



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100612272-001

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

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Stefano Smith Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stefano	Building Name:	
Last Name: *	Smith	Building Number:	58
Telephone Number: *	07464 744337	Address 1 (Street): *	Dean Path
Extension Number:		Address 2:	Dean Village
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH4 3AU
Email Address: *	stefano@stefanosmithplanning.com		

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

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="FKMCV"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Dumfries Enterprise Park"/>
Company/Organisation	<input type="text" value="Craigiebrook Ltd c/o FKMCV"/>	Address 2:	<input type="text" value="Tinwald Downs Road"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Dumfries"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DG1 3SJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="stefano@stefanosmithplanning.com"/>		

## Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="1A CAMBRIDGE STREET"/>
Address 2:	<input type="text" value="OLD TOWN"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH1 2DY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673442"/>	Easting	<input type="text" value="324844"/>
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## Description of Proposal

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

Appeal against the City of Edinburgh Council's refusal of retrospective planning application for change of use from flat (sui generis) to short term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY.

## Type of Application

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

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

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

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

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

See Statement of Appeal (including Appendices and Site Location/Floor Plan).

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

☐ Yes ☒ No

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

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

Site Location and Floor Plan (included in Appeal Statement - Figures 4 & 6 respectively). Appeal Statement & Appendices: Appendix 1 (Photo-study of Site & Surroundings); Appendix 2 (Documents submitted with Application 22/01652/FUL); Appendix 3 (Report of Handling); Appendix 4 (Decision Notice); Appendix 5 (STL Applications Granted by CEC 2021 to 2022); and Appendix 6 (STL Appeals Allowed by DPEA 2020 to 2022).

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/01652/FUL

What date was the application submitted to the planning authority? \*

31/03/2022

What date was the decision issued by the planning authority? \*

25/10/2022

## Review Procedure

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

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

☒ Yes ☐ No

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

Can the site be clearly seen from a road or public land? \*

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? \*

☐ Yes ☒ No

## Checklist – Application for Notice of Review

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

Have you provided the name and address of the applicant? \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

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

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

☒ Yes ☐ No

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

## **Declare – Notice of Review**

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

Declaration Name: Mr Stefano Smith

Declaration Date: 23/01/2023



**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

## **Planning Statement in Support of Notice of Review**

**Retrospective planning application for change of use from  
flat (sui generis) to short-term let (sui generis)**

**at**

**1A Cambridge Street Edinburgh EH1 2DY**

**On behalf of**

**Craigiebrook Ltd c/o FKMCV**

**Application No.22/01652/FUL**

**January 2023**



**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

## Document Control Sheet

**Project Name:** 1A Cambridge Street Edinburgh EH1 2DY

**Project Ref:** C/5550/1

**Report Title:** Planning Statement in Support of Notice of Review

**Doc Ref:** C/5550/1

**Date:** January 2023

	Name	Position	Signature	Date
<b>Prepared by:</b>	Stefano Smith	Director		30/12/2022
<b>Reviewed by:</b>	Stefano Smith	Director		02/01/2023
<b>Approved by:</b>	Stefano Smith	Director		06/01/2023
<b>For and on behalf of Stefano Smith Planning</b>				

Revision	Date	Description	Prepared	Reviewed	Approved
A	23/01/2023	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

## Contents

<b>Executive Summary .....</b>	<b>1</b>
<b>1 Introduction .....</b>	<b>3</b>
1.1 Background .....	3
1.2 Purpose .....	6
1.3 Structure .....	7
<b>2 Context of Proposal .....</b>	<b>8</b>
2.1 Property Description and Surroundings .....	8
2.2 Management of the Property .....	12
2.3 Economic benefit.....	17
<b>3 Development Plan and Material Considerations .....</b>	<b>19</b>
3.1 Introduction.....	19
3.2 Development Plan .....	19
3.3 Material Considerations .....	20
3.4 Summary .....	22
<b>4 Determining Issues and Assessment .....</b>	<b>23</b>
4.1 Introduction.....	23
4.2 Determining Issues .....	23
4.3 Assessment.....	24
4.4 Application & Appeal Decisions .....	26
<b>5 Summary and Conclusion.....</b>	<b>31</b>
5.1 Summary .....	31
5.2 Conclusion.....	32
<b>Appendices .....</b>	<b>34</b>

## Figures

- Figure 1** Edinburgh Local Development Plan 2016 Proposals Map (extract)
- Figure 2** Aerial View of Property (source Google Maps)
- Figure 3** Edinburgh Land Use Map 2010
- Figure 4** Site Location
- Figure 5** West End Conservation Area Boundary and World Heritage Site Boundary
- Figure 6** Floorplan of Application Site

## Appendices

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/01652/FUL
- Appendix 3** Report of Handling
- Appendix 4** Decision Notice
- Appendix 5** STL Applications Granted by CEC 2021 to 2022
- Appendix 6** STL Appeals Allowed by DPEA 2020 to 2022

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## Executive Summary

This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on 24<sup>th</sup> January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').

We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal, and analysis of development plan policy, non-statutory Guidance for Businesses and other material considerations.

It demonstrates that the proposal by Craigiebrook Ltd c/o FKMCV ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016). It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:

- The character of the new use and the wider area;
- The size of the property;
- The pattern of activity associated with the use, including:
  - The number of occupants
  - The period of use
  - Issues of noise and disturbance
  - Parking demand
- The nature and character of any services provided.

There are also no **material considerations** that are considered to outweigh the justification for approval, namely:

- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
- Scottish Planning Policy (SPP);
- Revised Draft NPF4;
- Proposed City Plan 2030;
- West End Conservation Area Appraisal;
- Public representations; and
- Any other identified material considerations (e.g. economic benefit, applications and appeals).

The application was Refused for the following single reason:

***'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.'***

We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.

In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.

The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to

the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.

This self-contained, one-bedroom main door access basement flat on Cambridge Street lies centrally within the city centre of Edinburgh, in a globally unique urban quarter that has long been home to a wide mix of uses.

The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated. Such regulation is supported by the applicants who want the City's hospitality offer to be attractive and well-regulated. Accordingly, they seek a determination of this planning application as a prelude to applying for a licence once the procedure for doing so has been confirmed.

The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence. The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. This is especially the case given the discernible trend recognised by industry insiders for tourists to seek out more authentic travel experiences that can allow them to 'live like locals'. In the circumstances, the type of accommodation offered here is hugely popular among visitors; meaning that the wholesale loss of this type of accommodation from Scotland's capital city would be an unfortunate outcome.

Properties like historic 1A Cambridge Street, appropriately located in a central and well-connected area and managed to the most exacting standards, can play an important future role by continuing to offer some diversity to the City's visitor accommodation offer. Properties like this can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is simply not appropriate.

In the Scottish context, Edinburgh occupies a unique position in terms of its attraction to ever-growing numbers of tourists. Evidence from the last decade suggests that additional supply of tourist accommodation across the city is quickly taken up by increased demand, meaning that healthy occupancy rates can be maintained by a wide range of different visitor accommodation providers. This small property on Cambridge Street has been exceptionally well-managed over the last few years, as evidenced by a faultless record of customer satisfaction throughout the period. What it offers by way of visitor accommodation in an historic but authentic domestic format, appeals to a growing number of travellers and serves as an asset to the city's tourism landscape by providing choice into the overall mix.

Taking all of the foregoing into account, it is hoped that the Local Review Body will be able to support this appeal, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. Should this appeal be allowed, it is considered that there will be no adverse impact on either the amenity of neighbouring residential properties, or the overall ambience of a historic area where a blend of different uses can be absorbed. There are not considered to be any policy matters that would warrant refusal of this appeal, and accordingly it is respectfully requested that this appeal be allowed.

We therefore respectfully request that the Local Review Body do not uphold the decision by the Chief Planning Officer and grant planning permission for the change of use from flatted accommodation (*sui generis*) to short-term let accommodation (*sui generis*) (retrospective) at 1A Cambridge Street, Edinburgh.

# 1 Introduction

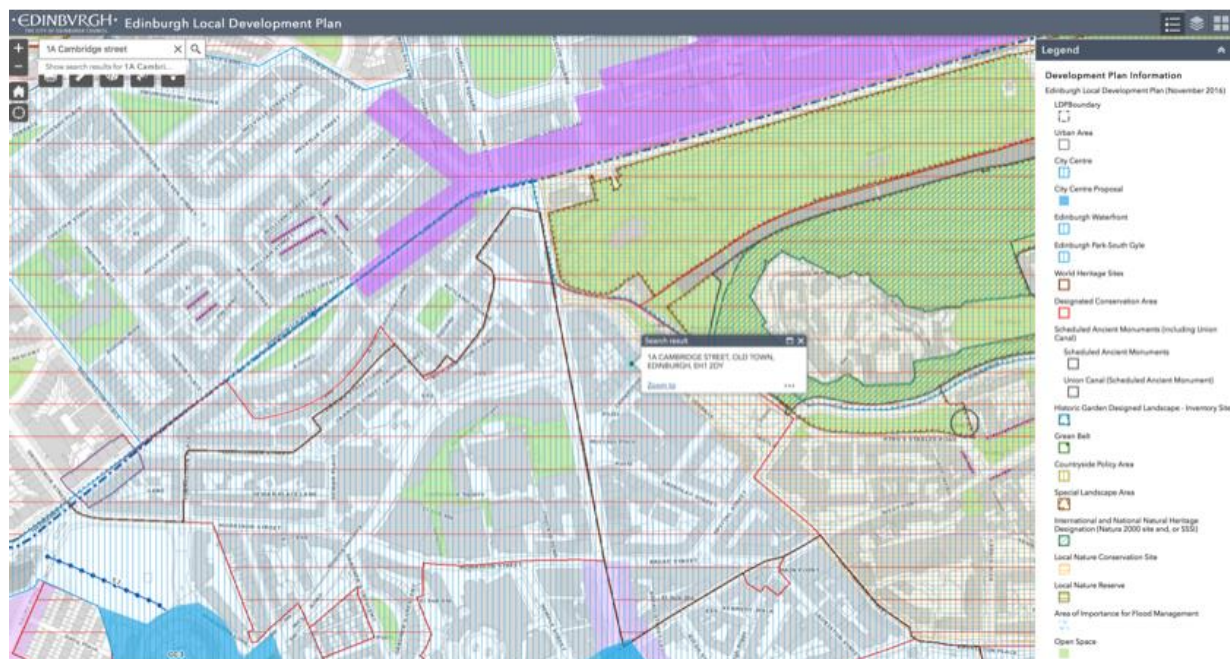
## 1.1 Background

- 1.1.1 This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on the 24<sup>th</sup> January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').
- 1.1.2 It demonstrates that the proposal by Craigiebrook Ltd c/o FKMCV ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016).
- 1.1.3 It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:
- The character of the new use and the wider area;
  - The size of the property;
  - The pattern of activity associated with the use, including:
    - The number of occupants
    - The period of use
    - Issues of noise and disturbance
    - Parking demand
  - The nature and character of any services provided.
- 1.1.4 There are also no **material considerations** that are considered to outweigh the justification for approval, namely:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
  - Scottish Planning Policy (SPP);
  - Revised Draft NPF4;
  - Proposed City Plan 2030;
  - West End Conservation Area Appraisal;
  - Public representations; and
  - Any other identified material considerations (e.g. economic benefit, applications and appeals).

## Site Description

- 1.1.5 The property is situated in the City Centre Council Ward within the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016. Cambridge Street/Castle Terrace is a mix of residential, commercial and offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of the street. The property in the city centre, is a two- minute walk from the bustling, active streets of Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport. The application site is in the World Heritage Site and the West End Conservation Area. See Figures 1 to 3.

Figure 1 Edinburgh Local Development Plan 2016 Proposals Map (extract)



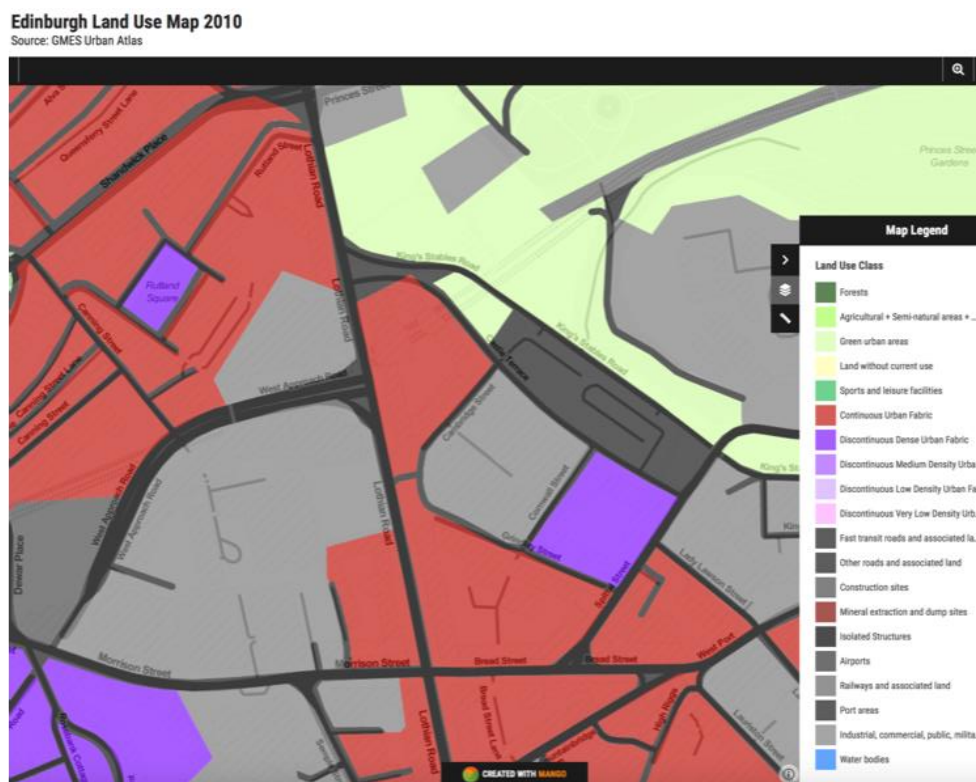
- 1.1.6 The property which is the subject of this appeal is an entirely one-bedroom self-contained, basement flat at the corner of Cambridge Street and Castle Terrace. The property extends over a single floor and has an entrance hall, master bedroom, a living/dining room, kitchen, shower room and study. The property has its own main door which is accessed via a set of steps from Castle Terrace. There is an entry-controlled gate at the top of the steps. The property has its own private courtyard/basement area to the front.
- 1.1.7 The application property is in the basement of a four-storey category-B listed Victorian terrace (ref: LB 28484: date of listing 1.1.2003). The four floors above are in residential use. Prior to the use of the property as a flat it was used as an office (Class 4) pre-February 2015. The majority of the properties within the block to the east along Castle Terrace are mixed use with office/commercial uses in the basement/ground floor and residential above. See Appendix 1.

# Planning Statement in Support of Notice of Review – 1A Cambridge Street Edinburgh EH1 2DY

Figure 2 Aerial View of Property (extract from Google Maps)



Figure 3 Edinburgh Land Use Map 2010



## Description of the Proposal

- 1.1.8 The application seeks permission to change the residential use to a short term let apartment (retrospective). No internal or external physical changes are proposed.
- 1.1.9 It has successfully operated as a short-term let (STL) property for visitor accommodation since September 2021 without any complaints from neighbours.

## Relevant Site History

- 1.1.10 Prior to use as a flat (sui generis) the property was an office (Class 4). The change of use from class 4 office to residential (flatted) and associated minor alterations was granted on the 18<sup>th</sup> February 2015 (Ref.No.14/05110/FUL).

## 1.2 Purpose

### Planning Application Process

- 1.2.1 The planning application for retrospective planning permission for change of use from flat (sui generis) to short term let (sui generis) at 1A Cambridge Street, Edinburgh was validated by the Council on the 31<sup>st</sup> March 2022 (App.No.22/01652/FUL). The documents submitted with the application in support of the proposal comprised the following:

- Completed application form
- Drawings
  - Location Plan
  - Floor Plan
- Planning Statement
- Photo-study

See Appendix 2.

- 1.2.2 The application was publicised by the Council on the 11<sup>th</sup> April 2022. The neighbour consultation period ended on the 20<sup>th</sup> May 2022. The application received no representations of objection from neighbours, or any representations from consultees.
- 1.2.3 The Council's Decision Notice was decided by Local Delegated Decision and issued on the 25<sup>th</sup> October 2022. See Appendix 3. The application was Refused for the following single reason (Appendix 4):

***'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.'***

## Key Assessment Issues

- 1.2.4 Having regard to the provisions of the development plan and other material considerations where appropriate, the determining issues in this Local Review are considered to be:
- Do the proposals comply with the **development plan**, including relevant policies of the Edinburgh Local Development Plan – particularly Edinburgh Local Development Plan **Policy Hou 7 in respect of Inappropriate Uses in Residential Areas** which was specifically referred to in the single reason for refusal; and
  - Are there any **other material considerations**/compelling reasons that weigh in favour of the proposals, such as SPP, Revised Draft NPF4, Proposed City Plan 2030 and

relevant Non-Statutory Guidelines (particularly the non-statutory Guidance for Businesses, although the Guidance is not specifically referred to in the single reason for refusal), economic benefits and recent City of Edinburgh Short-Term Let (STL) planning applications granted permission and appeal decisions.

- 1.2.5 To address these determining issues, the following criteria needs to be carefully considered in terms of 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 and disturbance;
    - parking demand; and
  - The nature and character of any services provided.
- 1.2.6 We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.
- 1.2.7 In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.
- 1.2.8 The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.
- 1.2.9 Regulations under the Planning Act give allowance to seek a review of the decision within three months, that is, by the 24<sup>th</sup> January 2023, and the Notice of Review has been duly submitted within that period, that is, on the 24<sup>th</sup> January 2023.

### **1.3 Structure**

- 1.3.1 This Planning Statement in support of the Notice of Review is structured as follows:

Section 1 – Introduction

Section 2 – Context of Proposal

Section 3 – Development Plan and Material Considerations

Section 4 – Determining Issues and Assessment

Section 5 – Summary and Conclusion

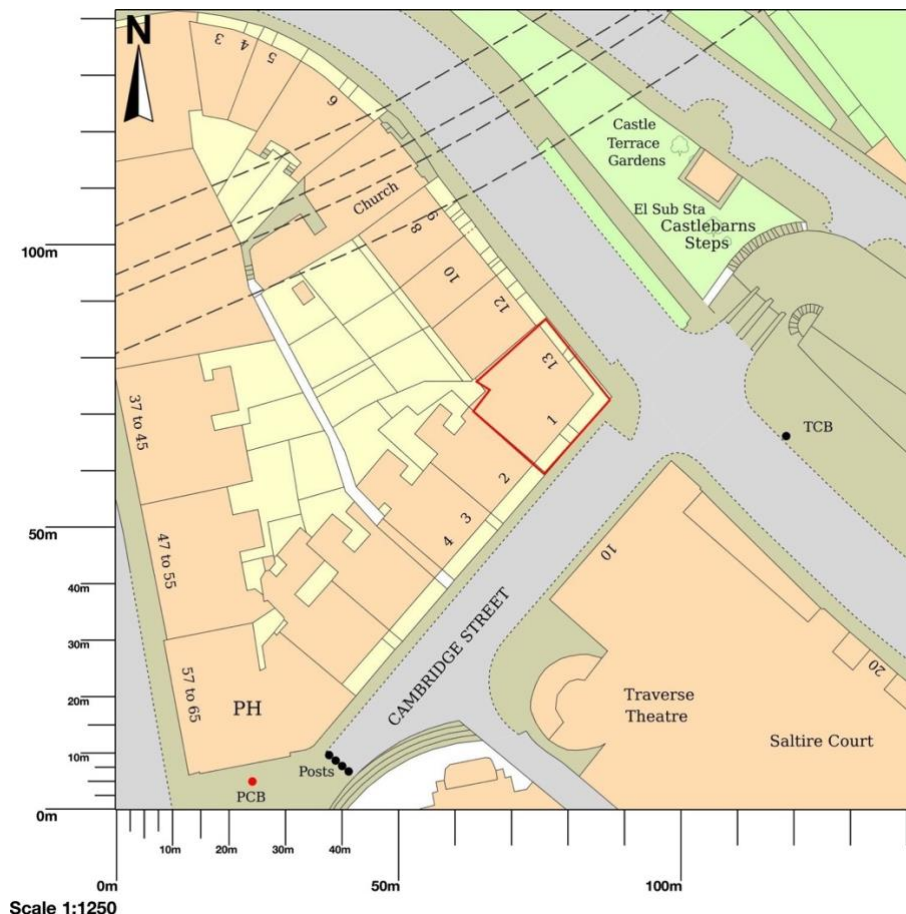
## 2 Context of Proposal

### 2.1 Property Description and Surroundings

#### Site Surroundings & Context

- 2.1.1 The application site is located in one of the most desirable areas of Edinburgh in a beautifully well maintained 1850's building. The property is situated in the theatre area, just a 3-minute walk to Princes Street, and many major tourist attractions. The application site is located within the **City Centre** and is in a **mixed-use area**. It is the vibrant hub of the city region and an important tourist destination.
- 2.1.2 The application site lies in the centre of Edinburgh at the corner of Cambridge Street and Castle Terrace, with Lothian Road (A700) to the west and Princes Street and Princes Street Gardens to the north. It is in the immediate vicinity of a number of bus stops and a tram stop serving several routes both within and out of the city. The site is within walking distance of both Waverley and Haymarket train stations. See Figure 4.

