The impact on the character and appearance of the conservation area has been considered above in b). It was concluded that the change of use would not have any material impact on the character of the conservation area and would preserve the appearance of the conservation area.

The proposal is acceptable with regard to LDP Policy Env 6.

World Heritage Site

LDP policy Env 1- World Heritage Sites states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh as World Heritage Sites or would have a detrimental impact on the site's setting will not be permitted.

The applicant has stated that there will be no external alterations to the building. The proposed change of use as short stay let does not affect the reasons for the inscription of the World Heritage Site, nor its sense of place and community.

The proposal complies with LDP policy Env 1.

Proposed Use/Principle of Development

The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) 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.

The non-statutory Guidance for Businesses sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to an STL:

- 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.

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 SVCA properties, the economic benefits are a material planning consideration.

The properties in Manor Place are a mix of residential and offices. The application property is on the lower ground floor of a three storey Georgian Terrace. It has its own access from Manor Place via a set of steps leading down to a private courtyard. In 2017 planning permission was obtained (17/05476/FUL) to convert this property along with the floors above (no 13) and the property adjacent (no.11) from commercial to residential. No 13 was reinstated as a single dwelling (including lower ground floor at 13A) and No 11 was converted from offices to a lower ground floor flat and townhouse above. Nos. 11 and 13 are still in residential use. Consequently, two of the properties closest to the application property are in residential use.

The use of this property as a short term let would have the potential to introduce an increased frequency of movement to the flat at unsociable hours. The proposed three bedroom short stay use would enable six or more 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. This would be significantly different from the ambient background noise that residents might reasonably expect.

Scottish Planning Policy encourages a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening. The site lies within the City Centre and policy Del 2 reflects SPP by stating it supports a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. However, the promotion of mixed uses has to be balanced with the need to ensure residential amenity is protected. In this case, there is likely to be a negative impact on residential amenity.

The proposal will have a materially detrimental effect on the living conditions and amenity of nearby residents. Therefore, it does not comply with LDP policy Hou 7.

Parking Standards

LDP policy Tra 2 - Private Car Parking encourages low car provision where a development is accessible to public transport stops and that existing off-street car parking spaces could adequately accommodate the proposed development.

LDP policy Tra 3 - Private Cycle Parking supports development where proposed cycle parking and storage provision complies with the standards set out in Council Guidance.

There is no off street car parking available within the site. As the site is in the New Town so close to the city centre car use is discouraged. The site is accessible by public transport. There is no cycle parking standards for SCVA's. Bikes could be parked within the property if required. The proposals comply with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

The proposal does not comply with LDP Policy Hou 7 as the change of use of this property to a short-term visitor let would materially harm neighbouring amenity. There are no material considerations that would justify approval.

d) 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 all thirteen principles outlined within Paragraph 29 of the SPP as it would not protect the amenity of existing development. The proposal will therefore not contribute to sustainable development.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet 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 representations have been received.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

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

However, the proposal does not comply with the relevant policy of the development plan as it would have a materially detrimental effect on the living conditions and

amenity of nearby residents. It does not comply with the objectives of SPP, as it will not contribute towards sustainable development and a sustainable community. There are no material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

1. The proposal is contrary to Local Development Plan policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 14 July 2022

Drawing Numbers/Scheme

01,02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
E-mail: lesley.porteous@edinburgh.gov.uk

Appendix 1

Consultations

NAME: Historic Environment Scotland

COMMENT: No comments.

DATE: 28 July 2022

The full consultation response can be viewed on the Planning & Building Standards Portal.

13 A Manor Place:

Flat Owner:

Pete Ogilvy Wedderburn (Kates Husband)

Shane Cadzow (Kate Dad)

We have owned the property for just under a year and completed the purchase on the 19th July 2021. The property is a newly refurbished flat and has been developed alongside the house upstairs.

