

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

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

Thank you for completing this application form:

ONLINE REFERENCE 100615000-001

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" value="Ms"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Blaiket Mains"/>
First Name: *	<input type="text" value="Lindsay"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Callandar"/>	Address 1 (Street): *	<input type="text" value="Crocketford Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
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="DG2 8QW"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

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="44 JORDAN LANE"/>
Address 2:	<input type="text" value="NEWBATTLE"/>
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="EH10 4QX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="671140"/>	Easting	<input type="text" value="324616"/>
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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 44 Jordan Lane, Edinburgh EH10 4QX

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 7 Surroundings); Appendix 2 (Documents submitted with Application 22/02875/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); and Appendix 7 (LRB Appeal Documents & Decision: 26 Barony Street Edinburgh).

Application Details

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

22/02875/FUL

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

31/05/2022

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: 24/01/2023



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

44 Jordan Lane Edinburgh EH10 4QX

On behalf of

Ms Lindsay Callandar

Application No.22/02875/FUL

January 2023



STEFANO SMITH PLANNING

CREATIVE | COLLABORATIVE | COMMITTED

Prepared by **Stefano Smith Planning**

Project Ref: D/5550/1 | Rev: AA | Date: January 2023

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Document Control Sheet

Project Name: 44 Jordan Lane Edinburgh EH10 4QX

Project Ref: D/5550/1

Report Title: Planning Statement in Support of Notice of Review

Doc Ref: D/5550/1

Date: January 2023

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

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.

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Appendices

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/02875/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
- Appendix 7** LRB Appeal Documents & Decision: 26 Barony Street Edinburgh

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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 24th 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 Ms Lindsay Callandar ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 44 Jordan Lane Edinburgh EH10 4QX ('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;
- Morningside 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 flat on Jordan Lane lies centrally within the town centre/neighbourhood of Morningside Edinburgh, 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 44 Jordan Lane, Edinburgh appropriately located in a town centre/neighbourhood 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 Jordan Lane 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 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.

In relation to access to the rear communal garden from the appeal property the proposed mitigation is outlined below:

- The back door to the property at 44 Jordan Lane will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunders Street, where the Reporter did not agree with the Council's general view that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application;
- It is the appellants view here that the Saunders Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real

Planning Statement in Support of Notice of Review – 44 Jordan Lane Edinburgh EH10 4QX

adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 44 Jordan Lane as delivering a simple and workable way to safeguard living conditions.

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

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 the 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 44 Jordan Lane, Edinburgh.