Figure 4 Site Location

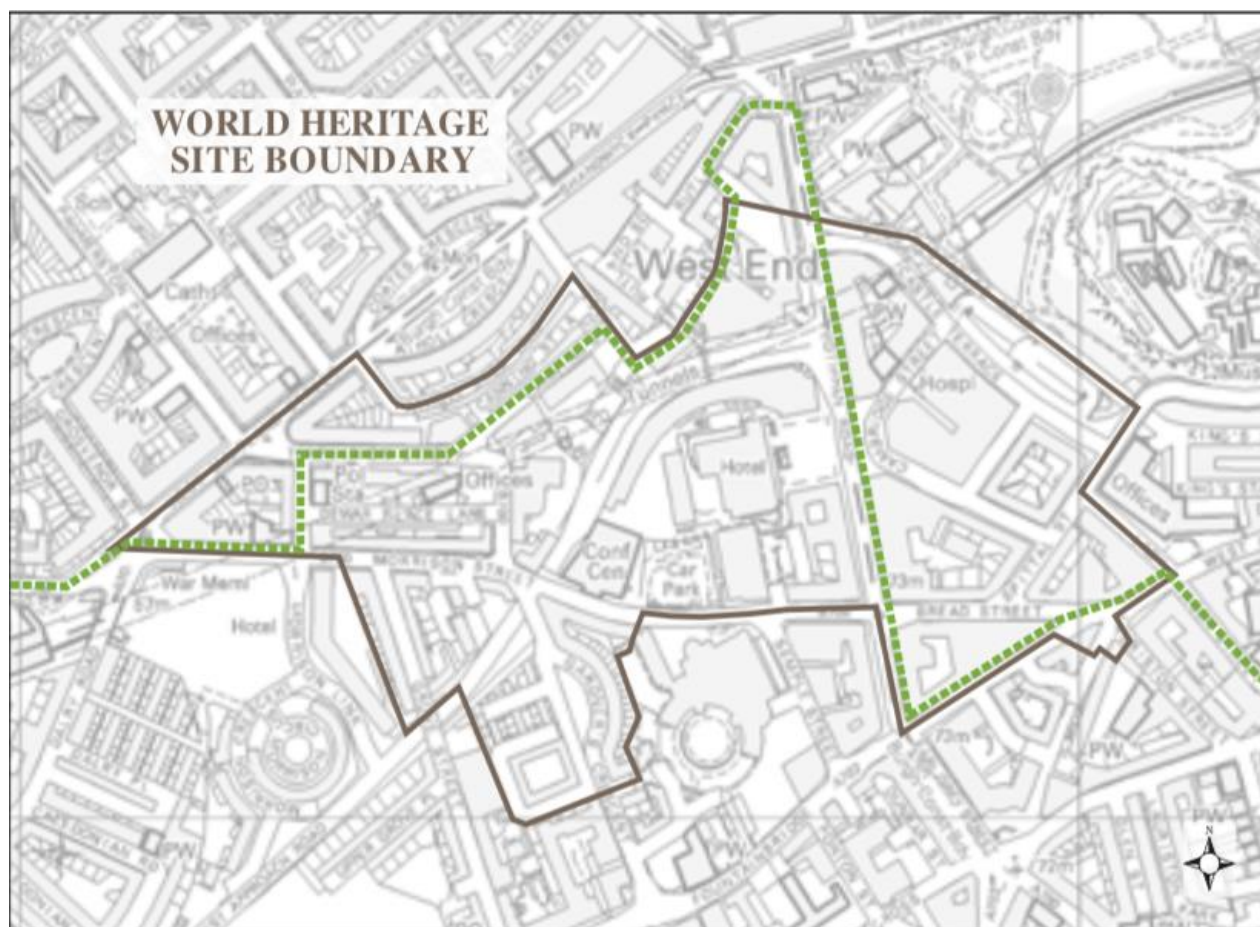


- 2.1.3 Cambridge Street is a mix of residential and commercial/offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of the street. The application property is in the basement of a four storey Victorian terrace. The four floors above are in residential use. The property is in the city centre, is a two- minute walk

from Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport.

- 2.1.4 Cambridge Street is in the City Centre district of Edinburgh, a few yards walk from Lothian Road. The property is situated in the City Centre Council Ward.
- 2.1.5 While the majority of buildings in the immediate block are residential, many of the ground floor/basement premises are office/commercial. The application property was an office before change of use to flatted accommodation. Further, there are no residential neighbours directly across the road, with the south side of Castle Terrace dominated by an NCP car park.
- 2.1.6 Commercial development in the form of custom-built office buildings comprise the dominant use on Castle Terrace, with the NCP car park on Castle Terrace being the venue for the weekly farmers' market. Across Lothian Road from the junction with Grindlay Street is Festival Square, a public space currently used to host touring events (e.g. Van Gogh experience) and providing setting to the Sheraton Hotel and bars and restaurants on the north side of the square. It is understood that there are several other properties operated as short-term let visitor accommodation elsewhere on Grindlay Street.
- 2.1.7 The wider area surrounding the property has a distinctive character that has largely been informed by the presence of Lothian Road, one of the key arterial routes leading south from the city centre, and by the redevelopment of the former Caledonian Railway goods yard that has allowed much of the space to the west of Lothian Road to provide important commercial office space for the city today. It is considered that these influences have been important in establishing the area immediately around the property as a key entertainment district for the city with numerous theatres, exhibition spaces, cinemas, restaurants, cafes, bars and saunas in evidence.
- 2.1.8 The property does not have its own car-parking space although secure public parking is available nearby on Castle Terrace, Grindlay Street Court and Semple Street. Most guests arrive on public transport with Waverley and Haymarket Stations, as well as Edinburgh's bus station all less than 1 mile from the property. The nearest tram stop to the property is less than half a mile away, offering simple, direct access to Edinburgh airport, and in due course to Leith. In addition, Lothian Road is one of the key bus routes in the city offering bus-stops for local, regional and national services only yards from the front door of the property.
- 2.1.9 The immediate district around the property was developed in the later 19<sup>th</sup> Century, today its character is as a dynamic, mixed-use area, recognised in the adopted Local Development Plan 2016 as forming part of the capital's city centre. A short distance to the north, the junction of Lothian Road and Bread Street marks the beginning of the Tollcross area recognised as a 'Town Centre' in the adopted Local Development Plan, characterised by *"traditional shop units under tenements located on main roads with good bus services"*. The property is a short distance from the start of this area where further shops and services can be found. Accordingly, this property can perhaps best be considered as being sited within the city centre on the edge of an area with a defined city centre function.
- 2.1.10 The West End Conservation Area lies immediately adjacent to the New Town on its south west boundary and the Old Town on its western boundary. The Conservation Area was originally designated in 1980 and amended in 1995. The area lying to the east of Lothian Road within the West End Conservation Area, which includes the application site, is included in The World Heritage Site (WHS) and is dominated on its eastern edge by the presence of the Castle. See Figure 5.

Figure 5 West End Conservation Area Boundary and World Heritage Site Boundary



- 2.1.11 The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively, which is a stone's throw from the application site. The top deck of the multi storey car park on Castle Terrace forms a ten-metre wide pavement to Castle Terrace opposite the application site and facing Saltire Court. A footway maintenance and planting scheme for this space has greatly improved this space encouraging footfall activity adjacent to the reasonably trafficked Castle Terrace with vehicles travelling east/west and north/south across the city.
- 2.1.12 1A Cambridge Street, Edinburgh ('application site') is a Category B listed building (part of 1 Cambridge Street) (Designation Ref. LB28484: date of listing 1.1.2003).

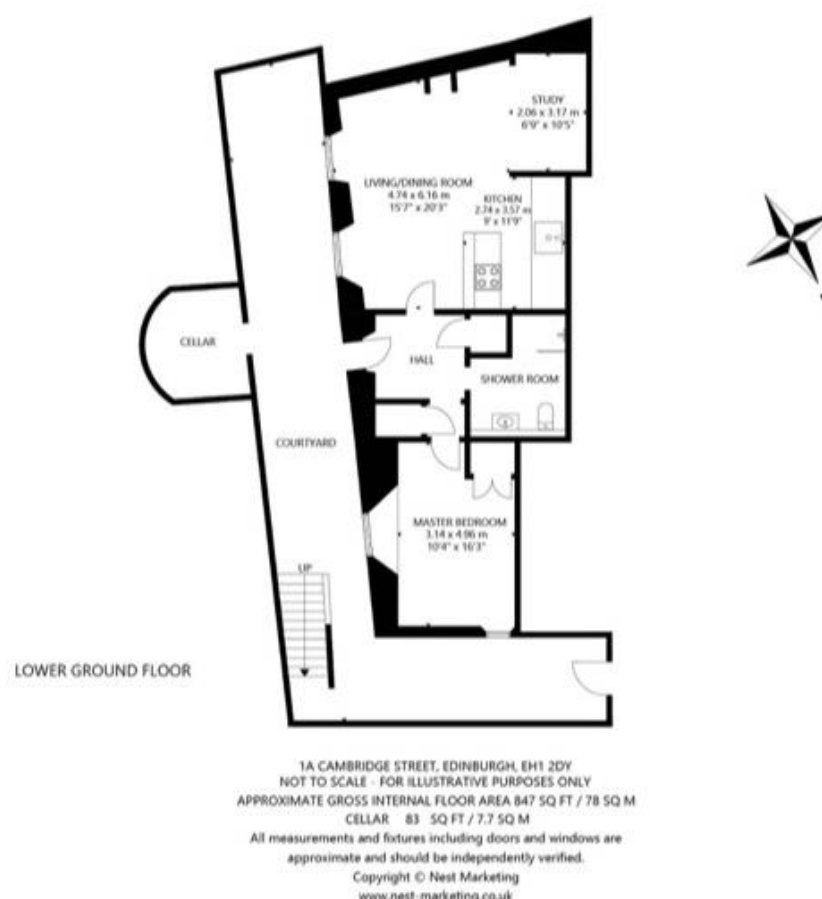
### Property Description

- 2.1.13 The four-storey tenement at 1 Cambridge Street accommodates four flats including the application site. Three flats are accessed via a main door and common stair from 1 Cambridge Street – 1F1, 2F1 and 3F1. The application site at 1A Cambridge Street, a self-contained, one-bedroom basement flat at the corner of Cambridge Street and Castle Terrace with its own main door access, accessed at street level from Castle Terrace via its own dedicated gate and steps descending to basement level. Access via the gate is for the sole use of the application

site. The gate is locked and accessed by a keypad. The property has its own private courtyard/basement area to the front.

- 2.1.14 The direct access to the application site from the street means that there would not be direct interaction between the short-term occupants and those longer-term residents in the flats in the main tenement accessed from a common main door at 1 Cambridge Street.
- 2.1.15 The application site is a self-contained, one-bedroom basement flat comprising an entrance hall leading to a living/dining room, kitchen, master bedroom, shower room and study. There is also the outside basement area/courtyard providing access to cellars owned by the applicant. The approximate gross internal floor area of the basement flat is 78 sqm. The gross internal floor area of a cellar is approximately 7.7 sqm. See Figure 6.

Figure 6 Floorplan of application site



- 2.1.16 Parking is on-street within a parking-controlled area. There is a multi-storey NCP car park opposite the application site on Castle Terrace.
- 2.1.17 A photo-study has been undertaken of the application site and the local area. See Appendix 1. The key issues to note from the photo-study are:
- The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential,

office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.

- The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
- New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
- The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse (currently vacant) reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
- The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten-metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.
- The public realm in the immediate area of the application site is of the highest quality in terms of the materials used.
- In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

2.1.18 Understanding the unique city centre location visually opposite Edinburgh Castle and at the heart of the city's theatre-land, mixed use (residential, office and commercial uses) 'beating heart' of the city, the applicants, who have always sought to 'live like locals' in their own travels, were keen to offer a means by which visitors could experience the elegant and uniquely distinctive urban character of Cambridge Street/Castle Terrace and the city centre New Town. After finding the property for sale and undertaking sympathetic upgrades, the applicants have been successfully offering this type of accommodation here since 2021.

2.1.19 In the above context, it is considered that the one-bedroom property on the corner of Cambridge Street and Castle Terrace needs to be understood as a compact property in a unique and well-connected neighbourhood in the city centre. The presence of the property functioning in this way for several years has had no impact whatsoever on neighbouring residential amenity or on the character of the wider area. By offering accommodation of this sort in this environment, it is considered that the property in fact acts as an important asset to the city, as it allows visitors the chance to experience what life is actually like staying in such a unique urban quarter.

## 2.2 Management of the Property

### Ongoing Management Measures

2.2.1 Under current proposals a separate licence application covering specific management measures looks likely to be required to be made in order to operate the property as visitor accommodation. Nevertheless, it seems appropriate in this statement to explain a little of the background to the applicants themselves and detail the arrangements they already have in place to ensure safe and responsible hosting.

## Planning Statement in Support of Notice of Review – 1A Cambridge Street Edinburgh EH1 2DY

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- 2.2.2 The focus of the owners of the property at 1A Cambridge Street (the applicants) since their purchase of the property in September 2020 (followed by 11-month refurbishment and redecoration) has been on providing an exceptional level of Scottish hospitality of the kind that they would enjoy, in a unique and historic property.
- 2.2.3 When travelling themselves, the applicants have always sought to ‘live like locals,’ finding this to be the most rewarding way to immerse themselves in a new destination, and preferable to the slightly more abstracted experience of hotel-living. In this regard Visit Scotland’s recent paper ‘Localism and Authentic Experiences’ (May 2021) (part of its Innovation Insight series, a series which looks at ‘trends developing in tourism today from consumer demands and business innovations around the world’) shows that this aspiration aligns with a noted global change in tourist aspiration. The paper notes that visitors are increasingly demanding an experience that reflects the “unique identity of a destination”, noting specifically that “visitors will crave living like a local and creating memories discovering their own authentic Scotland”.
- 2.2.4 Running the property at 1A Cambridge Street as they have done for several years has allowed the applicants to respond to this type of demand, offering an exceptional level of hospitality in a unique setting. By providing guests with a glimpse into what life is really like living in one of the world’s greatest exemplars of large-scale domestic urban design, they have helped ensure that for their dozens of guests, a stay in Edinburgh provides a lifetime of positive memories.
- 2.2.5 The applicants’ focus on providing such exceptional visitor accommodation is reflected in the detailed management arrangements and conditions of use that they have established for the property. Craigiebrook Ltd has invested more than £450,000 in appointing “The Matisse Suite” as an STL at 1A Cambridge Street. It is absolutely NOT in their interest to have either high levels of occupancy or allowing anyone to stay without substantial controls in place. Their model is competitively priced, very high quality, low occupancy. This differs from low cost/high occupancy strategies seen in many other STL’s.
- 2.2.6 Policy of the STL at 1A Cambridge Street, Edinburgh:
- In practice, as guests are essentially obliged to get in touch with the applicant, they spend some time qualifying who they are and if they can, to outline the reason for their stay at the STL;
  - This is in the guise of proactive high level customer service where they also offer recommendations for local restaurants, attractions and give travel and parking guidance. The parking guidance is always firstly not to bring a car at all, as Edinburgh is so walkable, and secondly, if they do have a car they are directed to the NCP car park directly opposite the property;
  - The dialogue the applicant enters into with their guests allows them to help them, but also to gauge how they can offer them the best experience while guiding them to adhere to the House rules (see below);
  - Inside the property the applicant has disconnected the “Sonos” speaker system which they bought with the flat. They felt this would be too loud for their neighbours. They replaced this with a small Bluetooth portable speaker which is far quieter than the ‘Sonos’ system;
  - The applicant is also able to monitor internal noise in the apartment remotely via the “Minut” noise monitor which can detect decibel levels in the property. This can send the applicant alerts and they can then call upon their property manager to intervene, or they can call the guests themselves. They have never had to do this;
  - All their neighbours above the basement flat have their telephone numbers and the number of their property manager, and all these neighbours are aware of their STL

and several have been inside their flat to show them the decor and what they offer to their guests. They have had no complaints whatsoever from their neighbours.

- 2.2.7 To date, the management arrangements that are already in place have resulted in there being no complaints of any description from neighbours, no complaints of any description to the City of Edinburgh Council and no call-outs from Police Scotland since it has been in the possession of the applicants.
- 2.2.8 Notwithstanding the central location of the property, the applicants want to encourage longer-term holiday lets both at a practical level to minimise the number of turnovers at the property, and by extension to minimise the potential for any impact on neighbouring properties. As a result, the default minimum booking period for the property is 3 nights, with 4 nights as a minimum during peak periods, and 5 nights for bookings made more than 6 months in advance.
- 2.2.9 The intimate domestic nature of the property means that it isn't suitable for any events or large groups, but for the avoidance of doubt, the property is also not available as accommodation for the likes of stag and hen parties. The focus has always been on providing outstanding accommodation for couples and single people – with many making repeat (and in some cases multiple repeat) visits to the apartment. The following property rules which are set out clearly on the relevant booking websites have been devised to prevent any adverse impact to neighbouring properties, and are conditions of reservation:
- 2.2.10 The House Rules are:
- Check in is 4pm until 10pm
  - Check out is by 11am
  - The profile owner must be amongst the guests. They don't allow people to book on behalf of others
  - They have a minimum age limit of 30 years old to book the property
  - They do not accept children under the age of 16
  - Potential guests receive an email asking them to confirm their age range and to specifically acknowledge that they are not set up for children
  - They do not host stag/hen or any type of parties whatsoever
  - They do not allow 'Experiences' which is a category on Airbnb  
<https://www.airbnb.com/s/experiences>
  - They do not allow smoking on the property
  - They do not allow pets on the property
  - They specifically ask guests to respect their neighbours by keeping noise to a minimum inside and outside the property (in the private courtyard) after 10pm
  - Guests on Airbnb may only "instant book" if they have high review ratings given by previous hosts. They must still answer the email about ages and children.

## Future Management Arrangements

- 2.2.11 As noted in the sections above, the Scottish Government is proposing to bring in a licensing scheme for short-term let visitor accommodation properties, with applications for these expected as being required by existing operators by no later than 1<sup>st</sup> October 2023. The future licensing regulations are designed to ensure that local Authorities have greater control over properties let out as visitor accommodation. Until that time however, there are currently safeguards already in place and those which could readily be put in place, to ensure that the property owners' conditions of use set out above will be adhered to. These will then mitigate against any potential for adverse impacts on neighbouring residential properties.
- 2.2.12 At the most basic level, the online booking systems routinely used to arrange and confirm short-term lets, allows both hosts and guests to screen each other through the inbuilt review system. The review system is mutually beneficial as it provides reassurance to each party;

both that properties will be clean and well managed, and that guests will be well-behaved and respectful of the property. Under the review mechanism, at the end of every short-term letting, both parties are empowered to assess and review each other for the quality of the property and the behaviour of the guests respectively. Whereas in this case, the host has clearly set out rental conditions such as for example banning pets from the property, any breach of such conditions will result in a poor review which in turn will impact on the guests' ability to make further rentals in the future.