The property has been short let since October 2021 on air bnb and this has been managed by myself Kate Ogilvy - Wedderburn. There is a cleaning company who have access to the property to help with changeovers. They are bnb clean and they are very professional. They remove and dispose of all rubbish and clean the apartment to a very high standard. I am able to manage all bookings and can speak with all guests.

The building does not share an entrance with the upstairs house, we each have our own entrance. We have a great relationship with the neighbours upstairs and they are very happy to assist and have supported us with air bnb. The arrival and departure is with a lock box so this does not affect any of our neighbours.

There have been no noise complaints or any other complaint over the year. There is no outdoor furniture and this has been done on purpose to prevent outdoor noise in the tiny garden.

I have just been made an air bnb super host for the third time .

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Ferguson Planning Ltd
37 George Street
Edinburgh
EH2 2HN

City of Edinburgh Council
Development Management
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

14 July 2022

Via E-Planning Ref: 100572533-001

Dear Sir/ Madam,

APPLICATION FOR CHANGE OF USE (RETROSPECTIVE) FROM RESIDENTIAL TO SHORT TERM LET (SUI-GENERIS) 13A MANOR PLACE, EDINBURGH, EH3 7DH

Ferguson Planning has been asked to prepare a planning statement on behalf of the applicants, Peter Ogilvy-Wedderburn and Shane Cadzow, in support of their planning application for the "Change of use (retrospective) from residential to short term let use (sui generis)" at 13a Manor Place, Edinburgh, EH3 7DH.

The application has been submitted electronically via e-planning along with the following supporting information.

Submission Documents	Provided By
Covering Letter	Ferguson Planning Ltd
E-Planning Forms and Certificates	Kate Ogilvy-Wedderburn (Agent)
Site Photographs	Ferguson Planning Ltd
Site Location Plan	Kate Ogilvy-Wedderburn (Agent)
Floor Plans (As Existing/Proposed)	Kate Ogilvy-Wedderburn (Agent)
Management Statement	Kate Ogilvy-Wedderburn (Agent)

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SITE LOCATION AND SURROUNDING AREA

The property at 13a Manor Place has been used to provide short term holiday accommodation, since October 2021. The property is a basement flat accessed from a private staircase from street level and main door. The access is not shared with any other properties. It has three bedrooms and a small private courtyard to the front and patio to the rear. The entrance off Manor Place is shown in the photograph in Figure 1 below.