1 Introduction

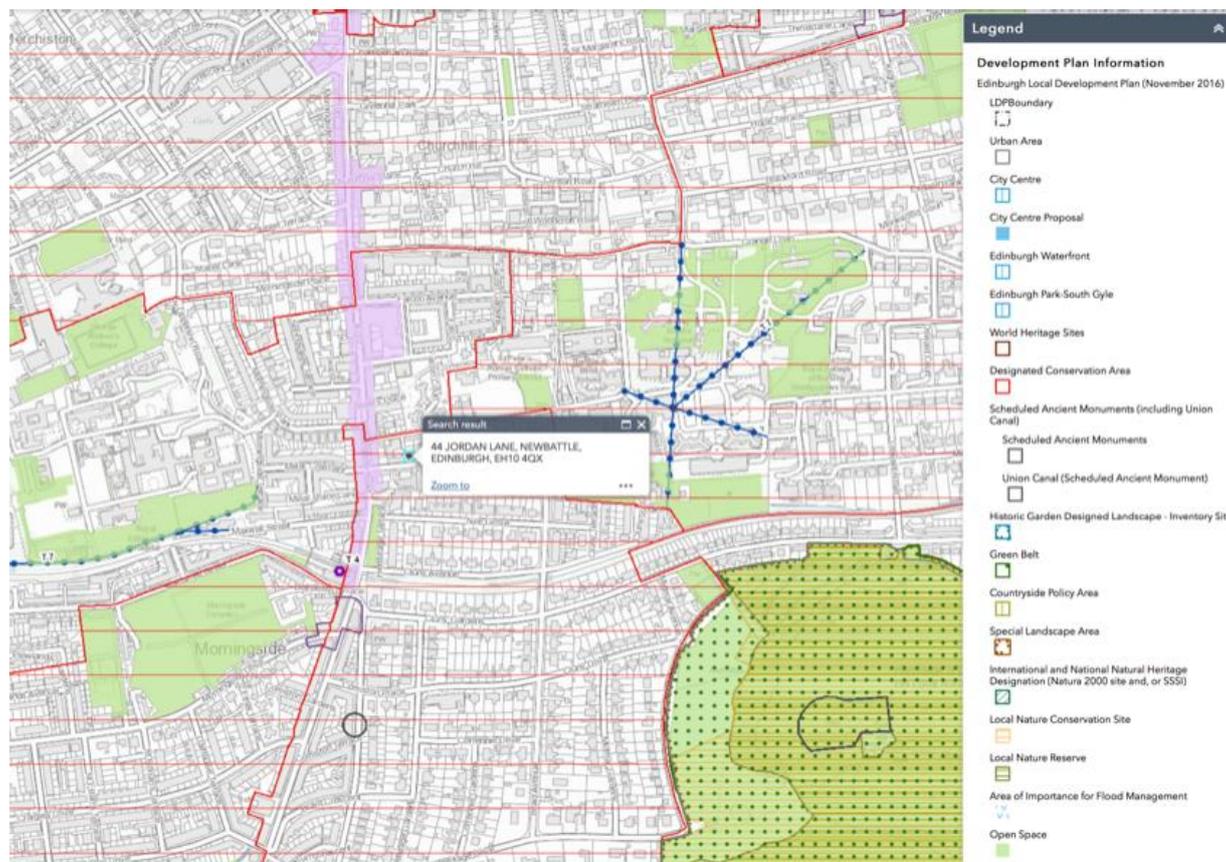
1.1 Background

- 1.1.1 This Planning Statement is in support of a Notice of Review submitted to City of Edinburgh Council ('the Council') on the 24th 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 Ms Lindsay Callandar ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 44 Jordan Lane Edinburgh EH10 4QX ('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;
 - Morningside Conservation Area Appraisal;
 - Public representations; and
 - Any other identified material considerations (e.g. economic benefit, applications and appeals).

Site Description

- 1.1.5 The application property is a self-contained one-bed apartment set within the ground floor of a four-storey Victorian tenement at 44 Jordan Lane, Morningside. The property has its own main access door on to Jordan Lane. It has direct access to a communal garden from the kitchen to the rear.
- 1.1.6 Jordan Lane is predominantly residential. The immediate surrounding area contains a mix of uses including shops, cafes, restaurants and bars. The property is a two-minute walk from Morningside Road which is a key thoroughfare into the city centre and an important bus route. The property is very close to the town centre of Bruntsfield/Morningside as identified in the Local Development Plan (LDP) 2016. The application site is located in the Morningside Conservation Area. See Figures 1 to 3.

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



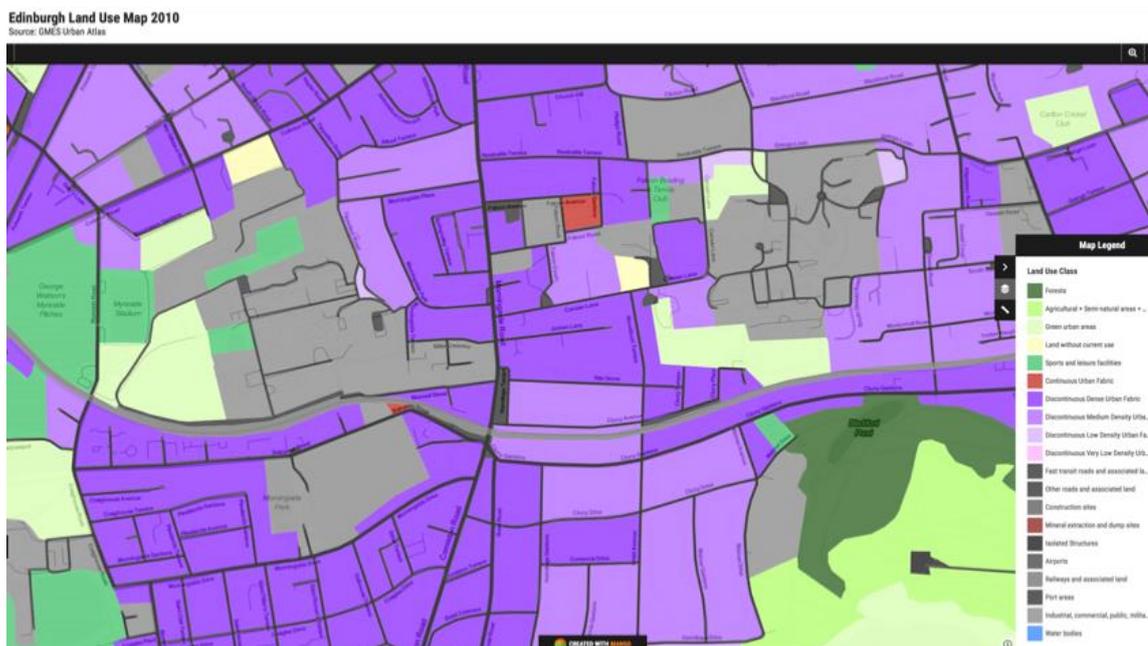
- 1.1.7 The application property is a self-contained one-bed apartment set within the ground floor of a four-storey Victorian tenement at 44 Jordan Lane, Morningside. The property has its own main access door on to Jordan Lane. It has direct access to a communal garden from the kitchen to the rear. See Appendix 1.