2.2.13 While not a matter that could be controlled through a planning condition, the applicant would be happy to volunteer entering into a **good neighbour agreement** with the Council covering important matters that could impact on the character of the area which could help to formalise the management procedures already set out above. The final detail of such an agreement would need to be negotiated with the Planning Authority, however it could include the following:

- Firstly, a commitment that a review will be posted for each guest staying in the property after their visit has ended, acknowledging where they had adhered to the individual 'house rules', and also recognising where this had not taken place; to ensure that this would be noted in their booking history going forward;
- Secondly, the applicants could commit to take no bookings automatically. Instead, all potential guests would be subject to a review of their booking history to ensure that there are no 'red flags' raised in terms of their potential behaviour. Logs or screenshots of these checks could be retained for future scrutiny; and
- Finally, the terms of the formal good neighbour agreement could appear on the property listing, so all potential guests were aware of their requirements as guests to meet the good behaviour standards set out by the applicants and expected by the Council.

### Headlines of guest feedback and occupancy profile to date

2.2.14 In the 2021/2022 period the "Matisse Suite" at 1A Cambridge Street hosted 50 stays over 178 nights comprising of 43 Airbnb stays, 6 VRBO stays and 1 direct (repeat) stay.

2.2.15 Prices paid by customers ranged between £200 and £650 Per Night. Matisse Suite does not seek to compete with other STL's based on price. They seek to showcase Edinburgh, particularly to foreign visitors, who wish to experience the city, and want a luxury suite type experience, but with full kitchen facilities in a central location within walking distance to everywhere.

2.2.16 The 50 stays saw three repeat guests already return during the 21/22 period.

2.2.17 Of the 50 different groups the breakdown of nationalities was as follows:

- 22 from USA (including 1 return stay)
- 23 from the UK (including 2 return stays)
- 1 from Canada
- 1 from Sweden
- 1 from Spain
- 1 from Iceland
- 1 from Australia

2.2.18 The fact that more overseas visitors stayed than British visitors is on account of the fact that the Matisse Suite is heavily marketed in North America as the owners have a strong desire to support the city's reputation as a first-class destination for international vacations.

2.2.19 Of the 50 stays Matisse Suite still has at the time of writing 4 stays are yet to be completed. Of the 46 completed stays 38 have left 5-star (often long and effusive) reviews. Of the 8 "No reviews" one was a repeat guest who stayed direct and had previously left a 5-star review. Examples of the 5-star reviews include the following:

- *'One of the best apartments I have ever stayed in - beautifully kept and homely atmosphere! Nothing was too much for James and he was always contactable for any questions I had. The location of the apartment was perfect - central and walkable to all key attractions. I would definitely recommend & will be staying again! (27<sup>th</sup> November 2022, City Break)*
- *'A magnificent flat located in a fantastic location, right at the base of Edinburgh Castle. The flat had everything you could ask for and was extremely well set-up. Wish we could have stayed longer, and really look forward to returning! Could not recommend more highly!' (18<sup>th</sup> November 2022, City Break)*
- *'The Matisse Suite was such a fantastic place to stay and so central for seeing Edinburgh! We absolutely LOVED the vibe of the apartment and it had all the essentials we could need. The host provided great communication, instructions for check in and tips on things to see and do in the city - all really appreciated! Thoroughly recommend!' (20<sup>th</sup> October 2022, City Break)*
- *'I can honestly say this was the best apartment I have ever stayed in. Perfectly located, just minutes from Princes St, Royal Mile and Grassmarket, with amazing views of the castle at your doorstep. We loved walking out every morning and taking photographs of the view. James was excellent at communicating, answering every question and he honestly went over and beyond. The attention to detail in this property is outstanding - it makes your stay feel luxurious and honestly I didn't want to leave the apartment. Thank you for everything!' (28<sup>th</sup> August 2022, City Break)*
- *'Absolutely stunning apartment with everything you could need when staying away from home. The apartment is a stone's throw from the centre of Edinburgh so we never once needed a taxi. Everything in the apartment was spotless, the decor is so beautiful and it's just the most perfect place for a romantic getaway. James and Lee-Ann were absolutely amazing hosts and we can't wait to stay again.' (7<sup>th</sup> July 2022, City Break)*
- *'It's our second time staying in this gorgeous apartment. The location is fantastic - just minutes from the Castle, the Grassmarket and Princes Street. And the flat is just a few minutes walk from the tram stop to get to the airport. The apartment has everything you need and is beautifully decorated. We love staying here.' (25<sup>th</sup> March 2022, City Break)*

2.2.20 Unsurprisingly based on the offering and its marketing, nearly all UK based guests stayed at the Matisse Suite did so for a City Break. The great majority of overseas guests came for the purposes of an international vacation. However, notably, the two longest (amongst the best yielding stays) were for the purposes of an American mature student who came to study and has already committed to return and prepaid for next year's stays. The longest stay was for a famous American comedian and performer who stayed for two weeks for work during the Festival.

2.2.21 "Matisse Suite" welcomed its first guest on September 4, 2021. By January 1, 2023, the applicants will have hosted 50 stays. 17 of the 50 stays (in 2021/2022) stayed for a period of 2 days, and this was predominantly at weekends. The next most common period of stay was 10 incidences of 3-day stays. Again, these were mostly long weekends. This has important resonance with the appeal we will cite, and an oft mentioned concern of the granting of COU and license applications- the noise made by guests entering and leaving with luggage.

2.2.22 The claim of the planning department is that the operation of an STL is likely to have more activity than a continuously occupied 1 bedroom flat.

- The property has been occupied by STL guests for 178 out of a possible 484 days (September 4, 2021 - January 1, 2023)
- 2-day stays totalling 34 days  
3-day stays totalling 30 days  
64 days in total

2.2.23 These stays were in the majority at the weekends and it can be assumed that in the case of the British visitors who accounted for 21 of the 27 2-day and 3-day stays, that they were travelling light, as they were there for the purpose of a city break (20) and 1 visit for work.

2.2.24 Surely 178 from 484 days cannot suffer from more activity than if the flat were occupied on a full-time basis for the whole 484 days. Of those 484 possible days of availability, there were **306 days when the flat was unoccupied**.

## 2.3 Economic benefit

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

### Refurbishment economic benefits

2.3.2 1A Cambridge was purchased in September 2020, and the 11 months was spent redecorating the interior of the property.

2.3.3 This was an entirely Scottish based team and the total renovation costs were circa £35,000.

2.3.4 This saw the employment over several months for:

1 x 2-person joiner team

1 x 3-person interior design and fit-out team

1 x 3-person painter & decorator

1 x 2-person cleaning team

2.3.5 This resulted in the very high standard of interior decoration that can be seen on the Airbnb ad and other channels.

### Tourist economic benefits

2.3.6 As the Matisse Suite is marketed heavily in North America, the applicant considers that they have been instrumental in attracting high net worth quality guests from (particularly) the East and West coasts of the USA. Whilst it can be argued that these people would have come to Edinburgh, we have already had commitment and prepayment of monies already from previous guests including:

- A mature student from California who stayed for 11 days last year and will stay again in May 2023;

- A business owner from Nevada who stayed last May and chose to come back again in April to see more of Scotland, using the Matisse Suite as a base;
- An Icelandic customer who stayed last year who is a keen marathon runner who has with her friend entered the Edinburgh Marathon and booked and prepaid the flat; and
- A pre-paid let in February for the son of a New York based corporate accountant who stayed last year.

### Local employment benefits

- 2.3.7 As the owners live prohibitively far from the rental unit, all the property management, maintenance and cleaning are outsourced to a local Edinburgh based cleaning company. This company cleans and sets up the flat prior to guests arriving and often meets and greets guests as they arrive.
- 2.3.8 The applicant has spent more than £5500 on the “turnover” cleans for each guest, providing more than 130 person hours over 50 instances. This does not include deep cleans or property management which are easily another £2500 of local Edinburgh Labour.
- 2.3.9 It’s important to keep in mind that amongst their regular cleaning team, they have working mums who find that cleaning STL’s such as at the application site offers vital, flexible and convenient employment which fits around their lifestyle and family requirements.
- 2.3.10 The applicant has also spent more than £8500 with the same company on maintenance and repairs to the property. This sees their property manager subcontract with other Edinburgh based workers including:
- Plumber and Gas Engineer
  - Drain specialist
  - Electrician
  - Power washing
  - Carpet Cleaning
  - Window cleaning
  - Stone Mason
  - Burglar alarm engineer
  - Security gate engineer
  - Planning Consultant
  - Surveyor

## 3 Development Plan and Material Considerations

### 3.1 Introduction

- 3.1.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) directs that planning applications should be determined '*in accordance with the Development Plan unless material considerations indicate otherwise*'.
- 3.1.2 The **development plan** comprises the adopted Edinburgh Local Development Plan 2016.
- 3.1.3 In the assessment of **material consideration** we consider the following:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
  - Scottish Planning Policy (SPP);
  - Revised Draft NPF4;
  - Proposed City Plan 2030;
  - West End Conservation Area Appraisal;
  - Public representations; and
  - Any other identified material considerations (e.g. economic benefit, applications and appeals).
- 3.1.4 Due to the proposals also relating to a listed building(s) and being within a conservation area, this report also considers the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act").

### 3.2 Development Plan

- 3.2.1 The relevant development plan is the adopted Edinburgh Local Development Plan (November 2016) (ELDP). The relevant policies of the ELDP are:
- LDP Policy Env 1 World Heritage Sites;
  - LDP Policy Env 3 Listed Buildings - Setting;
  - LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area;
  - LDP Policy Hou 7 Inappropriate Uses in Residential Areas establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.
  - LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking; and
  - LDP Policy Del 2 City Centre sets criteria for assessing development in the city centre.

3.2.2 The single reason for refusal refers only to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas:

***‘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.’***

3.2.3 The supporting text to ELDP Policy Hou 7 at para 234 states that:

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

3.2.4 The further advice referred to in Policy Hou 7 is the Council's non-statutory Guidance for Businesses (November 2021).

3.2.5 On the basis that the reason for refusal only identifies that the proposal is contrary to ELDP Policy Hou 7, by inference the proposed development complies with all other relevant development plan policies within the ELDP. The Council's Report of Handling confirms this (Appendix 4):

- 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;
- The proposal complies with the following LDP policies:
  - LDP Policy Env 1 World Heritage Sites;
  - LDP Policy Env 3 Listed Buildings - Setting;
  - LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area;
  - LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking; and
  - LDP Policy Del 2 City Centre sets criteria for assessing development in the city centre.

### 3.3 Material Considerations

#### Non-statutory Guidance for Businesses (November 2021)

3.3.1 This guidance is intended to assist businesses in preparing applications to change the use of a property or carry out alterations to a business premises, such as changing a residential property to a commercial use (e.g. short term commercial visitor accommodation):

*‘The change of use from a residential property to short term commercial visitor accommodation may require planning permission. In deciding whether this is the case, regard will be had to:*

- *The character of the new use and of the wider area*

- *The size of the property*
- *The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand, and*
- *The nature and character of any services provided.'*

### Scottish Planning Policy (SPP)

- 3.3.2 Scottish Planning Policy (SPP) (2014) is a statement of Scottish Government policy on land use planning. Where relevant to the current proposals, SPP recognises tourism as one of the “key sectors for Scotland with particular opportunities for growth”.
- 3.3.3 SPP presumption in favour of sustainable development is currently a significant material consideration due to the development plan being over 5 years old. Following the adoption of NPF4 due on the 13th February 2023 SPP will become redundant and superseded.
- 3.3.4 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.
- 3.3.5 The proposal is considered to comply with all thirteen principles outlined within Paragraph 29 of the SPP as it would protect the amenity of existing development. The proposal will therefore contribute to sustainable development.

### Revised Draft NPF4

- 3.3.6 On the 11<sup>th</sup> January 2023 the Scottish Parliament voted to approve National Planning Framework 4 (NPF4). The intention is that Scottish Ministers will adopt and publish NPF4 on 13 February 2023 at 9am, meaning that it is in force and National Planning Framework 3 and Scottish Planning Policy are superseded from that date and time. Publication of NPF4 on 13 February will also have the effect that all strategic development plans and any supplementary guidance issued in connection with them cease to have effect on that date. Until 13 February, NPF4 is not part of the development plan and the weight given to it in decision making is a matter for the decision maker.
- 3.3.7 Given NPF4 has now been approved by the Scottish Parliament, and its adoption and publication (in its approved form) is the only outstanding action, it is considered as a significant material consideration during this period in the determination of this application.

### Proposed City Plan 2030

- 3.3.8 The Proposed City Plan 2030 sets out the strategy for development, proposals and policies to shape development and inform planning decisions in the city over the next 10 years and beyond. Following approval at Planning Committee on Wednesday 30 November, the Proposed City Plan 2030 was submitted for examination on Friday 9 December 2022.
- 3.3.9 As such, appropriate weight can be attached to it as a material consideration in the determination of this application.

### West End Conservation Area Character Appraisal

- 3.3.10 The West End Conservation Area Character Appraisal (9<sup>th</sup> March 2006) emphasises that the area is characterised by mixed, residential and commercial buildings.
- 3.3.11 The 1980s and 90s saw considerable development occurring in the conservation area. New development from the late 1980s onward has been of some quality, including Saltire Court and

the Traverse Theatre on Castle Terrace and **Cambridge Street** respectively. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building with the Traverse Theatre relocated on **Cambridge Street** behind the Usher Hall, a stone's throw from the appeal site. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall.

- 3.3.12 The early 80s also saw development of the former railway site with the construction of the Sheraton Hotel, Festival Square and an office block adjacent to the Filmhouse. To prevent piecemeal development, the Council produced a development strategy for the area west of Lothian Road, lying between the Caledonian Hotel and including former railway ground and the area formerly occupied by the Co-op bakery and milk depot.
- 3.3.13 The thrust of the strategy was to relieve the demand for office accommodation in the City Centre by the provision of a new international financial office complex and an international conference centre. A Masterplan produced by Sir Terry Farrell was accepted in 1989 and on this basis development took place through the 90s.
- 3.3.14 ***The external ambient noise in such a mixed-use city centre location will mitigate any potential impact on residential amenity of short-term letting.***

### Public representations

- 3.3.15 The application received no statutory representations (by inference no objections) nor public objections.

### Economic Benefit

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

### Applications and Appeals

- 3.3.17 The Council has referenced application and appeal decisions as material considerations in their assessments.

## 3.4 Summary

- 3.4.1 Overall, the proposed development must demonstrate that it is consistent with the development plan, and that there are no material considerations that indicate it should nonetheless be refused. By achieving this, the proposed development should be granted permission.
- 3.4.2 The next section assesses the proposed development in terms of the key determining issues.

## 4 Determining Issues and Assessment

### 4.1 Introduction

- 4.1.1 We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal and analysis of development plan policy, non-statutory Guidance for Business and other relevant material considerations.
- 4.1.2 We do not consider that the planning officials gave adequate regard to the merits of the proposed development in deciding to refuse planning permission. We now request that the Local Review Board consider the following matters in overturning this decision and granting planning permission.

### 4.2 Determining Issues

- 4.2.1 We initially consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) with a particular focus on the single reason for refusal:

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

- 4.2.2 The determining issues in this appeal are:

- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, the determination should be to grant planning permission unless material considerations indicate otherwise?
- If the proposals do not comply with the development plan, the determination should be to refuse planning permission unless material considerations indicate otherwise?

- 4.2.3 In the assessment of material considerations we consider the following:

- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
- Scottish Planning Policy (SPP);
- Revised Draft NPF4;
- Proposed City Plan 2030;
- West End Conservation Area Appraisal;
- Public representations; and
- Any other identified material considerations (e.g. economic benefit, applications and appeals).

- 4.2.4 The Council officer's in their Report of Handling concluded that, *‘...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 [i.e. LDP policy Hou 7 (Inappropriate Uses in Residential Areas)]. 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.*’ (see Appendix 3).

- 4.2.5 Due to the proposals also relating to a listed building(s) and being within a conservation area, this report also considers 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:
    - harming the listed building or its setting? or
    - 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?
- 4.2.6 The Council officer's in their Report of Handling concluded that, '*The proposal is acceptable [our underlining] 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.*' (see Appendix 3).

## 4.3 Assessment

### Policy Hou 7 Inappropriate Uses in Residential Areas

- 4.3.1 To firstly address the determining issues in relation to the single reason for refusal, that is, the principle proposed use, we assess the main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA), that is, Policy Hou 7 Inappropriate Uses in Residential Areas which states that developments, including change of uses which would have a materially detrimental impact on living conditions of nearby residents, will not be permitted.
- 4.3.2 The non-statutory Guidance for Businesses (November 2021) 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:
- a. The character of the new use and of the wider area;
  - b. The size of the property;
  - c. The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
  - d. The nature and character of any services provided.
- 4.3.3 Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. Whilst there is not a specific LDP policy relating to the jobs created through the required care, maintenance and upkeep of STL properties, the economic benefits are a material planning consideration.
- 4.3.4 The application site is situated in the urban area as defined in the adopted Edinburgh Local Development Plan (LDP) 2016.
- 4.3.5 As detailed in Section 2 of this Statement, the area immediately surrounding the property at 1A Cambridge Street is considered as performing a mixed-use function, and many businesses

evident in the local neighbourhood encourage relatively high-footfall uses such as Class 1 retail, Class 3 food and drink, Class 4 Business, Class 7 Hotels and Hostels, Class 10 Non-residential Institutions, Class 11 Assembly and Leisure, and sui generis uses such as public houses and hot food takeaways. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless retains residential functions.

4.3.6 In recent planning decisions, City of Edinburgh Council has demonstrated that perhaps the key amenity test such change of use applications must be assessed against is whether they would have an *‘unreasonable impact on residential amenity’* (application reference 21/06792/FUL). While every application is considered on its own merits and on a case-by-case basis, when considering whether the ongoing use at 1A Cambridge Street is likely to result in a *‘further deterioration of living conditions’* or an *‘unreasonable impact on residential amenity’*, it is perhaps instructive to compare the current proposals with the application approved at **46 Patriothall (21/06792/FUL)**, **48 Howe Street (21/01591/FUL)** and **BF18 Torphichen Street (20/03051/FUL)**. See Appendix 5. These applications all relate to small format properties in similar mixed-use areas with residential functions, close to busy, footfall generating commercial uses.

4.3.7 When these applications were assessed against policy HOU7 and in particular when both the size constraints of the properties and the character of the properties’ environs were assessed, the Planning Officer’s Report of Handling noted the following:

*“The size of the unit is relatively small containing two bedrooms and has its own private access. Its location near to Hamilton Place minimises the level of interaction with other residential properties...In light of the above, whilst a level of noise is likely from guests arriving and leaving the property it is not anticipated that this gives rise to a significant disturbance to residents... Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity”. (Patriothall)*

*“The use is relatively small scale and the flat is located on a busy road in a prominent location. It has its own private access... The surrounding uses are a mixture of business, residential and commercial. The proposed introduction of this use would not detract from the aforementioned characteristics, in this instance”. (Howe Street)*

*“The use is relatively small scale and the flat is located on a busy road in a city centre location. It has its own private access. The surrounding uses are a mixture of business, residential and commercial”. (Torphichen Street).*

4.3.8 In summary, it is considered that no *‘materially detrimental effect’* or *“unreasonable impact”* is being imposed upon the living conditions of nearby residents as a result of the ongoing operation of this property for short-term let visitor accommodation. In this contest, it is challenging to see how the change of use sought at the application site could be considered contrary to policy HOU7.

4.3.9 The non-statutory Guidance for Businesses (November 2021) also examines amenity in greater detail than policy HOU7 as an issue that will need to be considered for such applications. It states:

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

4.3.10 A further statement specifically on flatted properties is made on page 7 of the Guidance where it notes:

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

- 4.3.11 With regard the property at 1A Cambridge Street which enjoys its own private street access in an area where some ambient noise and activity can be expected, it is considered that the change of use proposed here is in accordance with the non-statutory Guidance. For the reasons already rehearsed in relation to policy HOU7, it is not considered that there are any potential adverse impacts on residential amenity that would warrant an overall assessment that such a use was unacceptable.
- 4.3.12 The application property offers a very distinctive form of city centre living interspersed with professional practices and commercial offices and surrounded by a mix of other uses including theatres, leisure and retail. The property is within the City Centre, as well as being in very close proximity (less than 400 metres) from the City Centre Retail core (Policy Ret 2).
- 4.3.13 Given the mixed-use context of the area and the small-scale of the property, it is difficult to see how this exceptionally well-managed apartment could be considered to either introduce or intensify any incompatible uses to this area or result in any material deterioration in living conditions. By contrast, given there is understood to be only a tiny number of short-term holiday lets in the immediate locality, and if as seems likely, many of short-term lets in the city will cease to function over the coming years, this property if approved for the current use, will offer a quite unique opportunity for visitors that want to ‘live like a local’ while experiencing for themselves domestic life in one of *“the most important and best-preserved examples of urban planning in Britain”*.