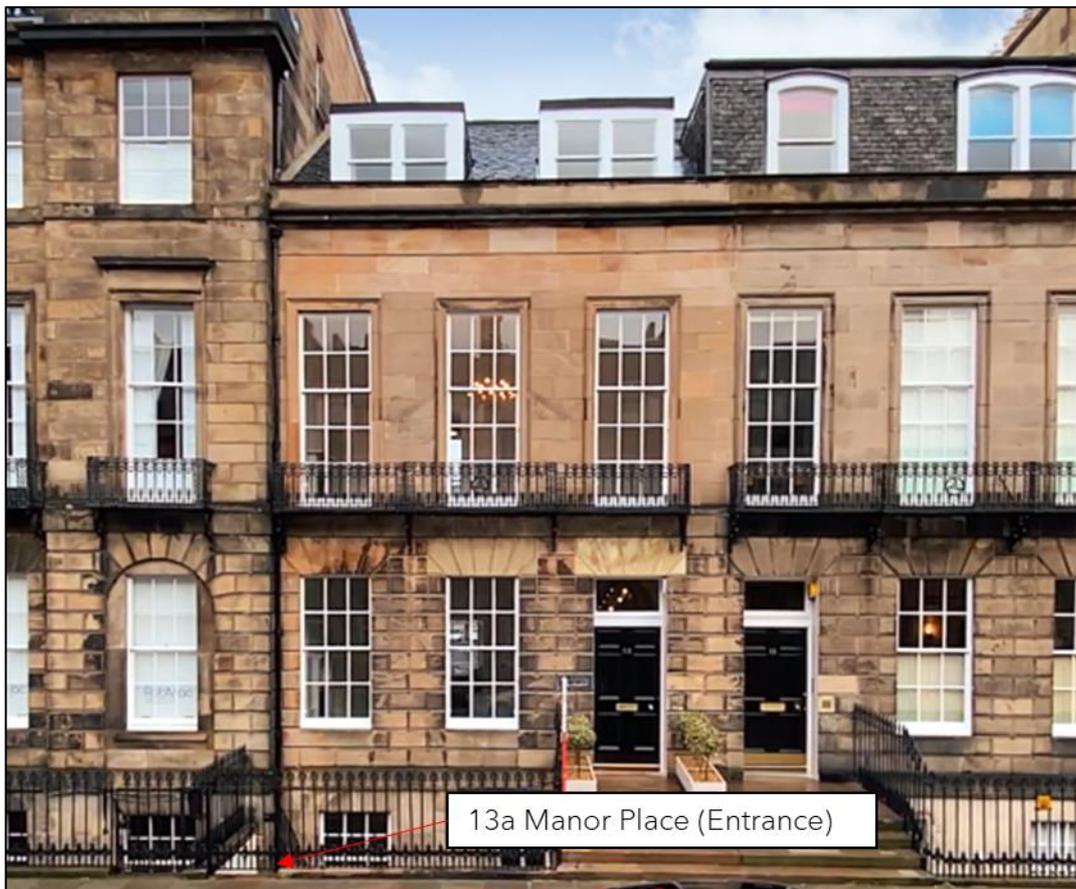


Figure 1: Photo of 13a Manor Place

The property comprises three bedrooms, living area, fitted kitchen and two bathrooms. There is a patio area accessed from the kitchen to the rear of the property. The floor area is 134sqm.

The property was developed, following planning permission 17/05476FUL which allowed for the change of use from commercial offices to 3 x residential units. The property has only been used as a short term let, since its conversion from office use. It has therefore not been in long-term residential use.

The property is Category A listed as part of the wider group listing of the terrace (3-17 (Odd Numbers) Manor Place LB29296). Developed in 1825 by Robert Brown, the Historic Environment Scotland listing describes the group as an “*Extensive classical terrace, comprising*

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unified façade of 2 and 3 storey townhouses with basement attics” and that, “Manor Place is a well-proportioned and detailed classical terrace, forming an important component of the Walker Estate and the Western New Town. The townhouses are a well-ordered and largely well-preserved example of the urban planning of Robert Brown for the former Walker estate”.

The neighbouring properties on Manor Place, are mix of commercial and residential uses. No 15 Manor Place, directly adjacent is occupied by offices. No 11 Manor Place is currently in residential use. Several of the other town houses are also occupied by offices. Manor Place is a wide street with sufficient space for three lanes of traffic, and on-street parking spaces. The property is therefore not overlooked by residential uses.

To the rear of the building, the property is not overlooked either from William Street South West Lane. The lane comprises a mix of garages, parking areas, and typical mews style properties, used for both residential and office use.

The property is 70m (north east) from the junction of Manor Place and Atholl Place (Shandwick Place). This is a busy vehicle and pedestrian junction. It is heavily trafficked as it is used as a route through the west end of the city by cars. Atholl Place (Shandwick Place) is a key east-west thoroughfare through the city, and between the two railway stations in the city centre. It is therefore also a popular tourist route with heavy footfall during the day and into the evening. The route is served by both bus and trams, with the nearest bus stop being 100m (2-minute walk) away, and the tram stop being 300m (4-minute walk) away.

The buildings at the junction of Manor Place and Atholl Place, are generally occupied by commercial uses at ground floor, with residential and offices above. Commercial uses include offices, restaurants, professional services, and healthcare, again encouraging activity throughout the day and into the evening.

To the north, the property is 35m from the junction of Manor Place and William Street. William Street is commercial in nature and occupied by several independent bars, public houses, cafes, restaurants and boutiques.