Planning Statement in Support of Notice of Review – 44 Jordan Lane Edinburgh EH10 4QX

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 No relevant site history.

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 44 Jordan Lane, Edinburgh was validated by the Council on the 31st May 2022 (App.No.22/02875/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 24th June 2022. The neighbour consultation period ended on the 25th October 2022. The application received two representations of objection from neighbours. No representations received from consultees.
- 1.2.3 The Council's Decision Notice was decided by Local Delegated Decision and issued on the 25th 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 24th January 2023, and the Notice of Review has been duly submitted within that period, that is, on the 24th 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

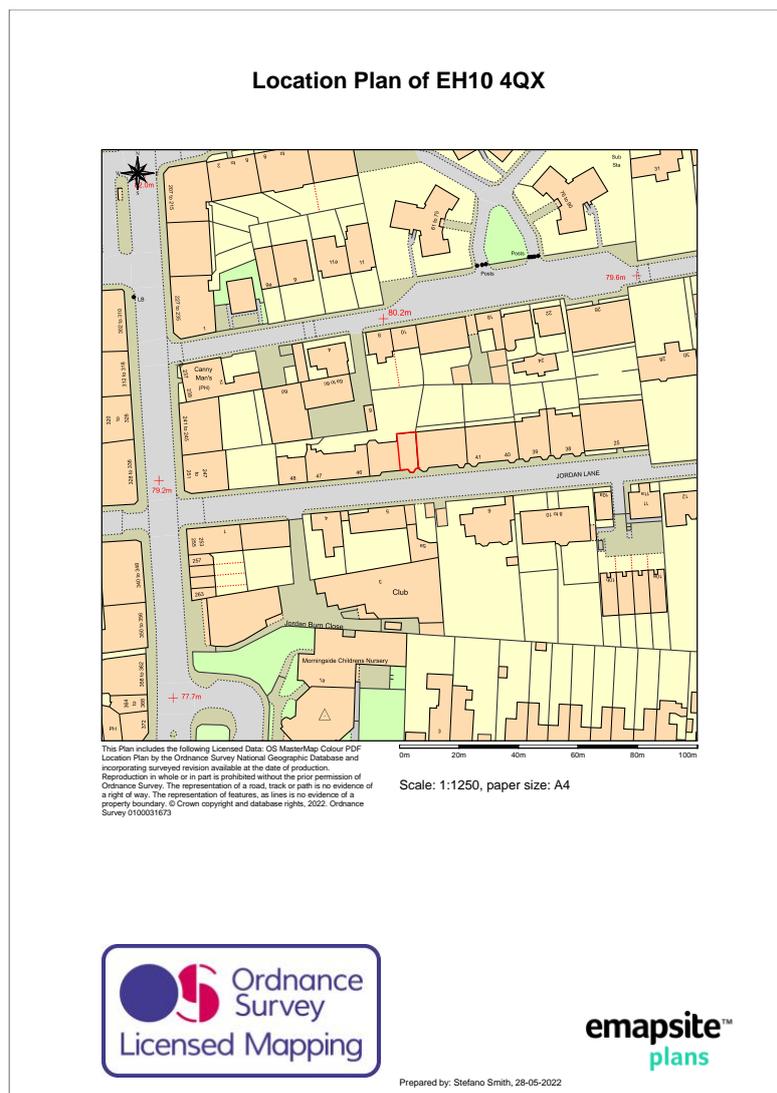
2 Context of Proposal

2.1 Property Description and Surroundings

Site Surroundings & Context

- 2.1.1 The application site is located approximately 4.5kms (3 miles) to the south of the city centre within the Morningside/Bruntsfield town centre. The City By-pass can be accessed within approximately 1.5kms (1 mile) of the property.
- 2.1.2 There are excellent shopping facilities located at Morningside Road including a Waitrose superstore and a wide choice of small specialist shopping, along with the usual variety of banks, building societies and a post office. Sporting and recreational facilities close by include the Braidburn Valley Park, Hermitage Park, Blackford Hills, Craiglockhart Sports Centre and a variety of golf courses including the Braid Hills Golf Course.
- 2.1.3 A frequent public transport system offers regular services to most parts of the City. See Figures 1 to 4.

Figure 4 Site Location



- 2.1.4 44 Jordan Lane, Edinburgh ('application site') is located within the **Morningside Conservation Area**. It is not a Listed Building. See Figure 5. The Morningside Conservation Area lies to the south of The Grange Conservation Area and was originally designated in 1996. The conservation area is situated some 4kms from the City centre.
- 2.1.5 The northern boundary of the conservation area zig zags between Jordan Lane and Canaan Lane. In this small area there is a small eclectic mix of buildings and periods, ranging over vernacular single storey buildings, to Georgian detached buildings and Victorian tenements. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
- 2.1.6 Residential uses predominate throughout the conservation area, producing a Victorian environment of high quality and high amenity. This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.

Figure 5 Morningside Conservation Area Boundary



2.1.7 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 application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
2. Jordan Lane is essentially a residential street, but the immediate surrounding area is characterised by mixed use.
3. The character of the local area is one of an established mixed use, including residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
4. Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage and The Ball Room Sports Bar in close proximity to the application site.