## 4.4 Application & Appeal Decisions

- 4.4.1 In terms of Policy HOU7 Residential Amenity there are several recent and relevant applications and appeals that have been granted/allowed the change of use from flat (sui generis) to self-catering accommodation (sui generis) (retrospective). See Appendices 5 and 6.

### Applications

- 4.4.2 While every application is considered on its own merits and on a case-by-case basis, it is considered instructive to compare these proposals with the application approved at **41 Barony Street (21/02615/FUL)** for the change of use of a residential property to a short-term let. See Appendix 5. There are considered to be a number of important similarities between the two properties including: the retrospective nature of the applications; their diminutive size; and the nearby elements of mixed uses. When the proposals under application (21/02615/FUL) were assessed against policy HOU7, the Planning Officer’s Report of Handling noted that:

*“Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity”.*

- 4.4.3 It is considered that when assessed against the tests in policy HOU7, the property at 1A Cambridge Street is also likely to have a similarly negligible impact on the lives and living conditions of nearby residential properties, as the scale of the property combined with the exemplary management procedures in place allows it to continue to function in almost every regard like a residential property. Given that the property is specifically marketed and managed in order to allow guest to ‘live like a local’, it is not considered that the change of use sought here is contrary to policy HOU7.
- 4.4.4 The City of Edinburgh Council have granted several retrospective change of use applications from flat (sui generis) to short-term let (sui generis) during 2021/2022 where when tested against Policy Hou 7 the proposals were considered not to significantly impact on residential amenity, and therefore be in compliance with the policy. See Appendix 5. The following

applications which are particularly similar to the property at 1A Cambridge Street, Edinburgh and are in compliance with Policy Hou 7 include the following:

**18 Grindlay Street (City Centre) (Ref.No.22/03025/FUL) (24 November 2022) -**

**17 Ashley Terrace (Fountainbridge/Craiglockhart) (Ref.No.22/00803/FUL) (15 June 2022)**

- this is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.

**78 Spring Gardens (Craighentenny/Duddingston) (Ref.No.22/00884/FUL) (15 June 2022) -**

in this case the property has its own front entrance access and no direct access to garden/communal ground. Although the property is in a predominantly residential area, it is approximately 300 metres from a main thoroughfare and an area of mixed uses including commercial and retail uses. Consequently, there is already a degree of activity nearby. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity. This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.

**41 Cumberland Street (City Centre) (Ref.No.21/06621/FUL) (23 February 2022) -**

Cumberland Street is primarily residential in character however other commercial uses are evident. The property has its own private access and the applicant has confirmed there is no garden ground to the front or rear. In terms of internal noise, the size of the unit is small, containing only one bedroom and potential impact is unlikely to be materially different from a residential use. Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity. The proposal complies with policy Hou 7.

**41 Barony Street (City Centre) (Ref.No.21/02615/FUL) (11 August 2021) -** the small size of the flat (two- bedroom) and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity. 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. Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal. Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.

## Appeals

- 4.4.5 The Council has referenced recent appeal decisions as material considerations in their assessments. The following paragraphs consider firstly the key determining matters that have been identified by the Council from recent appeal decisions by the DPEA and then assesses the current proposals against these issues. The main determining issues in these cases relate to the following:

- *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;*

- *The **frequency of movement** and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;*
- *The **impact on the character of the neighbourhood**. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;*
- *The **nature of the locality** and whether the property is located within an area of activity such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/disturbance;*
- *These appeals have also found that short stay visitor accommodation units can be **acceptable in predominately residential areas**.*

#### Location of property

- 4.4.6 In terms of the issue of a private access, this property does not share a common stair and has its own front door with direct access to the street.

#### Frequency of movement

- 4.4.7 This is a small property which is in the heart of an area within the city where there are plenty of amenities and a city itself which has lots of visitor attractions. It seems reasonable to therefore assume that guests will want to explore both local amenities and the wider city during their visit. As a result, they may in fact be out of the property for much of the time during their rental. Overall, however there is nothing to suggest that the likely frequency of the movement of one or two guests in the course of such exploration is likely to cause any disturbance to neighbours, given the property and its neighbours share no common internal spaces.

#### Impact on the character of the neighbourhood

- 4.4.8 As noted above, this is a small property, centrally located in Scotland's capital city. It seems reasonable to speculate that guests staying here may wish to take advantage of its location and the relative abundance of amenities nearby to go out for meals and drinks, but to otherwise shop in a reasonably conventional fashion. The property is not considered large enough to warrant large orders for delivered food or groceries. If guests do wish to use the amply provisioned kitchen facilities it seems more reasonable to expect that they might use the amenities of nearby Lothian Road/Princes Street. In this regard their shopping behaviour is likely to be very similar to that of neighbouring properties, hence aligning with the overall ethos that guests 'live like locals'. In summary, it seems reasonable to expect that guests' dining behaviour may occasion them to leave the property more than an owner or tenant, hence removing them from the property for long spells, while their shopping behaviour is likely to be much the same as that of an owner or tenant.

#### Nature of locality & acceptability in predominantly residential areas

- 4.4.9 In terms of the last two criteria, these are perhaps best considered together on a street such as Cambridge Street/Castle Terrace. Firstly, it is important to recognise that noise and disturbance from this property are likely to be minimal owing to a combination of the absence of any residential property below, strict conditions of rental rigorously policed by the applicants, and the physical configuration and orientation of the property minimising conflict with noise sensitive spaces in neighbouring properties. While the area is largely residential, it does occupy an enviable location in very close proximity to a number of relatively high footfall areas both by day and night. Accordingly, activity and movement in the general area are not

uncommon here and therefore no unusual activity would be introduced or particularly intensified by way of this proposal.

- 4.4.10 Also considered specifically relevant to this application are the recent appeal decisions at **7A and 7B Jamaica Street Lane (references PPA-230-2358 and PPA-230-2359)** where the DPEA Reporter offered commentary on a number of matters that would also seem material to the determination of this application at 1A Cambridge Street. See Appendix 6. Of particular relevance the Reporter noted the following:

*“the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal”.*

*“I accept that the pattern of use of a commercial short-term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. I note the objection from the flat above the appeal property, but overall there does not appear to have been a history of numerous complaints over the years this use has been operating. For these reasons I conclude that the proposal would be unlikely to give rise to any significant disturbance to local residents”.*

- 4.4.11 The recent appeal decision under reference PPA-230-2367 overturned the refusal of planning application 21/04512/FUL at **1B Fingal Place, Sciennes**. See Appendix 6. Describing the general ambience of the Meadows area, the Reporter noted the following:

*“I consider that the normal background noise would be midway between what one would experience in an inner-city environment and a suburban environment. I would not characterise the area as a quiet residential area as the council has done in the report of handling”.*

- 4.4.12 Further, in the successful appeal decision for **4/4A Dewar Place Lane** (reference PPA-230-2328), the DPEA Reporter noted the following comments which are considered to be entirely comparable to the situation at 1A Cambridge Street:

*“In this case 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”.*

- 4.4.13 It is significant that in the Committee Report to the successful planning application at **13 Dewar Place Lane (21/03890/FUL)**, it was noted that these observations from the DPEA Reporter to the appeal at 4/4A Dewar Place Lane were ‘*material to the determination of the current application*’. It is considered that they should also apply to this application, given the subject property is located just off Lothian Road.

- 4.4.14 In summary, when assessing appeals for Change of Use applications such as this, the DPEA has identified a number of key tests and considerations that should be material to the determination process. These have also been recognised by City of Edinburgh Council Planning Officers. Importantly, when assessed against these tests and considerations, it is contended that the continued use of this property for short-term letting should be considered as being acceptable.

## Planning Statement in Support of Notice of Review – 1A Cambridge Street Edinburgh EH1 2DY

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- 4.4.15 Overall, when considered against the determining matters that have been articulated in recent appeal decisions, the proposals at 1A Cambridge Street are considered to measure up favourably.

## 5 Summary and Conclusion

### 5.1 Summary

- 5.1.1 This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on 24<sup>th</sup> January 2023 under Section 43A of the Town and Country Planning (Scotland) Act 1997, as amended ('the Planning Act').
- 5.1.2 We have critically reviewed the proposal and consider that there is a convincing case by which planning permission is justified. This is based on the merits of the proposed development, the stated single reason for refusal, and analysis of development plan policy, non-statutory Guidance for Businesses and other material considerations.
- 5.1.3 It demonstrates that the proposal by Craigiebrook Ltd c/o FKMCV ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 1A Cambridge Street Edinburgh EH1 2DY ('the property') complies with the **development plan**, namely the adopted Edinburgh Local Development Plan (2016). It also complies with the non-statutory Guidance for Businesses (November 2021) which sets out a number of criteria that are considered in an assessment of the materiality of a change of use of dwellings to a short-term let (STL), namely:
- The character of the new use and the wider area;
  - The size of the property;
  - The pattern of activity associated with the use, including:
    - The number of occupants
    - The period of use
    - Issues of noise and disturbance
    - Parking demand
  - The nature and character of any services provided.
- 5.1.4 There are also no material considerations that are considered to outweigh the justification for approval, namely:
- City of Edinburgh Council's non-statutory Guidance for Businesses (November 2021);
  - Scottish Planning Policy (SPP);
  - Revised Draft NPF4;
  - Proposed City Plan 2030;
  - West End Conservation Area Appraisal;
  - Public representations; and
  - Any other identified material considerations (e.g. economic benefit, applications and appeals).
- 5.1.5 The application was Refused for the following single reason:
- '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.'***
- 5.1.6 We have carefully reviewed the planning application and supporting material in the context of the Development Plan and other material considerations, as well as the Council's Report of Handling.
- 5.1.7 In this context, we consider that there are strong planning grounds for the Local Review Body (LRB) to overturn this decision and grant planning permission.

- 5.1.8 The Council's Planning Local Review Body (LRB) is therefore requested to overturn this decision based on written submissions. Should the LRB also wish to undertake a site visit to the property to inform their decision, the applicant would be happy to make the necessary arrangements to enable access to the property to allow for a potentially better appreciation of the site and its surroundings.

## 5.2 Conclusion

- 5.2.1 This self-contained, one-bedroom main door access basement flat on Cambridge Street lies centrally within the city centre of Edinburgh, in a globally unique urban quarter that has long been home to a wide mix of uses.
- 5.2.2 The regulatory context for short-term letting in Scotland is changing. As has been rehearsed by both the Scottish Government and City of Edinburgh Council in recent times, there is now an appetite by policy makers to see the sector become better regulated. Such regulation is supported by the applicants who want the City's hospitality offer to be attractive and well-regulated. Accordingly, they seek a determination of this planning application as a prelude to applying for a licence once the procedure for doing so has been confirmed.
- 5.2.3 The wording of City of Edinburgh Council's adopted LDP policy HOU7 and its supporting Guidance, means that very few of the city's currently operating short-term let properties appear likely to be able to secure planning permission, and by extension a licence. The small number of properties that do have the potential to meet the existing policies therefore have an important future contribution to make to the city's tourism landscape. This is especially the case given the discernible trend recognised by industry insiders for tourists to seek out more authentic travel experiences that can allow them to 'live like locals'. In the circumstances, the type of accommodation offered here is hugely popular among visitors; meaning that the wholesale loss of this type of accommodation from Scotland's capital city would be an unfortunate outcome.
- 5.2.4 Properties like historic 1A Cambridge Street, appropriately located in a central and well-connected area and managed to the most exacting standards, can play an important future role by continuing to offer some diversity to the City's visitor accommodation offer. Properties like this can continue to provide a small quantum of specialist accommodation that can complement hotels, hostels, Guest Houses and Bed and Breakfasts, and offer a different type of 'authentic' accommodation for visitors who would like to 'live like a local', or for whom conventional accommodation is simply not appropriate.
- 5.2.5 In the Scottish context, Edinburgh occupies a unique position in terms of its attraction to ever-growing numbers of tourists. Evidence from the last decade suggests that additional supply of tourist accommodation across the city is quickly taken up by increased demand, meaning that healthy occupancy rates can be maintained by a wide range of different visitor accommodation providers. This small property on Cambridge Street has been exceptionally well-managed over the last few years, as evidenced by a faultless record of customer satisfaction throughout the period. What it offers by way of visitor accommodation in an historic but authentic domestic format, appeals to a growing number of travellers and serves as an asset to the city's tourism landscape by providing choice into the overall mix.
- 5.2.6 Taking all of the foregoing into account, it is hoped that the Local Review Body will be able to support this appeal, as it is considered to successfully address Local Development Plan policy HOU7 and its supporting Guidance. Should this appeal be allowed, it is considered that there will be no adverse impact on either the amenity of neighbouring residential properties, or the overall ambience of a historic area where a blend of different uses can be absorbed. There are not considered to be any policy matters that would warrant refusal of this appeal, and accordingly it is respectfully requested that this appeal be allowed.
- 5.2.7 We therefore respectfully request that the Local Review Body do not uphold the decision by the Chief Planning Officer and grant planning permission for the change of use from flatted

## Planning Statement in Support of Notice of Review – 1A Cambridge Street Edinburgh EH1 2DY

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accommodation (sui generis) to short-term let accommodation (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh.

## Appendices

**See City of Edinburgh Council's Planning Portal:**

<https://citydev-portal.edinburgh.gov.uk/idxpa-web/applicationDetails.do?keyVal=R9LMNNEWGOD00&activeTab=summary>

**Separately attached:**

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/01652/FUL
- Appendix 3** Report of Handling
- Appendix 4** Decision Notice
- Appendix 5** STL Applications Granted by CEC 2021 to 2022
- Appendix 6** STL Appeals Allowed by DPEA 2020 to 2022



**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

## **Appendix 1 – Photo-study**

**Change of Use from a Flat (sui generis) to Short-term  
Let (sui generis) (retrospective)**

**at**

**1A Cambridge Street, Edinburgh EH1 2DY**

**on behalf of**

**Craigiebrook Ltd c/o FKMCV**

***March 2022***



**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: C/5550 | Rev: AA | Date: March 2022

Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

## Document Control Sheet

**Project Name:** COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

**Project Ref:** C/5550

**Report Title:** Appendix 1 Photo-study

**Doc Ref:** C/5550

**Date:** 28<sup>th</sup> March 2022

	Name	Position	Signature	Date
<b>Prepared by:</b>	Stefano Smith	Director		28 <sup>th</sup> March 2022
<b>Reviewed by:</b>	Stefano Smith	Director		28 <sup>th</sup> March 2022
<b>Approved by:</b>	Stefano Smith	Director		28 <sup>th</sup> March 2022
<b>For and on behalf of Stefano Smith Planning</b>				

Revision	Date	Description	Prepared	Reviewed	Approved
1	30 <sup>th</sup> March 2022	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

## Contents

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
1.1	Background.....	1
1.2	Structure .....	1
1.3	Key Findings .....	1
<b>2</b>	<b>Photo-study.....</b>	<b>1</b>

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# 1 Introduction

## 1.1 Background

- 1.1.1 This Photo-study has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of the flat (sui generis) to short-term let (sui generis) ('proposed development') at 1A Cambridge Street, Edinburgh EH1 2DY ('application site') on behalf of Craigiebrook Ltd c/o FKMCV (the applicant').

## 1.2 Structure

- 1.2.1 This Photo-study provides the visual context of the proposed development in the established mixed-use area of this part of the West End Conservation Area. It also identifies examples of change of use to short-term lets within the immediate area and adjacent conservation area – New Town Conservation Area.

## 1.3 Key Findings

- 1.3.1 The following key findings should be noted from the photo-study:
1. The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential, office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.
  2. The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
  3. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
  4. The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
  5. The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten-metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.

6. The public realm in the immediate are of the application site is of the highest quality in terms of the materials used.
7. In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

## 2 Photo-study

### Photo 1 – Established mixed-use area of the West End Conservation Area: Castle Terrace & Lothian Road



**Photo 2 – Established mixed-use area of the West End Conservation  
Area: Castle Terrace**



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

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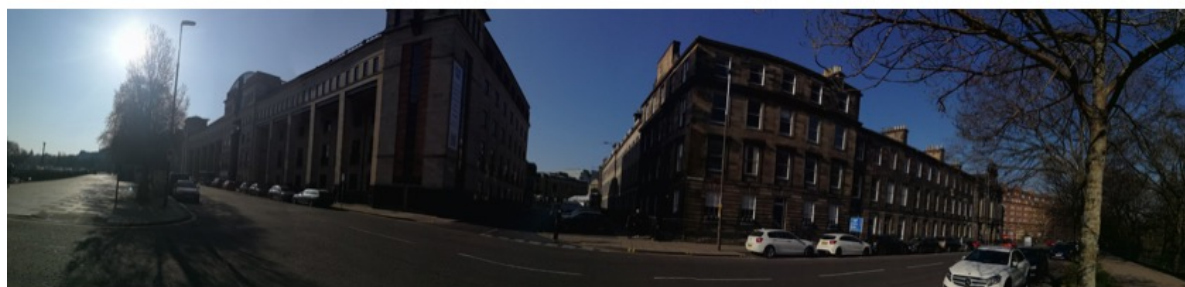
**Photo 3 – Established mixed-use area of the West End Conservation  
Area: Castle Terrace & Cambridge Street**



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

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**Photo 4 – View of application site: corner of Cambridge Street & Castle Terrace**



**Photo 5 – View of application site: corner of Cambridge Street & Castle Terrace**



**Photo 6 – View opposite the application site towards Edinburgh Castle**



**Photo 7 – View of the 4-storey tenement at 1 Cambridge Street in which the application site is located at basement level**



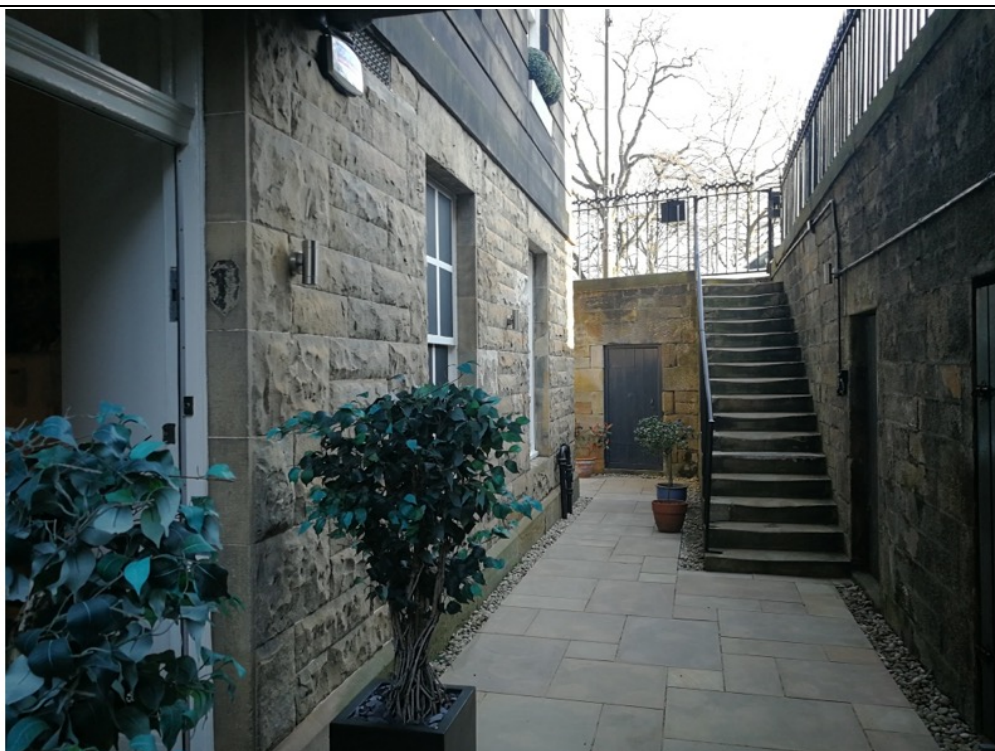
Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

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**Photo 8 – Dedicated controlled gate access to the application basement flat with main door access**



**Photo 9 – View of the application site from basement level**



**Photo 10 – View of the application site from basement level**



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

## Photo 11 – Existing short-term lets in the local area: Castle Street





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100547970-001

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

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis)

Has the work already been started and/ or completed? \*

☐ No ☐ Yes - Started ☒ Yes – Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): \*

04/01/2021

Please explain why work has taken place in advance of making this application: \*  
(Max 500 characters)

Craigiebrook Ltd c/o FKMCV wishes to regularise the situation through the submission of this retrospective planning application for change of use.