The property is only a short distance from the amenities of Shandwick Place, Haymarket and Torphichen Street. The surrounding area comprises a wide range of uses, including public houses, shops, cafes, and restaurants, and it is a vibrant and bustling area. There are several hotels in the local area providing existing visitor accommodation, including Premier Inn, Capital West Guesthouse and Voco on Torphichen Street and numerous more opposite Haymarket Station.

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As a result of this activity, there is already an established level of ambient background noise in the area and a more transient population. The property therefore provides an ideal location for visitor accommodation and the location is very popular with visitors to the city as a result.

THE APPLICANT

The use of the property as a short term let is managed by the agent, through Airbnb, on behalf of the applicant. The agent is an Airbnb 'Superhost', with a superhost being someone who goes above and beyond in their hosting duties and is a shining example of how a host should be.

The agent has provided a separate management statement in support of this application, to demonstrate that the short term let is safe and well managed. They personally vet all prospective guests for suitability. Turnaround, cleaning, and linen changes are made by a professional cleaning company, who remove and dispose of all rubbish from the property and clean the apartment to a very high standard.

In due course, the Council will be able to ensure the fitness of applicants to provide property for short term lets, and appropriate management procedures are in place, through the licensing scheme which the applicant will be required to comply with from 1 April 2023 as an existing host. The new licensing scheme will require all short-term lets to comply with mandatory conditions including day to day management only being carried out by the holder of the license, maximum occupancy, safety, and insurance standards being met. This will provide further safeguards in terms of impact upon residential amenity, and therefore the existence of the licensing scheme and professional management of the property by the applicant should be a material consideration in the Council's assessment of the application.

THE PROPOSAL

The purpose of this application is to permit the continued use of the property for short term let use. Under the recent legislation approved by the Scottish Parliament, all existing hosts and operators must apply for a license to operate a short term let by 1 April 2023, to ensure they are safe and the people providing them are suitable. Where the premises is in a 'short term let control area', the applicant must have made an application for planning permission, or already have planning permission before they apply for a license.

The City of Edinburgh Council have recently approved a 'Short Term Let Control Area' (Planning Committee 23 Feb 2022), subject to approval of Scottish Government. Once designated, likely Spring 2022, this confirms that all proprietors wishing to use their properties within Edinburgh City Centre as short term lets would require planning permission for a 'change of use' to do so, unless their property has been in use for more than 10 years.

Short term lets are defined within the Scottish Government's Planning Circular 1/2021 (Short Term Let Control Areas) as a dwellinghouse where:

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- Sleeping accommodation is provided to one or more persons for one or more nights for commercial consideration.
- No person to whom sleeping accommodation is provided is an immediate family member of the person by whom the accommodation is being provided.
- The accommodation is not provided for the principal purpose of facilitating the provision of work or services to the person by whom the accommodation is being provided or to another member of that person's household.
- The accommodation is not provided by an employer to an employee in terms of a contract of employment or for the better performance of the employee's duties, and
- The accommodation is not excluded accommodation e.g., hotel or aparthotel.

The subject property meets the above definition, as we demonstrate in this letter. The property has been used for short term lets since October 2021 and so does not meet the necessary 10 years. It also does not form excluded accommodation. A full planning application seeking permission for a (retrospective) change of use from residential use to short term let has therefore been submitted.

PLANNING POLICY CONTEXT

Development Plan

Section 25 of the Town and Country Planning (Scotland) Act 1997 states: 'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.'

Within this context, the Development Plan covering the property comprises the:

- SESplan Strategic Development Plan (2013); and
- Edinburgh Local Development Plan (2016)

As the proposals are not of a strategic nature, we have not considered the SDP policies in further detail. However, we note it lends support for tourism uses. The SESplan vision is that *"By 2032, the Edinburgh City Region is a healthier, more prosperous and sustainable place which continues to be internationally recognised as an outstanding area in which to live, work and do business"*.

It goes on to state that, *"the high quality built and natural environment of the SESplan area underpins its desirability as a place to live, work, do business and visit and can contribute to improving health and wellbeing"*. It also states that key sectors of which tourism is one, *"are central to the regional economy"*.