5. Jordan Lane is accessed to the west from Morningside Road which is the primary north-south route through the area, and acts as the main shopping street for the area.
6. To the east of Jordan Lane is a dead-end leading to residential properties at 20 Jordan Lane (Helen's Place) and Jordan House.
7. Jordan Lane is a controlled parking area with on-street parking.
8. A frequent public transport system offers regular services to most parts of the City.

Property Description

- 2.1.8 The property is a main-door flat, situated in the prime residential area of Morningside, located approximately 4.5 kms (3 miles) south of Princes Street. See Figure 3.
- 2.1.9 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 45 Jordan Lane.
- 2.1.10 The accommodation comprises: an entrance vestibule, hall, bay-windowed sitting room, dining kitchen with utility room off, double bedroom, large boxroom, and bathroom. The property further benefits from access to a well-maintained communal garden to the rear from the kitchen.
- 2.1.11 The approximate gross internal floor area of the flat is 75.5 sqm. See Figure 6.
- 2.1.12 The car parking on Jordan Lane is mainly on-street within a parking-controlled zone – permit holders only. However, there are a small number of pay and display spaces in the surrounding streets which are applicable Monday to Friday 8.30am to 5.30pm. It is free outside of these times. The free parking starts about a 5-minute walk away from the application site.

Figure 6 Floorplan of application site



2.1.13 In the above context, it is considered that the one-bedroom property on Jordan Lane needs to be understood as a compact property in a unique and well-connected neighbourhood in the Morningside neighbourhood. The presence of the property functioning in this way for several years has had little impact 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 popular bustling and active neighbourhood of the city.

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 applicant themselves and detail the arrangements they already have in place to ensure safe and responsible hosting.
- 2.2.2 The focus of the owners of the property at 44 Jordan Lane (the applicant) since their purchase of the property in 2018 (followed by a period of refurbishment and redecoration) has been on providing an exceptional level of Scottish hospitality of the kind that they would enjoy.

- 2.2.3 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 The application site has been let on a short-term commercial basis for approximately four years and is advertised on the Airbnb website – https://www.airbnb.co.uk/rooms/22653201?source_impression_id=p3_1653920258_9ql%2F58fOXkBViq%2Fj
- 2.2.5 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; and
 - Smoking is not allowed within the apartment.
- 2.2.6 The limited number of occupants and the 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.
- 2.2.7 The pattern of activity in this particular property, with its own private access, letting periods and limiting letting to 2/3 persons at any one time (the majority of guests are couples), 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.
- 2.2.8 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.
- 2.2.9 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.