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Stefano Smith Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stefano	Building Name:	
Last Name: *	Smith	Building Number:	58
Telephone Number: *	07464 744337	Address 1 (Street): *	Dean Path
Extension Number:		Address 2:	Dean Village
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH4 3AU
Email Address: *	stefano@stefanosmithplanning.com		
Is the applicant an individual or an organisation/corporate entity? *			
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:		You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	FKMCV
First Name: *		Building Number:	
Last Name: *		Address 1 (Street): *	Tinwald Downs Road
Company/Organisation	Craigiebrook Ltd c/o FKMCV	Address 2:	
Telephone Number: *		Town/City: *	Dumfries
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	DG1 3SJ
Fax Number:			
Email Address: *	info@craigiebrook.com		

## Site Address Details

Planning Authority:

City of Edinburgh Council

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

Address 1:

1A CAMBRIDGE STREET

Address 2:

OLD TOWN

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH1 2DY

Please identify/describe the location of the site or sites

Northing

673442

Easting

324844

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Trees

Are there any trees on or adjacent to the application site? \*

☐ Yes ☒ No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

☐ Yes ☒ No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

☐ Yes ☒ No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

☒ Yes ☐ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Stefano Smith

On behalf of: Craigiebrook Ltd c/o FKMCV

Date: 30/03/2022

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? \* ☒ Yes ☐ No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \* ☒ Yes ☐ No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? \* ☒ Yes ☐ No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale. ☒ Yes ☐ No
- e) Have you provided a certificate of ownership? \* ☒ Yes ☐ No
- f) Have you provided the fee payable under the Fees Regulations? \* ☒ Yes ☐ No
- g) Have you provided any other plans as necessary? \* ☒ Yes ☐ No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

- ☐ Existing and Proposed elevations.
- ☐ Existing and proposed floor plans.
- ☐ Cross sections.
- ☒ Site layout plan/Block plans (including access).
- ☐ Roof plan.
- ☒ Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. ☐ Yes ☒ No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \* ☒ Yes ☐ No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

## Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Stefano Smith

Declaration Date: 30/03/2022

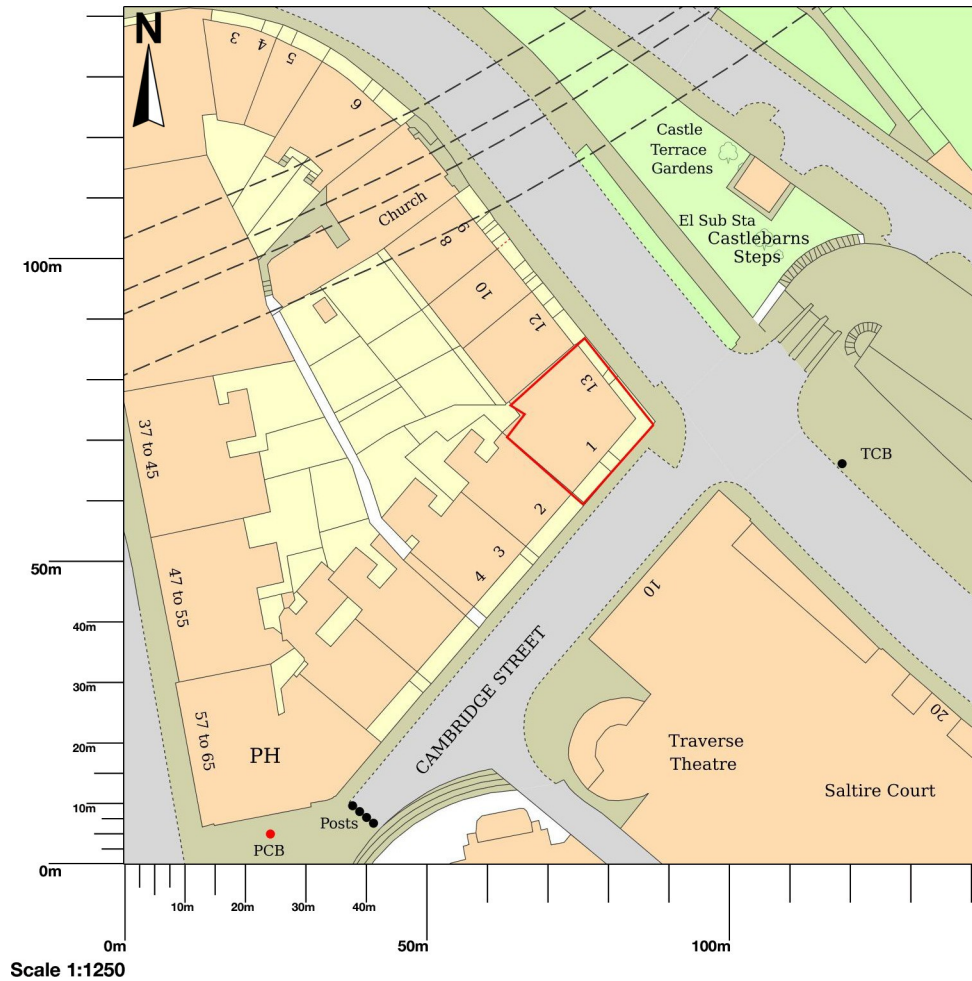
**Payment Details**

Online payment: [REDACTED]  
Payment date: [REDACTED]

Created: [REDACTED]



## 1a, Cambridge Street, Edinburgh, EH1 2DY





**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

## **Planning Statement**

**Change of Use from a Flat (sui generis) to Short-term  
Let (sui generis) (retrospective)**

**at**

**1A Cambridge Street, Edinburgh EH1 2DY**

**on behalf of**

**Craigiebrook Ltd c/o FKMCV**

***March 2022***



**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Planning Statement – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

## Document Control Sheet

**Project Name:** COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

**Project Ref:** C/5550

**Report Title:** Planning Statement

**Doc Ref:** C/5550

**Date:** 29<sup>th</sup> March 2022

	Name	Position	Signature	Date
<b>Prepared by:</b>	Stefano Smith	Director		25 <sup>th</sup> March 2022
<b>Reviewed by:</b>	Stefano Smith	Director		28 <sup>th</sup> March 2022
<b>Approved by:</b>	Stefano Smith	Director		29 <sup>th</sup> March 2022
<b>For and on behalf of Stefano Smith Planning</b>				

Revision	Date	Description	Prepared	Reviewed	Approved
1	30 <sup>th</sup> March 2022	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

## Contents

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
1.1	Background.....	1
1.2	Supporting Material.....	3
1.3	Structure .....	3
<b>2</b>	<b>Site and Surroundings .....</b>	<b>4</b>
2.1	Site Context .....	4
2.2	Site Description.....	7
2.3	Site History.....	8
<b>3</b>	<b>Proposed Development .....</b>	<b>9</b>
3.1	Introduction .....	9
3.2	Background.....	9
3.3	Short-term Let.....	9
<b>4</b>	<b>Policy Context.....</b>	<b>11</b>
4.1	Development Plan.....	11
4.1	Material Considerations .....	12
4.2	Summary.....	12
<b>5</b>	<b>Determining Issues and Material Considerations .....</b>	<b>13</b>
5.1	Determining Issues .....	13
5.2	Assessment .....	13
<b>6</b>	<b>Conclusion .....</b>	<b>18</b>
6.1	Conclusion .....	18
	<b>Appendices (<i>separately attached</i>) .....</b>	<b>19</b>

## Figures

**Figure 1** Location Plan

**Figure 2** West End Conservation Area Boundary and World Heritage Site Boundary

**Figure 3** Floorplan of application site

## Appendices (*separately attached*)

**Appendix 1** Photo-study

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# 1 Introduction

## 1.1 Background

- 1.1.1 This Planning Statement ('Statement') has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of a flat (sui generis) to short-term let (sui generis) ('proposed development') at 1A Cambridge Street, Edinburgh EH1 2DY ('application site') on behalf of Craigiebrook Ltd c/o FKMCV (the applicant').
- 1.1.2 The one bedroom flat at 1A Cambridge Street, Edinburgh 2DY ('application site') was acquired by Craigiebrook Ltd c/o FKMCV in 2020. It was subsequently let as a short-term rental property in September 2021 providing visitor accommodation – 'secondary letting' where the host is letting premises which are not their own home. The proposed visitor accommodation (short-term let) is a 'sui generis' use, as is the residential use of the flat. A planning application for the change of use from a flat to a short-term let is therefore required, as the activity constitutes a material change of use of the property.
- 1.1.3 The recent Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 confirms that in short term let control areas [Edinburgh is now incorporated within such an area (subject to Ministerial approval)], planning permission will be required for the change of use from flat to short-term let. Craigiebrook Ltd c/o FKMCV therefore wishes to regularise the situation through the submission of this retrospective planning application for change of use.
- 1.1.4 The change of use proposed will not result in any physical changes to the interior or exterior of the building, which if so, may necessitate other planning permissions/consents in their own right.
- 1.1.5 The Scottish Government has also introduced a licensing regime for short-term lets in Scotland. Planning permission for the short-term let will be required in order to obtain a Licence. Licence applications are to be made to the Local Authority (LA) in the area where the property is located. One licence will be needed for each property and the licence holder will be the only person who can deal with the day to day running of the property. Licences are expected to last around three years, but LAs will be able to renew a licence for a longer period after the initial grant. Each LA has the ability to set their own fees for licensing applications.
- 1.1.6 The City of Edinburgh Planning Committee meeting on 23 February 2022, which approved the extent of Edinburgh's short term let control area, also considered a Committee Report and accompanying Statement of Reasons background report on short term lets. Both the reports clearly state that the formalisation of the short term let control area does not amount to a 'blanket ban' on short term lets and that each application for change of use will be dealt with on its own merits.

- 1.1.7 The reports are clear that the key assessment criteria are whether such proposals would have a *'materially detrimental effect on the living conditions of nearby residents'*, and also noted that such changes would only generally be acceptable where properties enjoyed a private access from the street. The subject property at 1A Cambridge Street is considered to meet these assessment tests.
- 1.1.8 In addition, we consider that the proposed change of use of this property will positively contribute to Edinburgh's important tourist economy and reputation as a business destination. Such a change of use is considered to be appropriate both to the character of the building, as well as the character of the local area.

### **Economic Benefits of Short-term Lets/Self-catering Accommodation**

- 1.1.9 As stated in the Consultation Draft National Planning Framework 4 (NPF4) tourism can *"bring a wealth of economic, social and cultural benefits to our communities, cities and regions, supporting resilience and stimulating job creation"*, but believes the sector needs to be supported for its recovery from the impact of Covid-19, and that an appropriate balance in the regulatory framework is required. We also endorse the First Minister's comment in Scotland's Outlook 2030 that *"an innovative, resilient and welcoming [tourism] industry is vital, not only for Scotland's future prosperity, but for Scotland's place in the world"*.
- 1.1.10 Tourism is a mainstay of the Scottish economy; and short-term lets/self-catering is hugely important to Scottish tourism in terms of jobs, revenue, and world-class experiences offered to guests. To be such an essential part of Scotland's tourism mix is even more remarkable for the sector when most short-term lets/self-caterers operate small or micro businesses.
- 1.1.11 For Scotland to remain competitive as a leading tourism destination, it needs to be responsive and adaptive to consumer trends, both in respect of the range of accommodation available, as well as for more environmentally conscious options. As the Scottish Tourism Alliance told the Scottish Government in September 2021, when articulating concerns from the tourist industry about short-term let licensing: *"In these Covid times there has over these past months been a sizeable upturn in demand for self-catering accommodation and insights would suggest that this trend is unlikely to change in the years ahead...In 2021 we have seen a significant increase in domestic tourism since re-opening in the summer. Many guests have chosen to travel domestically for the first time and self-catering has been the accommodation of choice. While international travel is likely to recover strongly in 2022, I am confident that we will continue to see strong demand for Scottish self-catering."*
- 1.1.12 Short-term lets/self-catering provides a £867m per annum boost to the Scottish economy, benefiting local communities the length and breadth of Scotland, supporting 23,979 FTE jobs. Given the importance of this sector to the Scottish tourism industry, which has experienced such a challenging time due to the impact of Covid-19, a supportive environment to help businesses recover and

flourish should be encouraged. The recovery of Scottish tourism will benefit small businesses, while responsible and sustainable tourism can help communities to recover too.

## **1.2 Supporting Material**

1.2.1 The planning application package comprises:

- Completed application form (including landownership certificate)
- Plans
  - Location Plan
- Photo-study
- Planning Statement

## **1.3 Structure**

1.3.1 This Statement initially outlines the proposed development in terms of the site and surroundings and a description of the proposed development. The policy context in terms of the development plan and guidance is subsequently considered in terms of how this may impact upon the proposal. The determining issues and assessment process of the material planning issues in the consideration of the planning application is also considered.

1.3.2 This Statement is structured as follows:

Section 1	Introduction
Section 2	Site and Surroundings
Section 3	Proposed Development
Section 4	Policy Context
Section 5	Determining Issues and Material Considerations
Section 6	Summary and Conclusion

## 2 Site and Surroundings

### 2.1 Site Context

- 2.1.1 The application site is located in one of the most desirable areas of Edinburgh in a beautifully well maintained 1850's building. The property is situated in the theatre area, just a 3-minute walk to Princes Street, and many major tourist attractions. The application site is located within the City Centre and is in a mixed use area. It is the vibrant hub of the city region and an important tourist destination.
- 2.1.2 The application site lies in the centre of Edinburgh at the corner of Cambridge Street and Castle Terrace, with Lothian Road (A700) to the west and Princes Street and Princes Street Gardens to the north. It is in the immediate vicinity of a number of bus stops and a tram stop serving several routes both within and out of the city. The site is within walking distance of both Waverley and Haymarket train stations.
- 2.1.3 1A Cambridge Street, Edinburgh ('application site') is located within the West End Conservation Area and is a Category B listed building (part of 1 Cambridge Street) (Designation Ref. LB28484). See Figure 1.

Figure 1 Location Plan

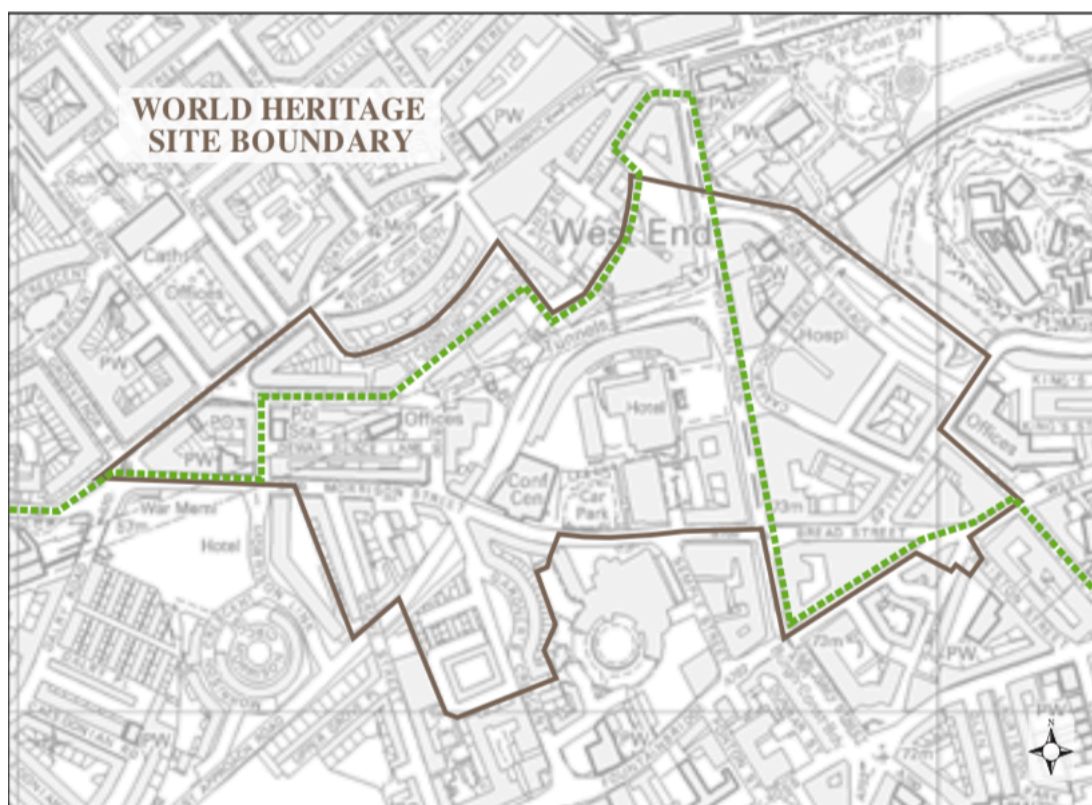


1a, Cambridge Street, Edinburgh, EH1 2DY



- 2.1.4 The West End Conservation Area lies immediately adjacent to the New Town on its south west boundary and the Old Town on its western boundary. The Conservation Area was originally designated in 1980 and amended in 1995. The area lying to the east of Lothian Road within the West End Conservation Area, which includes the application site, is included in The World Heritage Site (WHS), and is dominated on its eastern edge by the presence of the Castle. See Figure 2.

Figure 2 West End Conservation Area Boundary and World Heritage Site Boundary



- 2.1.5 Inscription as a World Heritage Site brings no additional statutory powers. However, it does commit all those involved with the development and management of the Site to ensure measures are taken to protect and enhance the area for future generations. In furthering these aims the Council produced a World Heritage Site Manifesto, which is a material consideration in assessing planning applications.
- 2.1.6 The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.

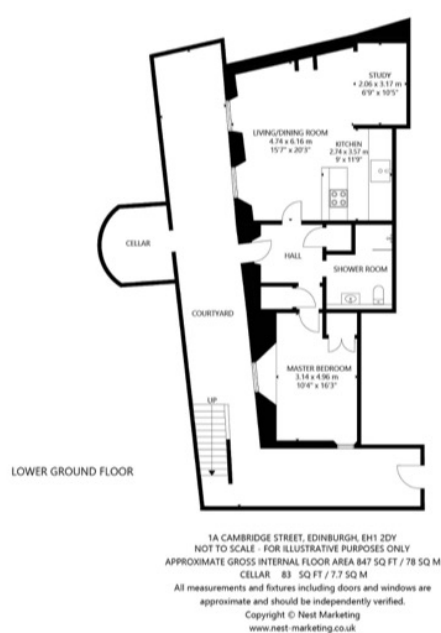
- 2.1.7 The top deck of the multi storey car park on Castle Terrace forms a ten metre wide pavement to Castle Terrace opposite the application site and facing Saltire Court. A footway maintenance and planting scheme for this space has greatly improved this space.
- 2.1.8 Building lines vary within the area. Along Lothian Road, shop fronts generally project beyond the building line to the heel of the pavement. On the Victorian streets, the tenements come down on the heel of the pavement, but Castle Terrace, Cambridge Street and Cornwall all have their buildings set back, with either small front gardens or basement areas. The application site on the corner of Cambridge Street and Castle Terrace is accessed via a private locked gate and steps descending into its own private basement area/courtyard.
- 2.1.9 A photo-study has been undertaken of the application site and the local area. See Appendix 1. The key issues to note from the photo-study are:
1. The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential, office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.
  2. The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
  3. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
  4. The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
  5. The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.
  6. The public realm in the immediate are of the application site is of the highest quality in terms of the materials used.
  7. In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application

site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

## 2.2 Site Description

- 2.2.1 The application site is a basement flat within a four storey tenement situated on the corner of Cambridge Street and Castle Terrace. It is set back from the road with a basement area/courtyard.
- 2.2.2 The four storey tenement at 1 Cambridge Street accommodates four flats including the application site. Three flats are accessed via a main door and common stair from 1 Cambridge Street – 1F1, 2F1 and 3F1. The application site is accessed at street level from Castle Terrace via its own dedicated gate and steps descending to basement level. Access via the gate is for the sole use of the application site. The gate is locked and accessed by a keypad. The basement area/courtyard is for the exclusive use of the application site.
- 2.2.3 The direct access to the application site from the street means that there would not be direct interaction between the short-term occupants and those longer-term residents in the flats in the main tenement accessed from a common main door at 1 Cambridge Street.
- 2.2.4 The application site comprises an entrance hall leading to a living/dining room, kitchen, master bedroom, shower room and study/bed. There is also the outside basement area/courtyard providing access to a cellar. The approximate gross internal floor area of the basement flat is 78 sqm. The gross internal floor area of the cellar is approximately 7.7 sqm. See Figure 3.