We assess the proposals in line with the relevant Local Development Plan policies below. Other items relevant to the planning assessment, forming 'material considerations' include:

- CEC Guidance for Businesses (Updated 2021)
- Recent DPEA decisions relating to short term lets
- Emerging City Plan 2030

ASSESSMENT OF PROPOSALS - DEVELOPMENT PLAN

Site Specific Policies

Within the City of Edinburgh Council's Local Development Plan (LDP) (2016) the property is located within the defined 'City Centre', 'Edinburgh World Heritage Site', 'New Town Conservation Area', the 'New Town Historic Garden and Designed Landscape', and the general 'Urban Area'.

There is no specific policy relating to the proposed use as commercially managed short term let or holiday accommodation. However, as the property is an existing residential dwelling (by permitted use) in the city centre, the key policy is Policy Hou 7 (Inappropriate Uses in Residential Areas).

As there are no physical alterations proposed to the property, we consider that the heritage designations would be unaffected and therefore there would be no conflict with the development plan in this regard.

Principle of Proposed Development

Policy Hou 7 Inappropriate Uses in Residential Areas

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.*"

The supporting text states that the intention of the policy is to preclude the introduction of non-residential uses incompatible with predominantly residential areas, and to prevent any further deterioration in living conditions in more mixed-use areas which nevertheless have important residential functions [our underlined emphasis].

Assessment - The property lies in an area of the city which has a mixed commercial and residential character. The area is busy throughout the day and evening and residents will already be accustomed to an existing level of ambient background noise from existing businesses, and the increased movement of people. We therefore do not consider the area itself can be defined as '*predominantly residential*'.

Regarding the importance of preventing "*further deterioration in living conditions in more mixed-use areas*", it is considered that the proposal does not represent a significant or unacceptable risk to residential amenity. Given the description of the area above, the continued use of the property for short term let use, will not result in any appreciable change in the character of the area. This is a retrospective application and therefore this can be evidenced by

the fact that there have been no complaints to CEC relating to the use of the property for short term lets and associated noise since the property started operating in October 2021. The agent has a good relationship with the upstairs residential neighbours too, who have been supportive of the use and how it is managed.

The judgement above is also supported by several recent applications for short term let use, which the Council have granted in similar areas. It has been recognised in all these cases, that residential streets immediately adjacent to commercial uses are already used to a degree of activity and therefore the introduction of a short term let, would be unlikely to have an adverse impact on residential amenity. The facts and circumstances of this proposal, closely mirror those where changes of use have been granted, as we set out below.

5 South Charlotte Street (20/01540/FUL)

The application property is a ground floor premises, previously in use as offices. At basement level there is a residential property, and there are offices and residential on the upper floors above. The officer concluded in this case that, *"The application property has its own direct access from the public street and the building contains both residential and non-residential uses. The busy city centre street provides an ambient noise background. This is a small-scale unit where noise impacts are not expected to cause harm to neighbours"*.

10A Blenheim Place (21/06615/FUL)

A lower ground floor flat in a converted terraced dwellinghouse with residential uses directly above it. The officer says, *"The entrance for the ground floor property is directly above the entrance door to the application property. Any outside noise conflicts will be from the road outside to the front or the roads and parking areas to the rear of the building. Due to the location of the property near two main thoroughfares and in an area of mixed uses including commercial and entertainment and leisure uses, there is already a degree of activity."* And *"This is a two-bedroom property...it is unlikely it will be used for large numbers of visitors which may impact on neighbour's amenity"* and *"On the balance of probability, there will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7."*

35a Moray Place (22/00672/FUL)

The above property is like the proposal, as it is also a basement floor residential property entered via a private external staircase. The officer noted that, *"whilst the area is primarily residential in character, the property is located adjacent to a wide cobbled road, which has indirect access to busier city centre streets including Heriot Row and Queen St. It is considered that current vehicular use along Moray Place would bring a level of existing ambient noise to the area"*. In this example, it was noted that the property has access to a private external space, like the proposal. In that case, the officer considered that, *"its size is limited and is tightly enclosed by boundary walls located below street level. In this regard it is not good quality amenity space and is unlikely to be frequently used by guests in this city centre location; with local access to a range of amenities and large public green space nearby"*. As evidenced by the pictures of

the proposals patio space which has similar characteristics to those described above, we believe a similar conclusion could be drawn in the assessment of this application.