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**.
- 2.3.2 44 Jordan Lane was purchased in 2018, and a period was spent redecorating the interior of the property prior to letting as a short-term rental property in February 2018 providing visitor accommodation.
- 2.3.3 This was an entirely Scottish based team generating employment for painter & decorator, cleaning team etc.
- 2.3.4 This resulted in the very high standard of interior decoration that can be seen on the Airbnb ad and other channels.

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- 2.3.5 The property management, maintenance and cleaning are outsourced to a local Edinburgh based company. This company cleans and sets up the flat prior to guests arriving.

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;
 - Morningside 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 being within a conservation area, this report also considers the proposals in terms of Section 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 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; and
 - LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking.
- 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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area;
 - The proposal complies with the following LDP policies:
 - LDP Policy Env 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area; and
 - LDP Transport policies Tra 2 Private Car parking and Tra 3 Private Cycle Parking.

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 11th 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 superceded 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.

Morningside Conservation Area Character Appraisal

- 3.3.10 The Morningside Conservation Area Character Appraisal (9th March 2006) emphasises that the area is characterised by mixed, residential and commercial buildings.
- 3.3.11 The Morningside Conservation Area lies to the south of The Grange Conservation Area and was originally designated in 1996. The conservation area is situated some 4kms from the City centre.
- 3.3.12 The northern boundary of the conservation area zig zags between Jordan Lane and Canaan Lane. In this small area there is a small eclectic mix of buildings and periods, ranging over vernacular single storey buildings, to Georgian detached buildings and Victorian tenements. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
- 3.3.13 Residential uses predominate throughout the conservation area, producing a Victorian environment of high quality and high amenity.
- 3.3.14 This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.
- 3.3.15 Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage (Power Motor House Mechanics - https://nicelocal.co.uk/scotland/autoservice/d_h_powerhouse/) and The Ball Room Sports Bar (pool, snooker & darts - <https://www.ballroomscotland.com/morningside>) in close proximity to the application site. Morningside Road and the Morningside/Bruntsfield Town Centre is also a 250m walk from the application site.

- 3.3.16 ***The external ambient noise in such a mixed-use neighbourhood will mitigate any potential impact on residential amenity of short-term letting.***

Public representations

- 3.3.17 The application received no statutory representations (by inference no objections) and two public objections.

Economic Benefit

- 3.3.18 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

- 3.3.19 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 Body 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;
- Morningside 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 being within a conservation area, this report also considers the proposals in terms of Section 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:
 - 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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve 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 44 Jordan Lane 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 44 Jordan Lane 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 44 Jordan Lane 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 town centre living interspersed with commercial offices and surrounded by a mix of other uses including retail. The property is within the urban area/town centre.
- 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"*.
- 4.3.14 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 44 Jordan Lane 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 marketed and managed in order to allow guests 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 44 Jordan Lane, Edinburgh and are in compliance with Policy Hou 7 include the following:

- **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 (Craightinny/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 neighbourhood where there are plenty of amenities. 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 within a neighbourhood of the 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 Morningside/Bruntsfield town centre/neighbourhoods. 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 Jordan Lane. 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 (Morningside/Bruntsfield Town Centre/Neighbourhoods). 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 44 Jordan Lane. 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 Jordan Lane:

“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.

- 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.

4.4.15 Overall, when considered against the determining matters that have been articulated in recent appeal decisions, the proposals at 44 Jordan Lane, Edinburgh are considered to measure up favourably.

4.4.16 Several appeals that have been allowed by Reporters of the DPEA between 2020 and 2022 for the change of use from flat to short-term let are outlined in Appendix 6.