Figure 3 Floorplan of application site



- 2.2.5 Parking is on-street within a parking controlled area. There is a multi-storey NCP car park opposite the application site on Castle Terrace.

## **2.3 Site History**

- 2.3.1 The application site has no relevant planning application history.

## 3 Proposed Development

### 3.1 Introduction

- 3.1.1 This section outlines the ‘retrospective’ proposed development in terms of the change of use of the flat (sui generis) to a short-term let (sui generis) at the application site.

### 3.2 Background

- 3.2.1 The application site was acquired by Craigiebrook Ltd c/o FKMCV in 2020. Following substantial internal redecoration it was subsequently let as a short-term rental property in September 2021 providing visitor accommodation – ‘secondary letting’ where the host is letting premises which are not their own home.

### 3.3 Short-term Let

- 3.3.1 The application site has been let on a short-term commercial basis for approximately seven months and is advertised on its own exclusive website – The Matisse Suite [www.edinburghluxuryapartment.com](http://www.edinburghluxuryapartment.com) It has been inspected and selected by Alastair Sawday’s travel publishing.
- 3.3.2 The terms upon which the application site is let on a short-term commercial basis is detailed on the website. The key points to note include the following:
- The apartment is designed as a 1-bedroom plus study/bed 2/3 guest accommodation;
  - Check-in at 4pm and check-out at 11am;
  - The minimum age of the lead guest is over 30 years old;
  - Stag/hen or stage events are not accepted;
  - The property is not set up to accommodate children of any age; and
  - Smoking is not allowed within the apartment.
- 3.3.3 The limited number of occupants and the strict parameters for occupation ensures that large parties and anti-social occupants are excluded. Cleaning and servicing of the apartment is undertaken by a private independent cleaning business arranged by the owner on the change of occupancy.
- 3.3.4 The pattern of activity in this particular property, with its own private access and basement area/courtyard, letting periods and limiting letting to 2/3 persons at any one time (the majority of guests are couples), as well as the other aforementioned parameters for occupation, results in no greater impact on the

residential character of the tenement and mixed use amenity of the area than the original use as a flat.

## 4 Policy Context

### 4.1 Development Plan

- 4.1.1 The relevant statutory development plan for the application site is the Edinburgh Local Development Plan 2016 adopted in November 2016. The application site is identified as being within the urban area and the West End Conservation Area in the adopted plan.

#### Relevant policies of the Local Development Plan

- 4.1.2 The relevant development plan is the adopted Edinburgh Local Development Plan (November 2016) (ELDP). The relevant policies of the ELDP are:
- LDP Policy Env 1 World Heritage Sites;
  - LDP Policy Env 4 Listed Buildings - Alterations and Extensions;
  - LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area;
  - LDP Policy Del 2 City Centre sets criteria for assessing development in the city centre;
  - LDP Policy Hou 7 Inappropriate Uses in Residential Areas establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

#### Relevant Non-Statutory Guidelines

##### Non-statutory guidelines

- 4.1.3 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements. Of relevance to this application, this non-statutory guidance states that the Council will not normally grant planning permission in respect of flatted properties where the potential impact on residential amenity is greatest where there is a communal entrance lobby. This is often taken to relate to the impact arising from the intense use of communal entrance halls or from noise generated on upper floors, neither of which circumstance applies to this case.
- 4.1.4 The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential and commercial buildings. The external ambient noise in such a mixed use city centre location will mitigate any potential impact on residential amenity of short-term letting.

## **4.1 Material Considerations**

- 4.1.1 Within a conservation area the requirements of Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 apply, namely that there is a statutory duty to give special attention to the preservation and enhancement of the character or appearance of the conservation area.

### **Relevant Non-Statutory Guidelines**

- 4.1.2 Non-statutory guidelines 'Listed Buildings and Conservation Areas' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.
- 4.1.3 Non-statutory guidelines 'Guidance for Householders' (April 2017) provides guidance for proposals to alter or extend houses or flats.
- 4.1.4 No physical external or internal works are proposed to the application site as part of this application for the change of use of the flat (sui generis) to short-term let (sui generis).

## **4.2 Summary**

- 4.2.1 Overall, the proposed development must demonstrate that it is consistent with the development plan, and that there are no material considerations that indicate it should nonetheless be refused. By achieving this, the proposed development should be granted permission.
- 4.2.2 The next section assesses the proposed development in terms of the key determining issues and material considerations.

## 5 Determining Issues and Material Considerations

### 5.1 Determining Issues

- 5.1.1 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.
- 5.1.2 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
- Do the proposals comply with the development plan?
  - If the proposals do comply with the development plan, are there any compelling reasons for not approving them?
  - If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

### 5.2 Assessment

- 5.2.1 To address these determining issues, we will need to consider whether:
- a) The proposal is acceptable in principle;
  - b) The proposal preserves the listed building and its setting;
  - c) The proposal preserves or enhances the special character or appearance of the conservation area;
  - d) The proposal impacts on the World Heritage Site; and
  - e) Any impacts on equalities or human rights are acceptable.

#### a) Principle of development

- 5.2.2 **Policy Del 2** states that development which lies within the area of the City Centre will be permitted which retains and enhances its character, attractiveness, vitality and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city.
- 5.2.3 The proposals would provide improved visitor facilities in an area of the city centre which is dominated by mixed uses and other visitor attractions. It is in a highly accessible location for visitors, close to bus routes, the trams, and to the airport bus route. It complies with **Policy Del 2**.

- 5.2.4 However, the main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SSCVA) lets is LDP **Policy Hou 7** (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted. There are no policies relating specifically to the control of short stay commercial visitor accommodation (SSCVA) in the current LDP.
- 5.2.5 The non-statutory **Guidance for Businesses** states that an assessment of a change of use of dwellings to SSCVA will have regard to:
- The character of the new use and of the wider area;
  - The size of the property;
  - The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and
  - The nature and character of any services provided.
- 5.2.6 In connection to short-term lets it states - *"The Council will not normally grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest"*.
- 5.2.7 There has been a number of appeal decisions which have helped to assess whether short stay visitor accommodation is acceptable or not. These appeals are material planning considerations. The main determining issues in these cases relate to the following:
- The location of the property and, in particular, whether it is part of a common stair shared by residents. Typically, appeals are successful where the property has its own private access;
  - The frequency of movement and likely disturbance for neighbours, and whether this is likely to be more than a full-time tenant occupying the flat. Generally, the smaller the flat the less likelihood of disturbance to neighbours;
  - The impact on the character of the neighbourhood. Again, this often relates to the size of the property and whether anyone renting it for a few days is likely to shop or use local services any differently from a long-term tenant;
  - The nature of the locality and whether the property is located within an area of activity, such as being on a busy road or near shops and other commercial services. As such, residents would be accustomed to some degree of ambient noise/ disturbance.
- 5.2.8 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 SSCVA properties, the economic benefits are a material planning consideration.

- 5.2.9 In this case, the property was a one-bedroom flat (sui generis) and the change to a one-bed short-term let (sui generis) will have no material impact on any nearby residential properties. The property has its own private on-street access and basement area/courtyard.
- 5.2.10 The retention in capacity of occupancy – one bed flat to one bed short-term let - means that there will be little change in how nearby services are used. In addition, there is no car parking so this will not change from the situation when used as a flat.
- 5.2.11 The current parameters for letting the property, and the evidence of the nature of the operation over the past seven months, demonstrates that the short-term commercial residential letting does not involve a greater level of noise generation and potential for increased disturbance to surrounding residents than retaining the property as a flat. Also, to date there have been no complaints specifically about undue noise arising from the use of the application site for short-term let over the last seven months.
- 5.2.12 The application site is a self-contained basement flat with its own main door access via a private locked gate with direct street access on to Castle Terrace. The basement area/courtyard is also for the sole use of the application site. Unlike other flats with a communal entrance hall there would be no undue disturbance arising from visitors using the entrance.
- 5.2.13 The impact on the established mixed use character of the area depends on the scale of activity and on the likely impact on the environment. Cambridge Street and the local area is a mixed use area of residential, office, commercial, theatre, restaurants and pubs. It has a mixed residential population including longer term residents, and a number of pedestrians moving both through and around the local area for work, living and leisure – Saltire Court office development, office/commercial uses in tenements, Usher Hall and the Traverse Theatre, and restaurants, cafes and pubs along Lothian Road, the Grassmarket and neighbouring streets. Whilst it is relatively quiet compared to the city centre it has a lively inner-city character with a constant background level of activity. In that context we consider that any potential increased activity associated with short term commercial letting would be negligible, and in this instance would have no noticeable impact on the mixed use character of the area.
- 5.2.14 The proposal complies with **Policies Del 2 and Hou 7**.

#### **b) Impact on Listed Building**

- 5.2.15 Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

*"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of*

*preserving the building or its setting or any features of special architectural or historic interest which it possesses"*

- 5.2.16 Historic Environment Scotland's (HES) Guidance Notes on Managing Change in the Historic Environment set out the principles for alterations to listed buildings including physical alterations.
- 5.2.17 LDP **Policy Env 4**, Listed Buildings - Alterations and Extensions, permits alterations to listed buildings when they are justified, in keeping with its character and can be undertaken without damage to historic structures or diminution of interest.
- 5.2.18 The change of use proposed will not result in any physical changes to the interior or exterior of the building, which if so, may necessitate other planning permissions/consents in their own right.
- 5.2.19 The proposal complies with LDP **Policy Env 4** and Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 and HES Managing Change guidance.

### **c) Conservation Area**

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

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

- 5.2.21 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.
- 5.2.22 The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential and commercial buildings. The external ambient noise in such a mixed use city centre location will mitigate any potential impact on residential amenity of short-term letting.
- 5.2.23 The change of use proposed will not result in any physical changes to the interior or exterior of the building. The change of use from a flat (sui generis) to a short-term let (sui generis) will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.
- 5.2.24 The proposal complies with LDP **Policy Env 6**.

#### d) World Heritage Site

- 5.2.25 **LDP Policy Env 1** states development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.
- 5.2.26 The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

- 5.2.27 The proposals involve the change from flat (sui generis) to short term let (sui generis). There will be no impact on the reasons for inscription of the WHS. It complies with **Policy Env 1**.

#### e) Impacts on Equalities or Human Rights

- 5.2.28 This application was assessed in terms of equalities and human rights. No impacts were identified.

## **6 Conclusion**

### **6.1 Conclusion**

- 6.1.1 The proposals comply with the Local Development Plan. The proposed change of use to short term letting will not adversely impact on residential amenity; the proposed development would not result in a level of increased noise and disturbance which would be detrimental to the residential amenity of surrounding residents. It will preserve the character and appearance of the conservation area. It is compatible with the mixed-use character of the area. There are no material considerations which outweigh this conclusion.
- 6.1.2 We therefore conclude, for the reasons set out above, that the proposal therefore accords overall with the relevant provisions of the development plan, and there are no other material considerations which would still justify refusing to grant planning permission.
- 6.1.3 The City of Edinburgh Council is therefore respectfully requested to support this application and recommend the granting of permission subject to conditions.

## **Appendices** *(separately attached)*

### **Appendix 1** Photo-study



**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

## **Appendix 1 – Photo-study**

**Change of Use from a Flat (sui generis) to Short-term  
Let (sui generis) (retrospective)**

**at**

**1A Cambridge Street, Edinburgh EH1 2DY**

**on behalf of**

**Craigiebrook Ltd c/o FKMCV**

***March 2022***



**STEFANO SMITH PLANNING**

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

## Document Control Sheet

**Project Name:** COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

**Project Ref:** C/5550

**Report Title:** Appendix 1 Photo-study

**Doc Ref:** C/5550

**Date:** 28<sup>th</sup> March 2022

	Name	Position	Signature	Date
<b>Prepared by:</b>	Stefano Smith	Director		28 <sup>th</sup> March 2022
<b>Reviewed by:</b>	Stefano Smith	Director		28 <sup>th</sup> March 2022
<b>Approved by:</b>	Stefano Smith	Director		28 <sup>th</sup> March 2022
<b>For and on behalf of Stefano Smith Planning</b>				

Revision	Date	Description	Prepared	Reviewed	Approved
1	30 <sup>th</sup> March 2022	Final	SS	SS	SS

Stefano Smith Planning disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Stefano Smith Planning accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

## Contents

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
1.1	Background.....	1
1.2	Structure .....	1
1.3	Key Findings .....	1
<b>2</b>	<b>Photo-study.....</b>	<b>1</b>

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# 1 Introduction

## 1.1 Background

- 1.1.1 This Photo-study has been prepared by Stefano Smith Planning ('the agent') in support of a retrospective planning application for the change of use of the flat (sui generis) to short-term let (sui generis) ('proposed development') at 1A Cambridge Street, Edinburgh EH1 2DY ('application site') on behalf of Craigiebrook Ltd c/o FKMCV (the applicant').

## 1.2 Structure

- 1.2.1 This Photo-study provides the visual context of the proposed development in the established mixed-use area of this part of the West End Conservation Area. It also identifies examples of change of use to short-term lets within the immediate area and adjacent conservation area – New Town Conservation Area.

## 1.3 Key Findings

- 1.3.1 The following key findings should be noted from the photo-study:
1. The surrounding area of the application site is characterised by mixed use. The character of the local area is one of an established mixed use, including residential, office, commercial, theatre, cafes, pubs and restaurants. It is the vibrant hub of the city region and an important tourist destination in the shadow of Edinburgh Castle.
  2. The West End Conservation Area lies wholly within a mixed activities zone where the emphasis is on promoting an appropriate mix of activities which contribute to local character and vitality.
  3. New development from the late 1980s onward has been of some quality, including Saltire Court and the Traverse Theatre on Castle Terrace and Cambridge Street respectively.
  4. The 1980s and 90s saw considerable development occurring in the conservation area. The vacant site on Castle Terrace, left after the demolition of Gowans' winter garden in the 1960s, was developed as an office building (Saltire Court) with the Traverse Theatre relocated on Cambridge Street behind the Usher Hall. The conversion of Lothian Road Church in 1981 to the Edinburgh Filmhouse reinforced the cultural hub surrounding the Usher Hall – all within 5-minute walking distance of the application site.
  5. The top deck of the multi storey car park on Castle Terrace, diagonally opposite the application site, forms a ten-metre wide pavement to Castle Terrace, facing Saltire Court. A footway maintenance and planting scheme has greatly improved this space.

6. The public realm in the immediate are of the application site is of the highest quality in terms of the materials used.
7. In terms of townscape, building lines vary within the conservation area. Castle Terrace, Cambridge Street and Cornwall all have their building set back, with either small front gardens or basement areas. The application site is located in a basement area with its own dedicated gate access from street level on the corner of Cambridge Street and Castle Terrace.

## 2 Photo-study

### Photo 1 – Established mixed-use area of the West End Conservation Area: Castle Terrace & Lothian Road



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

**Photo 2 – Established mixed-use area of the West End Conservation Area: Castle Terrace**



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

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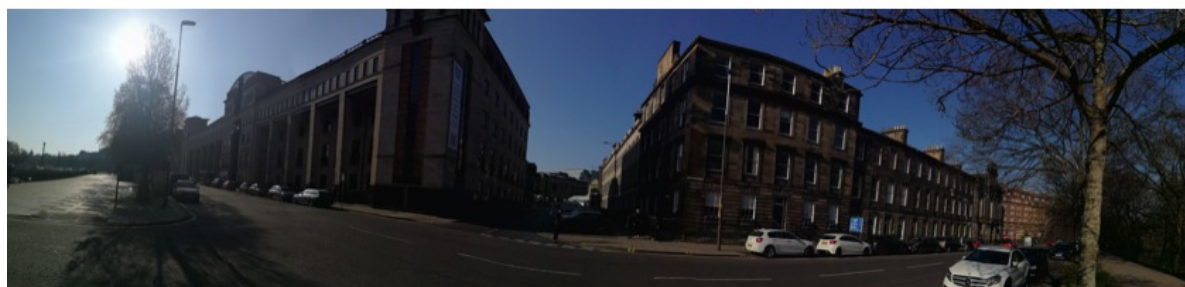
**Photo 3 – Established mixed-use area of the West End Conservation  
Area: Castle Terrace & Cambridge Street**



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

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**Photo 4 – View of application site: corner of Cambridge Street & Castle Terrace**



**Photo 5 – View of application site: corner of Cambridge Street & Castle Terrace**



**Photo 6 – View opposite the application site towards Edinburgh Castle**



**Photo 7 – View of the 4-storey tenement at 1 Cambridge Street in which the application site is located at basement level**



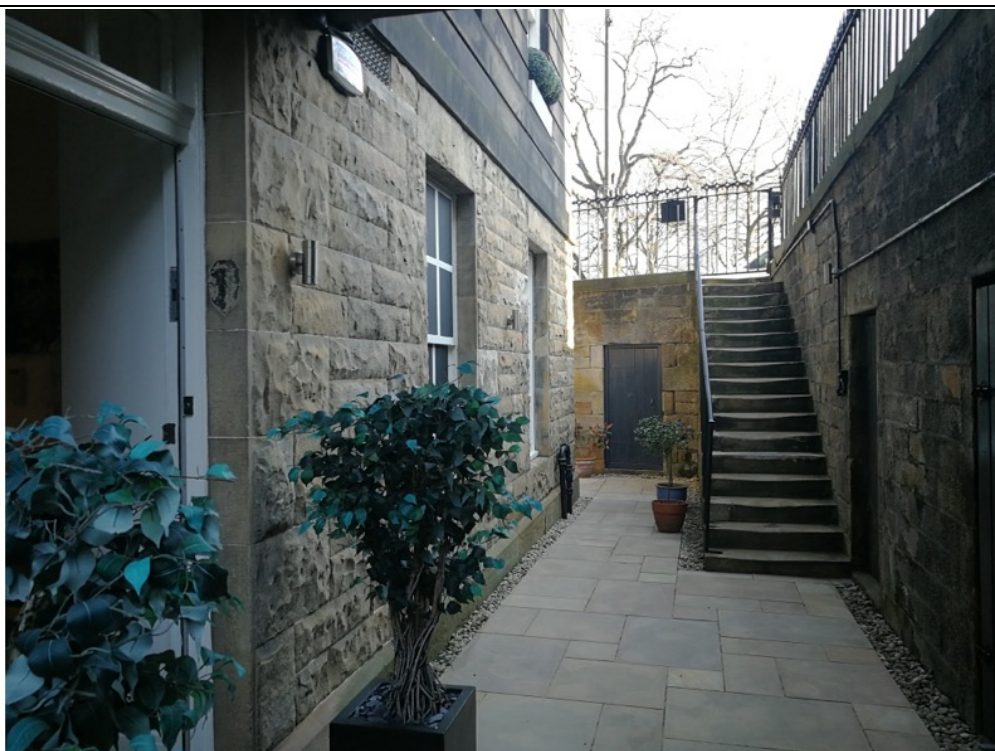
Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A  
Cambridge Street, Edinburgh EH1 2DY

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**Photo 8 – Dedicated controlled gate access to the application basement flat with main door access**



**Photo 9 – View of the application site from basement level**



**Photo 10 – View of the application site from basement level**



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 1A Cambridge Street, Edinburgh EH1 2DY

## Photo 11 – Existing short-term lets in the local area: Castle Street



# Report of Handling

**Application for Planning Permission**  
**1A Cambridge Street, Edinburgh, EH1 2DY**

**Proposal: Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).**

**Item – Local Delegated Decision**  
**Application Number – 22/01652/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 at the corner of Cambridge Street and Castle Terrace. The property extends over a single floor and has an entrance hall, master bedroom, a living/dining room, kitchen, shower room and study. The property has its own main door which is accessed via a set of steps from Castle Terrace. There is a gate at the top of the steps. The property has its own private courtyard/basement area to the front.

Cambridge Street is a mix of residential and offices. The Traverse and Usher Hall theatres are located a short distance from the application site on the opposite side of

the street. The application property is in the basement of a four storey Victorian terrace. The four floors above are in residential use. The property is in the city centre, is a two-minute walk from Lothian Road which is a key thoroughfare into Princes Street and is well served by public transport.

The application site is a B listed building (ref: LB 28484: date of listing 1.1.2003).

The application site is in the World Heritage Site and the West End 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 September 2021. The application is therefore retrospective.

### **Supporting Information**

Planning Statement.

### **Relevant Site History**

14/05110/FUL

1A Cambridge Street

Edinburgh

EH1 2DY

Change of use from class 4 offices to residential (flatted) and associated minor alterations.