As the property at 13a Manor Place has its own private access, and main door, there will be no direct interaction of guests with other residential neighbours. Whilst there is a modest element of outdoor space, we consider, like in the example above at 35a Moray Place that it will not be used by guests, given its limited amenity value. To further safeguard against any adverse impacts of this nature, there is no outdoor furniture provided with the property.

Based on the above and given the very similar circumstances of the successful cases above, regarding the characterisation of the area and its suitability for short term let use, it is our view that there will be no adverse impact on residential amenity and the proposal is compliant with Policy Hou 7.

ASSESSMENT OF PROPOSALS - MATERIAL CONSIDERATIONS

CEC Guidance for Businesses (November 2021)

The Council has issued a guidance document for businesses, which includes advice around changing residential property to short term lets. Although non-statutory, it assists in the interpretation of Policy Hou 7 above. The guidance contains four criteria for determining whether planning permission is required for a change of use to short term let:

- 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.

It goes on to state, 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"*.

It also says that *"the Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest"* and that a *"change of use in flatted properties, will generally only be acceptable where there is a private access"*.

Assessment - It is determined that planning permission is required for the change of use to short term let, as confirmed by the recent publication of Planning Circular 01/2021.

The assessment of impact upon neighbouring residential amenity is considered above under Hou 7. However, we note that the factors mentioned which are likely to lower the impact of short

term lets on neighbouring residential properties are 'background noise in the area' and 'proximity to nearby residents'. The property is in a location which has ambient background noise, due to the mixed of uses in the area, and several commercial non-residential neighbours. The proposals can therefore find support from the guidance document.

The property is accessed via its own private door at ground floor, directly from the street. This door is not shared by any other uses. Given this, again, we consider the proposals are supported by the guidance and there will be no conflict with neighbouring residential uses in terms of access. This should be a significant material consideration in the Council's assessment of the application.

Recent DPEA decisions relating to short term lets

It is noted that several recent appeal decisions have been issued concerning proposals for short term lets. These appeals are material planning considerations and in recent decision making, CEC have considered that the main determining issues in these cases are:

1. The location of the property and whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access.
2. 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.
3. 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.
4. 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 can be acceptable in predominantly residential areas, and those therefore arguably in quieter locations than that proposed.

Assessment - 1. Access - The property occupies a highly sustainable location in Edinburgh City Centre, within easy walking distance to all local attractions and amenities.

The property has a private access and is accessed using a coded lock box. Guests will therefore not be gathering externally to the property or nearest to the lane, further safeguarding neighbouring amenity.

In the successful appeal case (PPA-230-2238) relating to a two-bedroom flat at 17 Old Fishmarket Close, the Reporter found it, "*particularly significant that the flat benefits from its own*

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external door. This would substantially reduce the scope for the arrival and departure of guests to disturb the occupiers of other flats. This is recognised by the council's non-statutory guidance referred to above. Given also the nature of this city centre location, as outlined in paragraphs 11 and 12 above, I am satisfied that the flat could be used for short-term holiday letting without any materially detrimental effects on the living conditions of nearby residents".

Several recent appeal decisions have typically allowed short term let uses in main door properties or flats with their own private accesses.

Given the property has a private access, it follows in line with the appeal decision above, that the continued use of 13a Manor Place for short term let use, would also have no materially detrimental effects on the living conditions of nearby residents under these criteria.

Assessment - 2. Size of Property and Frequency of Movement - The property is a three-bedroom flat. Maximum occupancy within the property would therefore be 6 people, in keeping with the expected levels of a residential property of this size.

Typically, most guests are families who have come to visit Edinburgh for 3 to 4 nights. The agent also has many bookings from visitors who are in Edinburgh for work, and therefore often looking for space to work remotely in their accommodation. On the whole, guest occupancy is typically 3 to 4 people, and the third bedroom, which is currently set up as a child's bedroom with bunk beds given its size would not be used.

The property serves an important gap in the tourist accommodation market, which cannot be serviced by hotels or guest houses. Its loss would therefore be of detriment to the tourist economy in Edinburgh and to families that wish to travel together. As a property, renovated recently to the highest standards, it provides high quality of accommodation, for groups (often families) who wish to stay collectively, with the amenities of a home, and live like residents in the city for extended periods of stay. Such guests will be more inclined to treat the property like their own home and therefore be respectful of the surrounding neighbours.

The new licensing scheme will require all short-term lets to comply with mandatory conditions including day to day management only being carried out by the holder of the license, maximum occupancy, safety, and insurance standards being met. This will provide further safeguards in terms of impact upon residential amenity, and therefore the existence of the licensing scheme and professional management of the property by the applicant should be a material consideration in the Council's assessment of the application.

There are unlikely to be no more significant comings and goings than would be expected with ordinary residential use, such as people leaving for work or social reasons every day. Given the multitude of amenities and excellent transport connections available within relatively proximity

of the property, it's likely that an owner or tenant might also have a more active movement pattern than those living in quieter, more suburban residential parts of the city.

A recent appeal decision relating to Flats 1, 2, 3 and 4A at Dewar Place Lane (PPA-230-2325; PPA-230-2326; PPA-230-2327; PPA-230-2328). Flats 2 and 4A are also three-bedroom properties, like that proposed. These appeal decisions are therefore an important material consideration in the assessment of this proposal and provide a precedent for the acceptability of flats of this size.

In their decision, the Reporter stated that, *"I would observe that any resident of Dewar Place Lane already lives in an area subject to a considerable degree of transient activity associated with the comings and goings of visitors to the city, and other activity". "Overall, I conclude that it is unlikely that the continued short term let use of this building will cause a significant increase in external noise or disturbance, to the extent that the local residents will be subjected to a significant loss of amenity"*.

Specifically, in relation to the size of the flats, the Reporter considered that, *"The flats in the appeal building are all quite small and there is no amenity outside space, other than the dedicated car park through the pend. From this and the photographs of the property I find it unlikely that this particular building would be attractive to anybody looking for a 'party house'"*.

In this case, the appellant entered a planning obligation, to provide a restriction on the number of individuals which may occupy each flat at any one time. For flat 2, which has three bedrooms, this was a maximum of 6; and for flat 4A with two bedrooms and a lounge bed, a maximum of 6 occupants. We understand that the Council are reluctant to engage in such agreements, but if that is the case, we consider that such an agreement would be unnecessary in this case and will be superseded by the forthcoming licensing scheme. A mandatory condition of the licensing scheme will be maximum occupation, and so the Council will have powers to enforce this. The existence of the licensing scheme, and such controls, should be a material consideration in the assessment of this application.

If the Council remain concerned about the level of occupancy, the applicant would be willing to consider restricting the maximum occupancy to four people, which would be enforceable through the forthcoming license.

Assessment - 3. Impact on Character of the Neighbourhood – The property is laid out for normal residential use with three bedrooms, living area, kitchen, and bathrooms, meaning it is highly likely that guests will use this largely in the same way as long-term residents.

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There is a neighbouring Sainsbury's supermarket on Shandwick Place, a 5-minute walk from the property, which provides a convenient location for guests undertaking food shopping, as well as several independent food shops on William Street in the west end.

As occupants will not be permanently resident, however, they are also likely to rely on local restaurants to a greater extent than a full-time occupant, thereby providing an economic benefit for the neighbourhood and ensuring the livelihood of local businesses.