Granted

18 February 2015

### **Other Relevant Site History**

No other relevant planning site history.

### **Consultation Engagement**

No consultations.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 11 April 2022

**Date of Advertisement:** 29 April 2022

**Date of Site Notice:** 29 April 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: Interim Guidance on the principles of listed building consent.
- Managing Change in the Historic Environment: Setting.

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

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

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

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

The proposal harms neither the listed building or its setting. It is therefore acceptable with regard to Sections 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997.

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

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

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

The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

There are no external alterations proposed and the development preserves both the character and appearance of the conservation area. The change of use from a one-bedroom domestic flat to a short-term holiday let (STL) will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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

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

### **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 policies Env 3 and Env 6.

The non-statutory Guidance for Businesses is relevant when considering policy Hou 7.

### Listed Buildings and 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

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 complies with LDP Policy Env 6.

### World Heritage Site

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

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

The use of this property as a short term let would have the potential to introduce an increased frequency of movement to the flat, and to the courtyard in front of the flat, at unsociable hours. Although it is within the city centre, the street is not an overly busy thoroughfare and ambient noise levels are relatively low, particularly in the evening. Moreover, the property is in close proximity to residential flats. The proposed one bedroom short stay use would enable two 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.

Parking is on-street within a parking controlled area. This is acceptable and there is no requirement for cycle parking for short term lets.

The proposal complies 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: 31 March 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](mailto:lesley.porteous@edinburgh.gov.uk)

## Appendix 1

### **Consultations**

No consultations undertaken.

Stefano Smith Planning.  
FAO: Stefano Smith  
58 Dean Path  
Dean Village  
Edinburgh  
EH4 3AU

Craigiebrook Ltd C/o FKMCV.  
FKMCV  
Tinwald Downs Road  
Dumfries  
DG1 3SJ

**Decision date: 25 October 2022**

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

Retrospective planning application for change of use from flat (sui generis) to short term let (sui generis).  
At 1A Cambridge Street Edinburgh EH1 2DY

**Application No: 22/01652/FUL**

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 31 March 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](mailto: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](http://www.eplanning.scot) or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email [localreviewbody@edinburgh.gov.uk](mailto:localreviewbody@edinburgh.gov.uk).

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

**1A Cambridge Street Edinburgh EH1 2DY**  
**STL COU Applications GRANTED by CEC – 2021 to 2022**

**APPENDIX 5**

Decision Date	Ref.No.	Address	Ward	Description	Principle: Policy Hou 7 (Inappropriate Uses in Residential Areas)
*01/09/2022	22/01193/FUL	34A William Street	City Centre	Change the use from residential to commercial short-term let, (in retrospect)	<p>The supporting statement states that the premises was part of a former Chinese restaurant before it was sold separately in January 2018. The premises has been used as a short-term let since. However, there is no record of planning permission for this and the use requires to be considered as a new proposal under current policies. It should also be noted that the premises does not have planning permission as a flat.</p> <p>The proposed one-bedroom short stay use would enable two related or unrelated visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than long standing residents.</p> <p>The property has the benefit of a main door access down from basement steps. While the basement steps have the potential to generate noise from luggage wheels being dragged to-and-fro, the relatively small size of the premises means that the turnover of noise would not be so significant as to impact on residential amenity. With the exception of the small basement area to access the premises, the property has no private outdoor space.</p> <p>Given the predominately commercial uses on the ground floor, daily occurrences of deliveries/vehicles, noise from cobbled road surface and proximation to nearby uses, existing residents would already be accustomed to a degree of ambience noise throughout the day and evening times. As the premises sits below an existing delicatessen and would largely be restricted to two guests staying at any one time, it is unlikely that its use as a short term let would have a materially detrimental impact on the living conditions of nearby residents in terms of noise.</p>

					<p>Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.</p> <p>It is expected that a turnover of two related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.</p> <p>There are no statutory policies on the loss of housing in the current Development Plan. The proposal complies with LDP Policy Hou 7.</p>
*6/07/2022	22/00672/FUL	35A Moray Place	City Centre	Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>Application reference 21/04512/FUL for the change of use of basement tenement flat to a short term let, was refused by the Council as the proposed use was considered contrary to LDP policy Hou 7. The reason referred to the potential for high turnover of visitors causing disturbance to residents on a quiet residential street. In addition, that the basement stair was likely to lead to noisy arrivals and departures and transient visitors may have less regard for neighbours' amenity than long standing residents.</p> <p>The report also referenced the potential for disturbance through use of external amenity space at basement level.</p> <p>The decision was overturned at appeal (ref: PPA-230-2367) with the reporter commenting on matters including the modest size of property and its external stair, the likely degree that the external space would be used and the surrounding ambient noise.</p> <p>Each case is assessed on its own merits however it is noted the characteristics of this property are similar to this basement flat at Fingal Place.</p> <p>The immediate area around the site is mainly residential in character. The property is accessed via a private staircase from street level at Moray Place.</p> <p>Visitors on arrival and departure would be in some proximity to adjacent flatted properties at ground and basement level.</p>

					<p>There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents. Use of the private external staircase may bring some noise from guests transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.</p> <p>However, 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 Street. It is considered that current vehicular use along Moray Place would bring a level of existing ambient noise to the area.</p> <p>Furthermore, the size of the unit is relatively modest, containing one bedroom, dining, kitchen and living area. It is therefore likely to be used by smaller groups such as individuals, couples or small families.</p> <p>At basement level, the property has access to a private external space to the front. It is located near to residential property windows and use of this space may bring some noise.</p> <p>However, 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.</p> <p>In light of the above, it is not anticipated that there would be any material increase in noise from potential use of this space from the lawful residential use.</p> <p>In addition, it is noted the submitted planning statement refers to the property being operational as a short term let for over nine years without complaints. Environmental Protection have confirmed they have received no noise complaints in regard to its use.</p>
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					<p>Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity.</p> <p>The proposal complies with LDP policy Hou 7.</p>
06/07/2022	22/01239/FUL	46 Cumberland Street	City Centre	Change of Use from residential to short-term let (Sui Generis) (in retrospect)	<p>In this case the property has its own access and there is no access to semi-private or communal gardens. Any outside noise conflicts will be from the road outside to the front. Cumberland Street is mainly a residential street although there are two key thoroughfares, Dundas Street and St. Stephen Street/St. Vincent Street, at either end. There is, therefore, some low level ambient background noise and activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2015. On the balance of probability, there will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.</p>
15/06/2022	22/00881/FUL	6 Rutland Court Lane	City Centre	Change of use (retrospective) from residential to short- term let apartment (Sui Generis)	<p>The supporting statement indicates that the property has been used as a short-term let since April 2019. However, there is no record of planning permission for this and the use requires be considered as a new proposal under current policies.</p> <p>The proposed two-bedroom short stay use would enable four or more related or unrelated visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is also no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than long standing residents.</p>

					<p>The property is a self-contained, lower ground floor flat on Rutland Court Lane with the benefit of a main door access from the pavement. The main door is located on the gable elevation of the existing building and its location on the lower ground floor means that the flat is isolated from other parts of the building. The property has no private outdoor space.</p> <p>The surrounding area is mainly in office use. Rutland Court Lane is accessed off Canning Street from the Western Approach Road, a high traffic area. A footbridge between Rutland Square and Conference Square overhangs the property. Directly across from the property is a modern office building. The location of the property means that it has limited interference with nearby residential uses. Therefore, given the character of the area and the size of the property with its own main door access, the frequency of guests coming and going throughout the day and evening is unlikely to result in significant disturbance to nearby residents.</p> <p>It is expected that a turnover of four or more related or unrelated visitors on a frequent basis would shop or use local services more abundantly than a long-term tenant and accordingly, would contribute more to the economy.</p> <p>Car and cycle parking is not included within the proposals, and this is acceptable. The site is within walking distance to nearby public transport and amenities.</p>
15/06/2022	22/00535/FUL	16 Robertson's Close	City Centre	Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>In this case the property has its own access and there is no outdoor amenity area. Due to the location of the property a short distance away from a key thoroughfare and in an area of mixed uses including student accommodation, retail, cafe/restaurants, entertainment and leisure uses, there is already a degree of activity. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised</p>

					that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
15/06/2022	22/00803/FUL	17 Ashley Terrace	Fountainbridge/Craiglockhart	Change of Use (retrospective) from residential to short- term let	This is a one-bedroom property suitable for two people and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets since 2018. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
15/06/2022	22/00884/FUL	78 Spring Gardens	Craigtinny/Duddingston	Change of Use (retrospective) from residential to short- term let	<p>In this case the property has its own front entrance access and no direct access to garden/communal ground. Although the property is in a predominantly residential area, it is approximately 300 metres from a main thoroughfare and an area of mixed uses including commercial and retail uses. Consequently there is already a degree of activity nearby. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. There will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.</p>
30/03/2022	21/06792/FUL	46 Patriothall	Inverleith	Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>The applications (reference: 21/03508/FUL and 21/03509/FUL) were refused by the Council as short term accommodation was considered contrary to LDP policy Hou 7 due to potential for high turnover of visitors causing disturbance to residents on a quiet residential street. The access lane being shared and noise from transient visitors may have less regard for neighbours' amenity than long standing residents.</p> <p>The decisions were overturned at appeal (ref: PPA-230-2359 and PPA-230-2359) with the reporter commenting on matters including position of the</p>

					<p>property relative to commercial uses, potential existing ambient noise and the limited number of residential properties passed to access the accommodation.</p> <p>The immediate area around the site is mainly residential in character. The property is accessed from a shared lane which connects to Hamilton Place. Visitors arriving and departing would pass the main door of one residential flatted property at 45 Patriothall.</p> <p>There is potential for a level of additional noise to be generated from the transient nature of visitors as opposed to longer term residents.</p> <p>There are footways along the lane, however, these narrow in part and use of the road's cobbled surface may bring some noise from transporting luggage on arrival and departure. In addition, the commercial use may result in an increase in comings and goings during evening hours.</p> <p>However, whilst the lane is primarily residential in character it is located near to the Stockbridge town centre on Hamilton Place where commercial uses are nearby. This includes a convenience store with staff parking in a courtyard area of Patriothall. In addition, an Artist Studio and Gallery near to this accessed via the lane which passes the property's main door and adjacent property. It is therefore considered that there is an existing level of ambient noise from the operation of these nearby commercial uses.</p> <p>The size of the unit is relatively small containing two bedrooms and has its own private access. Its location near to Hamilton Place minimises the level of interaction with other residential properties.</p> <p>In light of the above, whilst a level of noise is likely from guests arriving and leaving the property it is not anticipated that this gives rise to a significant disturbance to residents.</p> <p>The submitted planning statement details guests have access to the underground communal car park and rear courtyard on the rooftop above via external gates. Access to the car park is shared with other residential</p>
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					<p>properties and it is not anticipated that the commercial use results in any material increase in noise or disturbance from parking of cars.</p> <p>There is access to the communal rear courtyard, the roof of the underground car park via a staircase. The applicant has stated this area is managed by Scotmid and provides a fire exit for commercial and residential properties on Hamilton Place. There is outside seating evident and appears to be used as recreational space. It is located near to residential property windows and there is potential for its use to be a source of some noise. However, the property is relatively small scale and it does not have direct access to this area. It is therefore not anticipated that there is any material increase in noise from potential use of this space from the lawful residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not result in an unreasonable impact on residential amenity.</p> <p>The proposal complies with policy Hou 7.</p>
31/03/2022	21/06615/FUL	10A Blenheim Place	City Centre	Change of use of residential apartment to short-term let visitor accommodation	<p>In this case the property has its own access and there is a small outside area of hardstanding to the front and no garden ground to the rear. The entrance platt 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. The question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>This is a two-bedroom property suitable for four persons and the likelihood of disturbance to neighbours is low. The property is currently being used as a short term let. Whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity. The applicant has advised that the property has been used for short term lets and for visiting family members' holidays, as well as for residential use, since 2014. On the balance of</p>

					probability, there will be no adverse impact on residential amenity and the proposal complies with LDP policy Hou 7.
31/03/2022	22/00362/FUL	PF1 1 West Park Place		Change of use (retrospective) from residential to short-term let apartment (Sui Generis)	<p>The area immediately to the south of West Park Place is considered as performing an important mixed- use function as recognised in the Adopted Local Development Plan and accordingly supports relatively high-footfall uses such as retail, food and drink, and sui generis uses such as barber shops and public houses. Given this context, it is considered that the area can be characterised under the second categorisation as a more mixed-use area which nevertheless has an important residential function.</p> <p>While every application is considered on its own merits and on a case by case basis, when considering whether this use in this location is likely to result in a ‘further deterioration of living conditions’, it is perhaps instructive to compare these proposals with the application recently approved at 19 King’s Stables Lane (21/04825/FUL. Both applications relate to one-bedroom properties, without private outdoor spaces, in similarly mixed-use areas with residential functions, where both properties are close to busy, footfall generating commercial uses.</p> <p>When assessed against policy HOU7 in that instance, when taking into account both the size constraints of the property, and the character of the property’s environs, the Planning Officer’s Report of Handling noted the following:</p> <p><i>(Noting the mixed-use character of the area)... “The key issue is that this is a one-bedroom property suitable for two persons and the likelihood of disturbance to neighbours is low. Space inside the unit is limited and whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours’ amenity. On the balance of probability there will be no adverse impact on residential amenity and LDP policy Hou 7 is complied with”. (KSL)</i></p> <p>When assessed against the tests in policy HOU7, the property at West Park Place is also likely to have a similarly negligible impact on its qualifying interests, given living conditions for nearby residents are already largely dictated by the nearby presence of Dalry Road and the range of uses it supports. Moreover, the stringent management controls already in place for</p>

					<p>this property, coupled with its excellent location for its use, mean that it has already been operated as a short-term let for over 8 years with no reported incidents by either the police or the Council's planning enforcement team. This is considered useful as highlighting how no '<i>materially detrimental effect</i>' is being occasioned on the living conditions of nearby residents. Considering all of this in the round, it is challenging to see how the change of use sought here could be considered contrary to policy HOU7.</p>
23/02/2022	21/06621/FUL	41 Cumberland Street	City Centre	Change of use from residential to short-term let holiday apartment (in retrospect)	<p>Cumberland Street is primarily residential in character however other commercial uses are evident.</p> <p>The property has its own private access and the applicant has confirmed there is no garden ground to the front or rear.</p> <p>In terms of internal noise, the size of the unit is small, containing only one bedroom and potential impact is unlikely to be materially different from a residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity.</p> <p>The proposal complies with policy Hou 7.</p>
17/11/2021	21/04825/FUL	19 King's Stables Lane	City Centre	Retrospective change of use from residential dwelling to short-term let.	<p>In this case the property has its own access and there is no garden ground to the front or rear.</p> <p>Any potential noise conflicts will be from the lane outside or from within the property. As a lane with a mix of uses, there is already a degree of activity and the question is whether the conversion of this unit to a short term let will make that materially worse and so adversely impact on residential amenity.</p> <p>The key issue is that this is a one-bedroom property suitable for two persons and the likelihood of disturbance to neighbours is low.</p>

					<p>Space inside the unit is limited and whilst any planning permission cannot be conditioned in terms of number of occupants, it is unlikely it will be used for large numbers of visitors which may impact on neighbours' amenity.</p> <p>On the balance of probability there will be no adverse impact on residential amenity and LDP policy Hou 7 is complied with.</p>
01/11/2021	21/03890/FUL	13 Dewar Place Lane	City Centre	Change of use to short-term letting	<p>Dewar Place Lane has a mixed character and residential use no longer predominates. In the appeal decision on 4/4A Dewar Place Lane, the Reporter acknowledged that the area surrounding the appeal site, bounded by the main thoroughfares of Morrison Street, Torphichen Place, Dewar Place and Torphichen Street, is now substantially commercial in overall character. However, there are still residential properties in the lane, including adjacent to the application property, and their amenity must be considered.</p> <p>In this case the property has its own access and there is no garden ground to the front or rear. Any potential noise conflicts will be from the lane outside or from within the property. In the appeal decision for 4/4A Dewar Place lane the Reporter stated</p> <p><i>In this case 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. This observation is material to the determination of the current application. A number of traffic movements occur in the lane with servicing of the hotels in Torphichen Street and Police Scotland West End Station with its associated vehicle parking, garaging and storage. The applicant has pointed out that this detrimental effect on the character of the lane is exacerbated by associated low quality urban paraphernalia for the hotels and offices. These include a smoking shelter, bin stores and external sheds, all located on the north side of the lane amongst the parking areas which are opposite the application premises. The conversion of this small mews property to short term lets is unlikely to further impact on residential amenity in terms of external noise and residential amenity. Any anti-social behaviour which may be associated with the use is a matter for the police.</i></p>

					<p>In terms of internal noise, the unit is small and the impact is unlikely to be any different from a residential use.</p> <p>Given the nature of the locality and the size of the unit, the change of use will not impact on residential amenity.</p> <p>The proposal complies with policies Del 2 and Hou 7.</p>
27/10/2021	21/04319/FUL	30 Castle Street	City Centre	Proposals are for commercially managed short term let studios. Reconfiguration of the internal layout	<p>In this case, the property is currently a guest house with 20 bedrooms and the change to 15 self-catering studios will have no material impact on any nearby residential properties. The property has its own access and there is no garden ground to the front or rear.</p> <p>The reduction in occupancy means there will be little change in how nearby services are used. In addition, there is no car parking so this will not change from the current situation.</p> <p>The proposal complies with policies Del 2 and Hou 7.</p>
10/09/2021	21/03226/FUL	3B Dundas Street	City Centre	Change of use of from flatted dwelling to use for short-term letting	<p>The change of use from a domestic residential flat to a short stay commercial visitor accommodation shown for a maximum of six persons would be no greater than what the existing residential flat could currently accommodate. The property has its own private access to the front. It is located on a busy thoroughfare and local residents will be used to some degree of noise and disturbance from the commercial uses and vehicles/traffic.</p> <p>The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden.</p> <p>It is acknowledged that that the flat is typical of the New Town and the rooms are spacious so more than six people could be accommodated. However, this is not something the planning authority can restrict by condition as it would not be possible to enforce. The location of the property on the street edge and the lack of rear garden means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti- social behaviour are a matter for the</p>

					<p>police and not a planning matter and there are other environmental controls available if necessary. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity.</p> <p>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 and would support the local economy.</p> <p>Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal. This also applies to any Scottish Government research which may show the links between short stay lets and reduced quality of life.</p> <p>Based on the criteria established above, the proposal complies with LDP Policy Hou 7 and is acceptable in principle.</p>
10/09/2021	21/02664/FUL	Drylaw House 32 Groathill Road North	Inverleith	Change of use of Drylaw House to short-term let visitor accommodation (Sui Generis)	<p>The property is located on a residential street. The property is detached, has large garden grounds and its own private access. The dwelling is substantial in size currently with 15 bedrooms.</p> <p>Environmental Protection was consulted on the application and it stated that it had no objections to the proposal. It stated that "<i>Short-term letting noise issues regularly comes down to how well the premises are being managed. The Applicant has advised that they would maintain a guest handbook containing robust terms and conditions, with all potential guests being vetted, and large deposits taken. They also have CCTV in the grounds to monitor for any antisocial behaviour</i>". Environmental Protection also noted that the property sits within extensive walled grounds.</p> <p>Police Scotland were also consulted as part of the assessment of the application. It stated that they would welcome the opportunity for one of their Police Architectural Liaison Officers to meet with the architect to discuss</p>

					<p>Secured by Design principles and crime prevention through environmental design in relation to the development.</p> <p>It is further acknowledged that planning permission has recently been granted for the change of use of the property from class 9 (Domestic) to class 7 (Hotel). Under this agreed use, a large number of new individuals would already be permitted 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.</p> <p>Given the above, on the balance of probability, it is unlikely that the SCVA would result in an unacceptable impact upon existing levels of residential amenity.</p> <p>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, including that of tourism, are a material planning consideration.</p> <p>The proposal is acceptable in principle and it complies with LDP policy Hou 7.</p>
11/08/2021	21/02615/FUL	41 Barony Street Edinburgh	CityCentre	Change of use from a residential property to short term commercial visitor accommodation	<p>The change of use from a domestic residential flat to a short stay commercial visitor accommodation with a maximum of four persons would be no greater than what the existing residential flat could currently accommodate.</p> <p>The property has its own private access to the front. Although located in a mainly residential street, the property is next to a small concentration of commercial and business uses at Broughton Market and local residents will be used to some degree of noise and disturbance from the uses such as vehicles/traffic.</p> <p>In addition, there are no policies which limit the number of short stay lets in a particular area so the assessment can only be based on the potential impact on</p>