This is acknowledged by the Officer in relation to the recent consent for short term let at 41 Barony Street (21/02615/FUL), who states that, *"Those renting out the flat may be more likely to use local facilities such as cafes and restaurants more frequently than long term residents but there are kitchen facilities available, and any differences would be unlikely to have any adverse impacts"*.

We therefore do not consider there will be any adverse impact on the character of the neighbourhood, rather a positive benefit for the reasons noted above.

Assessment - 4. Nature of Locality and Current Activity in the Area - As described above, the property is in a mixed-use area, where there are already other commercial uses present, close to a well-used pedestrian and major vehicle route. Existing activity from businesses and people in the street is to be expected and provides an established level of ambient background noise.

This fact is acknowledged in reports by the Council, where short term let uses have been consented in similar areas to that proposed. We have noted several examples, earlier in this statement.

It is therefore our view that the continued use of the property for short term lets will result in no more than a minimal disturbance to residential neighbours above any other type of residential use and would therefore have no materially detrimental effects on the living conditions of nearby residents. Indeed, the property is carefully managed by the applicant to ensure that problems of anti-social behaviour are avoided and there have been no complaints of noise or disturbance relating to this property since operation started in October 2021. This should be a material consideration in favour of this retrospective application and the Council's assessment.

Emerging City Plan 2030

City Plan 2030 recognises that there is strong growing visitor demand and limited availability in Edinburgh City Centre. The property is a popular visitor facility in a very busy location, well located for Edinburgh's commercial attractions. The continued use of this property to provide visitor accommodation contributes positively to the Council's broad policy objectives for the vitality of the city centre.

To accompany consultation on City Plan 2030, CEC commissioned a Commercial Needs Study (2019) of the Edinburgh Visitor Accommodation Sector. The market model projections undertaken to inform this report forecast that there is capacity for 7,890 new hotel bedrooms in Edinburgh by 2030, including 2,750 under construction or confirmed. Whilst there are no figures provided for the demand for short term lets, these numbers clearly show a substantial demand for tourist accommodation which this proposal could continue to satisfy as it does at present.

Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of short term let properties, a recent successful application (21/04825/FUL) for short term let use at 19 Kings Stables, states that the economic benefits are a material planning consideration. The officer in this instance, references Paragraph 220 of the LDP which acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people.

The applicant uses a local cleaning company, BnB Property Services Ltd, to service the flat after guests leave. They employ 70 people directly in the management of short term let properties. The agent also provides guests with recommendations for places to visit, eat and drink during their stay as requested, directly encouraging spend in the local economy and providing a local economic benefit.

SUMMARY

The continued use of 13a Manor Place for short term lets will continue to contribute to the attractiveness and vitality of Edinburgh as a capital city and provide much needed tourist accommodation.

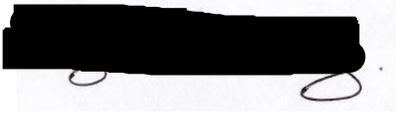
The specifics of the access arrangements, and management of the property by the agent means the proposed change of use will not give rise to any detrimental impact on amenity or the deterioration in living conditions. Indeed, this has been the case since October 2021, given the lack of complaints, for as long as the short term let use has operated to date. The principle of development is therefore acceptable in accordance with Policy Hou 7.

Whilst it is acknowledged that each planning application is different and must therefore be considered on its own merits, recent approvals of short term let in similar circumstances, highlighted throughout this statement, are considered to set a clear precedent for the acceptability of such use in this location. They must be a material consideration in the Council's assessment of this proposal.

It is considered that the proposal accords with relevant adopted policy of the Local Development Plan and is supported by other material considerations. It is respectfully requested that planning permission is granted.

F E R G U S O N
P L A N N I N G

Yours faithfully,

A black rectangular redaction box covers the signature. Below the redaction, the handwritten signature is visible, showing a large initial 'F' and a cursive 'erguson'.

Ferguson Planning



Reference: 0560285/gp

Version: 1.0

Date: May 2021

Co-ordinates at Centre:

Easting: 324,265

Northing: 673,471

Scale:

1:500

Paper Size:

A4