					<p>residential amenity. The cumulative impact may be significant but there have been no other applications for short terms lets in Barony Street.</p> <p>The property is self-contained and there is no rear access. Any visitors/guests staying in the flat would, therefore, not come into contact with residents in the communal areas of the tenement such as the stair or garden. As a two bedroom flat, the application property can accommodate four residents and the proposed change of use to a SSCVA will also accommodate four visitors/guests. Therefore, there will be no increase in the numbers of people who can be accommodated in the flat.</p> <p>The small size of the flat (two- bedroom) and the curtilage means there is limited potential for large groups to gather. This reduces the likelihood of any anti-social behaviour arising which may disrupt neighbours. Instances of anti-social behaviour are a matter for the police and not a planning matter. Overall, although the turnover of occupants may be more frequent, it is unlikely the pattern of use of the property will be so significantly different to impact on residential amenity.</p> <p>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.</p> <p>Scottish Planning Policy does not specifically address the issue of loss of residential use to short stay visitor accommodation and cannot be cited as a reason for refusal.</p> <p>Based on the criteria established above, the proposal complies with LDP policy Hou 7 and is acceptable in principle.</p>
22/06/2021	21/01591/FUL	48 Howe Street	City Centre	Proposed change of use of flat to a short term let	<p>The use is relatively small-scale and the flat is located on a busy road in a prominent location. It has its own private access. Although it has been developed as a flat, according to the supporting statement it has not been used as such. The surrounding uses are a mixture of business, residential and</p>

					<p>commercial. The proposed introduction of this use would not detract from the aforementioned characteristics, in this instance.</p> <p>Based on the criteria established above, the proposal is acceptable in principle.</p>
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**1A Cambridge Street Edinburgh EH1 2DY**  
**STL COU Appeals ALLOWED by DPEA – 2021 to 2022**

**APPENDIX 6**

Decision Date	App.Ref.	Address	Description	Principle: Policy Hou 7 (Inappropriate Uses in Residential Areas)
13/04/2022	PPA-230-2367	1B Fingal Place, Sciennes	Change of use from a residential property to a commercial short term visitor self-catering accommodation	<p>Policy Hou 7 safeguards against developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents. The accompanying explanatory text makes clear that the policy applies to mixed use areas with an important residential function, as well as predominantly residential areas.</p> <p>The first issue before me is whether changing the flat's primary and lawful use from residential to commercial short term visitor self-catering accommodation would be acceptable in principle. Policy Hou 7 does not preclude such a use outright. The policy test for the acceptability or otherwise of the proposal should therefore principally be based on whether the use would be materially detrimental to the amenity of other residents as set out in the council's report of handling.</p> <p>According to the council, the proposed use would entail large numbers of visitors staying at the premises for a short period of time on a regular basis throughout the year. This, the council argues, would be in a manner which is dissimilar to that of permanent residents. I consider below whether any such differences would indicate that the proposed use would be incompatible with neighbouring residential uses.</p> <p>The Meadows is an area which has large pedestrian footfall comprising primarily of the students who reside in the Newington Pollock Halls, Argyle Place, Chalmers Crescent, Sciennes Road and surrounding roads. I noted that there were a mix of uses in the vicinity of the appeal site especially on Argyle Place with a variety of commercial uses on the ground floor, including bars and a yoga studio with residential uses on the upper floors. Running parallel</p>

				<p>to Fingal Place is a relatively busy A road, A700/Melville Drive which is separated from Fingal place by a road verge and pedestrian footpaths. To the north of the A700/Melville Drive is the Meadows Park which at the time of my visit was well patronised.</p> <p>I consider that given the nature of this location, the occupiers of the residential flats on Fingal Place would be accustomed to some degree of ambient noise or disturbance. On my site visit I observed that there was high background noise from the traffic and the park. I accept that the latter noise could have been as a result of the relatively warmer and sunny weather and therefore inviting to outdoors pursuits in the park opposite the appeal site. In addition, there was construction works going on a couple of doors away from the appeal property and a major demolition further down the road. Notwithstanding these unique set of circumstances, I consider that the normal background noise would be midway between what one would experience in an inner-city environment and a suburban environment. I would not characterise the area as a quiet residential area as the council has done in the report of handling.</p> <p>The building is set in the basement level and benefits from a direct access from the road. The access is obtained from an original or historic staircase formed of ten stone slab steps, leading to a small landing area on the front of the only external door. There does not appear to be concerns that noise generated from within the property causes disturbance to neighbours. The external staircase which is the only means of access to and egress from the flat is for the sole use of the occupants and is not shared with any of the adjoining flats. The area to the front is small but can be used as private amenity space.</p> <p>The council is concerned that the external area at the bottom of the stairs could be used as private amenity space as it provides sufficient space to accommodate a table and chairs. However, in</p>
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				<p>my opinion it is unlikely that, when presented with such an array of activities that are in the vicinity of the appeal site and more appealing outdoor amenity facilities in the form of surrounding parks which are a stone's throw away, the visitors who are only staying for a limited time would prefer to sit underneath a set of stairs, below a pavement with no views.</p> <p>Usually in considering material change of use proposals, an assessment has to be made as to the likely impact of a proposal, against the baseline of the lawful use. The appeal flat has one bedroom, one lounge, one bathroom, and is relatively modest in size. It would therefore be incapable of satisfactorily accommodating large groups of individuals and would be more suited to use by single occupants, couples or small families at the most. It is highly unlikely that for a property of this size, there would be a noticeable difference in the average daily number of occupants' movements in and out of the property between the lawful use and the proposed use. These factors in my view significantly reduce the likelihood of disturbance arising from guests whether inside, or outside the flat.</p> <p>As set out above, the flat benefits from its own external door which is accessed by a set of ten stone slab steps. Concerns have been raised in representations regarding noise of suitcases being pulled up and down the steps. There are only 10 steps, so in a worst case this would be audible for only a few seconds. General ambient noise in this area is of a level where this would not give rise to any significant disturbance affecting residential amenity.</p> <p>The council's non-statutory 'Guidance for Business' though not a development plan policy is a material consideration. The guidance states that, amongst other criteria, an assessment of a change of use to short-term letting should consider the character of the proposed use within its spatial context; pattern of use including the number of occupants; periods of use; noise and disturbance; and parking demand. With respect to flatted properties, the</p>
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				<p>guidance says that, change of use will generally only be acceptable where there is a private access from the street. The proposal satisfies this criterion. Other than the parking demand, I have addressed all these criteria in my assessment above. The council has no concerns about the parking demand arising from the proposal. Based on the relatively central location of the appeal site within easy reach of the historical and city centre of Edinburgh and its proximity to the central universities, I have no reason to take a different view.</p> <p>Given also the nature of this location, type of access arrangements, size of the property as outlined in preceding paragraphs, 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. I therefore find the proposal accords with LDP policy Hou 7.</p>
26/01/2022	PPA-230-2358	7A Jamaica Street South Lane	Change of use of dwelling to commercial short-term holiday let	<p>The appeal property occupies the lower ground floor of what is apparently a converted town house fronting onto Heriot Row. The property is accessed down a short lane passing between some garages and a residential property at 7C Jamaica Street South Lane. This lane joins onto Jamaica Street South Lane at its eastern end, close to its junction with Jamaica Street.</p> <p>Jamaica Street South Lane has a largely quiet residential character, whereas Jamaica Street contains mostly commercial uses, including a public house on the corner of Jamaica Street South Lane, studios and offices. Nearby is Howe Street, which is one of the major thoroughfares of Edinburgh's New Town. The entrance to the lane leading to the appeal property is located at the transition point between these commercial and residential areas.</p> <p>It seems most likely to me that visitors staying at 7A Jamaica Street South Lane would mainly arrive and leave the property via Jamaica Street, as this would be the quickest route to the city centre and commercial attractions of Howe Street. I would not therefore</p>

				<p>expect any noticeable increase in disturbance to the residents of Jamaica Street South Lane as a whole.</p> <p>Of some possible concern is the individual property at 7C Jamaica Street South Lane. Visitors to the appeal property must walk alongside number 7C, and directly pass its front door. The access lane is at this point paved with setts, and I note the council's concerns regarding the potential for noise disturbance from wheeled suitcases on this surface. While I accept such noise could arise at the start and end of visitors' stays, it would cause only a brief and occasional disturbance.</p> <p>I accept that the pattern of use of a commercial short term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. I note the objection from the flat above the appeal property, but overall there does not appear to have been a history of numerous complaints over the years this use has been operating. For these reasons I conclude that the proposal would be unlikely to give rise to any significant disturbance to local residents.</p> <p>I note the statement in the council's guidance that permission will not normally be granted in respect of flatted properties, but in this case, the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of</p>
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				<p>use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal.</p> <p>For the above reasons, I therefore conclude that there would be no materially detrimental effect on the amenity of nearby residents, and that the proposal complies with Policy Hou7 of the local development plan, and with the plan as a whole.</p>
26/01/2022	PPA-230-2359	7B Jamaica Street South Lane	Change of use of dwelling to commercial short-term holiday let	<p>Policy Hou7 of the plan resists changes of use that would have a materially detrimental effect on the amenity of nearby residents. The council has also issued a guidance document for businesses, which includes advice around changing residential property to short term commercial visitor accommodation. Although non-statutory, and therefore not part of the development plan, the guidance assists in the interpretation of Policy Hou7. It states that proposals will be assessed in terms of their likely impact on neighbouring residential properties, with considerations to include background noise in the area and proximity to nearby residents. The guidance goes on to resist proposals in flatted properties, which are characterised as having the greatest potential adverse impact on residential amenity. A separate section on flatted properties states that changes in the use of such properties will generally only be acceptable where there is a private access from the street.</p> <p>7. The appeal property occupies the lower ground floor of what is apparently a converted town house fronting onto Heriot Row. The property is accessed down a short lane passing between some garages and a residential property at 7C Jamaica Street South Lane. This lane joins onto Jamaica Street South Lane at its eastern end, close to its junction with Jamaica Street.</p> <p>8. Jamaica Street South Lane has a largely quiet residential character, whereas Jamaica Street contains mostly commercial uses, including a public house on the corner of Jamaica Street South Lane, studios and offices. Nearby is Howe Street, which is one of the major thoroughfares of Edinburgh's New Town. The</p>

				<p>entrance to the lane leading to the appeal property is located at the transition point between these commercial and residential areas.</p> <p>9. It seems most likely to me that visitors staying at 7B Jamaica Street South Lane would mainly arrive and leave the property via Jamaica Street, as this would be the quickest route to the city centre and commercial attractions of Howe Street. I would not therefore expect any noticeable increase in disturbance to the residents of Jamaica Street South Lane as a whole.</p> <p>10. Of some possible concern is the individual property at 7C Jamaica Street South Lane. Visitors to the appeal property must walk alongside number 7C, and directly pass its front door. The access lane is at this point paved with setts, and I note the council's concerns regarding the potential for noise disturbance from wheeled suitcases on this surface. While I accept such noise could arise at the start and end of visitors' stays, it would cause only a brief and occasional disturbance.</p> <p>I accept that the pattern of use of a commercial short term holiday let may be different from that of a permanent home. Though likely to be occupied for fewer days in the year, there may be more comings and goings when the property is let, particularly in the evening. I consider that only one property (7C Jamaica Street South Lane) has the potential to be significantly affected, but that in reality adverse impacts are unlikely to arise in this case. This is due to the transitional commercial character of the location (in particular the close proximity of a public house), which leads me to conclude that existing levels of background noise in the area are likely to be quite high. Furthermore I have not been made aware that there have been any complaints of noise or disturbance relating to this property over the years this use has been operating. For these reasons I conclude that the proposal would be</p>
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				<p>unlikely to give rise to any significant disturbance to local residents.</p> <p>12. I note the statement in the council's guidance that permission will not normally be granted in respect of flatted properties, but in this case, the property has its own front door, and as discussed above, I consider adverse impacts on residential amenity would be minimal. The separate statement in the guidance that changes of use of flats will be acceptable where there is a private access from the street would appear to offer support for the proposal.</p> <p>For the above reasons, I therefore conclude that there would be no materially detrimental effect on the amenity of nearby residents, and that the proposal complies with Policy Hou7 of the local development plan, and with the plan as a whole.</p>
24/04/2021	PPA-230-2325; PPA-230-2326; PPA-230-2327; PPA-230-2328	Flats 1, 2, and 3, no 4 Dewar Place Lane, and flat 4A Dewar Place Lane	Change of use from residential to holiday flat	<p>The appellant has offered to enter into a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997. He suggests that in order to address the possibility of potential conflict between short stay lets and residential uses within the building, he would be willing to enter into a Section 75 Agreement which firstly, would restrict the use of each of the flats in the building so that no single flat can be used for residential purposes while there are short-term letting uses within the building. Secondly, the appellant would also be willing to provide a restriction on the number of individuals which may occupy each flat at any one time, to address the council's concern that planning cannot readily control limits on occupancy. For flat 1 he suggests a restriction to 4 maximum occupants; for flat 2, which has 3 bedrooms, a maximum of 6; for flat 3, with one bedroom and a lounge bed, a maximum of 4; and for flat 4A with two bedrooms and a lounge bed, a maximum of 6 occupants. The planning obligations would be registered as a title restriction against each of the properties.</p> <p>Any such proposed agreement must meet the legal and policy tests explained in Scottish Government Planning Circular 3/2012:</p>

				<p>Planning Obligations and Good Neighbour Agreements (revised 2020) Any obligation which should more properly be contained in a condition should not be imposed via a planning obligation. Here I consider that the level of detailed control of the use of the premises is better monitored and delivered by a positive management undertaking by the owner, rather than left with the council as a planning condition which they would require to actively monitor. Further, it will give the council some assurance and influence over matters which are indeed usually difficult for the planning authority to monitor and enforce. The obligation would allow them to require the owner to comply with the terms of the agreement should any problems arise and come to the council's attention through complaints.</p> <p>In my view, both strands of the planning obligation suggested would meet the circular tests, albeit with the exclusion of the need to retain flat 4A in short-term letting use from the agreement. I regard the other suggested restrictions as necessary, because they would render the appeal proposals for flats 1-3 acceptable in planning terms, in that they would minimise conflict of uses, and prevent the use of the premises by excessive numbers of short-term tenants in anyone let. I do not consider the restriction to short term use necessary for flat 4A, because it has a separate entrance, and so if it were ever to revert to residential use, there would be much less conflict with the short-term tenants. However, the proposals to restrict the numbers using this flat should be taken up, as a measure against excessive use. In protecting residential amenity, the obligations would serve a proper planning purpose. The obligations proposed are directly related to the proposed development, and the consequences of the development. I consider the obligations tendered to be fair and reasonable in all the circumstances.</p> <p>27. I do not consider that the council would require to monitor compliance, so long as the development operated in a satisfactory manner. It would, however, give them a means of enforcement if</p>
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				<p>there were complaints or problems, and the development was found to be operating in a manner which did not comply with the obligation. In my view the planning obligation offered should be favourably considered and would result in an acceptable proposal.</p> <p>28. I therefore conclude that the proposals would not accord with the development plan, in that they would be contrary to policy HOU 7, as regards any persons who might use any of flats 1-3 in the appeal building as their main residence, when it is also used for short term lets. However, the proposals can be made acceptable if the suggested planning obligation described above was entered into. This would avoid the possibility of conflict of uses and residential disamenity through the potential use of the premises by excessive numbers of short-term tenants.</p> <p>29. I conclude that a planning obligation restricting or regulating the development or use of the land should be completed in order to protect the amenity of any persons who may otherwise come to use the building for residential use. I will accordingly defer determination of this appeal for a period of up to 8 weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 8-week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office.</p>
30/01/2020	PPA-230-2290	9 Briery Bauks, Edinburgh	Change of use from residential to commercial short term residential let	<p>It is the contention of the appellant that the pattern of activity in this particular property, with its own private access and garden, three day letting periods, and limiting letting to 5 persons at any one time has no greater impact on the residential character and amenity of the area than the previous use of the property for student accommodation. He asserts that such is the negligible degree of change with respect to the use of the property and any potential impact on the residential character of the area or</p>

				<p>amenity of nearby residents that a material change of use has not occurred. The proposal is not therefore, in his view, contrary to the criteria set out in Policy HOU7 of the local development plan.</p> <p>The council accept that the appeal property has direct access from the street and that there would not be direct interaction between the short-term occupants and those longer- term residents of the surrounding residential properties. They consider however, that short term lets, by their very nature, result in a turnover of occupants, frequent comings and goings during the day, which together with the meet and greet, servicing and cleaning of the property all create a level of disturbance in excess of what may be regarded as normal in a residential street. This, in their view, would be detrimental to the established residential character of the area and to residential amenity, contrary to policy HOU7 of the ELDP.</p> <p>There are two separate considerations here. The first is the appellant's assertion that the use does not require planning permission and the second whether the permission sought would be contrary to the local development plan. Regarding the first of these, whether planning permission is needed, is not a matter before me. There are other procedures to establish existing use. What is before me is an application to establish such use by way of a planning permission.</p> <p>The current residential classification for the appeal property is a single use (sui generis). There are not therefore a range of different uses encompassed within that definition. Whether short-term letting represents a material change of use has been determined by the courts to be a matter of fact and the degree of impact on residential amenity. The applicable planning policy is ELDP Policy HOU7. The only further guidance regarding the implementation of this development plan policy comes from the council's non- statutory Guidance for Business which states that the Council will not normally grant planning permission in respect</p>
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				<p>of flatted properties where the potential impact on residential amenity is greatest or where there is a communal entrance lobby. This is often taken to relate to the impact arising from the intense use of communal entrance halls or from noise generated on upper floors neither of which circumstance applies in this case. The council also notes recent appeal decisions where decisions to grant permission for short-term letting have taken into consideration the external ambient noise in busy city centre locations when reaching a conclusion on the impact on residential amenity of short-term letting.</p> <p>There is no doubt in my mind that short term commercial residential letting inherently involves a greater level of noise generation and the potential for increased disturbance to surrounding residents than long-term letting or other forms of residential tenure. As the council notes the minimum three-night stay could result in a turnover of occupants 120 times a year with a constant supply of new residents with no inherent reason to respect the character of their locality. Whilst I accept that in the current letting pattern this is very much a maximum it would in all probability result in a level of noise and disturbance above the more usual residential six-month tenure for rented properties.</p> <p>Secondly the dwelling concerned is a terrace property with its own entrance directly onto the street, parking provision and a secluded rear garden area well screened from surrounding properties. Unlike a flat with a communal entrance hall there would be no undue disturbance arising from a stream of strangers using the entrance. The occupation of a three-bedroom house by a maximum of five people would not be an abnormal occupation. I am also mindful however that there are presently no controls or reasonable planning conditions which could limit the rate of turnover or the maximum number of occupants to that currently applied by the appellant. I note from the council's submitted reports that there have to date been no complaints specifically about undue noise arising from the use over the last year. The</p>
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				<p>complaint which initiated the planning investigation and pending enforcement action related solely to the lack of planning permission.</p> <p>I therefore conclude that the increased activity currently associated with short-term letting is not likely to result in undue noise and disturbance detrimental to the surrounding residents. Any increase in the number of occupants beyond what may be regarded as normal for this property, or undue increase in the frequency of changeover could however result in undue disturbance. The council have not suggested planning conditions to control the occupation level or frequency of changeover, but I consider these necessary to make the proposal acceptable. Excessive noise generated by occupant's anti-social behaviour would be controlled under other legislation.</p> <p>Finally, the impact on the residential character of the area depends on the scale of activity and on the likely impact on the environment. Briery Bauks is a residential street, a mixture of terraced houses and apartment buildings. It has a mixed residential population including longer term residents, student accommodation and quite a number of pedestrians moving both through and around the development to reach the main road, Pleasance (approximately 100 metres), with its mix of cafes and bars. Whilst it is relatively quiet compared to the city centre it has a lively inner-city character with a constant background level of activity. In that context I consider that the increased activity associated with short term commercial letting would not in this instance have a noticeable impact on the residential character of the area.</p> <p>I therefore conclude, for the reasons set out above, that the proposed development would not result in a level of increased noise and disturbance which would be detrimental to the residential amenity of surrounding residents. The proposal therefore accords overall with the relevant provisions of the</p>
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				development plan and there are no other material considerations which would still justify refusing to grant planning permission. I therefore grant consent.
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