4.4.17 A recent **City of Edinburgh Planning Local Review Body** on the 14th September 2022 considered a similar application for a retrospective change of use from flat to short-term let at **26 Barony Street, Edinburgh (Ref.No.22/01089/FUL)**. The key issue of relevance was in relation to access to the rear communal garden from the appeal property and the proposed mitigation. The Statement submitted in support of the LRB appeal by the applicant's agent in relation to access to shared spaces that can be taken from a one-bedroom property, as is the situation at 44 Jordan Lane, made the following points:

- **Planning appeal reference PPA-230-2315** overturned the refusal of planning application 20/00724/FUL at **Flat 1, 1 Saunders Street, Edinburgh** for the Change of Use of a residential property to a short-term let. A copy of the full decision letter is attached as Appendix 7;
- Of particular interest within the Reporter's decision letter is the section (in paragraphs 11-18) where the Reporter considers concerns that had been expressed by the Council that visitors could in theory access the property through a shared door rather than the preferred private access;
- The Reporter here notes at paragraph 12 that as part of the appellant's submission documents, the appellant "*did not intend to provide an access for visitors and that they will need to use the dedicated private access*". At Jordan Lane, the situation is even clearer in terms of initial access to the property, as this can only be taken from Jordan Lane and therefore not from the rear garden area itself;
- Following the Reporter's site visit on Saunders Street, he further records at paragraph 14 that he feels reassured that general on-site management practices on the part of the appellant will mean that in practice, guests would be in no doubt as to which entrance they were able to use, and which to avoid. In a similar way it is considered that simple and clear instructions to guests would suffice to ensure that they do not try and use the rear garden area; to which the access door is now and will continue to be locked;
- The Reporter's decision goes further, by questioning the extent to which the potential occasional use of a communal area might have a real or material impact on the living conditions of local full-time residents. In this regard he queries the concerns of the Council about such impacts. The Reporter sets out his analysis of this at paragraph 17:

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

4.4.18 The back door to the property at 44 Jordan Lane will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunders Street, whereas detailed above, the Reporter did not agree with the Council's general view

Planning Statement in Support of Notice of Review – 44 Jordan Lane Edinburgh EH10 4QX

that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application.

- 4.4.19 It is the appellants view here that the Saunders Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 44 Jordan Lane as delivering a simple and workable way to safeguard living conditions.
- 4.4.20 Taking such a view would of course also save the expense and disruption of having to stop-up the door using a **planning condition** and **permitted development rights**. This option, which could be delivered through a planning condition, would not be the appellant's preferred way of addressing concerns around use of the rear garden area. Nonetheless, it would deliver an outcome that clearly addresses the only reason for refusal of this planning application. Accordingly, such a condition could be added if the Local Review Body considered that the Officer decision should be overturned but felt that the ongoing management practices were not sufficient to safeguard living conditions for other residents using the rear garden space.

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 24th 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 Ms Lindsay Callandar ('the applicant') for the retrospective planning application for change of use from flat (sui generis) to short-term let (sui generis) at 44 Jordan Lane Edinburgh EH10 4QX ('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;
 - Morningside 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

This self-contained, one-bedroom main door access flat on Jordan Lane lies centrally within the town centre/neighbourhood of Morningside Edinburgh, 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 44 Jordan Lane, Edinburgh appropriately located in a town centre/neighbourhood 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 Jordan Lane 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 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.

In relation to access to the rear communal garden from the appeal property the proposed mitigation is outlined below:

- The back door to the property at 44 Jordan Lane will remain locked. Such assurances were considered to be acceptable as a means of managing access in the appeal case on Saunders Street, where the Reporter did not agree with the Council's general view that potential impacts on living conditions could be so severe from a one-bedroom flat that these might warrant refusal of a planning application;

- It is the appellants view here that the Saunders Street example shows the extent to which DPEA Reporters have arrived at a view that sensible and practical procedures on the part of owners and property managers can be accepted as ways of safeguarding the living conditions of nearby residents. This is particularly the case where small properties are involved which seem altogether unlikely to have real adverse impacts on living conditions. The appellant would be most grateful if a similarly pragmatic view was taken by the Local Review Body on the effectiveness of a locked door to the shared back garden area at 44 Jordan Lane as delivering a simple and workable way to safeguard living conditions.

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

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 the 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 44 Jordan Lane, Edinburgh.

Appendices

See City of Edinburgh Council's Planning Portal:

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>

Separately attached:

- Appendix 1** Photo-study of Site & Surroundings
- Appendix 2** Documents submitted with Application 22/02875/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
- Appendix 7** LRB Appeal Documents & Decision: 26 Barony Street Edinburgh



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Appendix 1 – Photo-study

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

at

44 Jordan Lane, Edinburgh EH10 4QX

on behalf of

Ms Lindsay Callander

May 2022



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Prepared by **Stefano Smith Planning**

Project Ref: C/7500 | Rev: AA | Date: May 2022

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Document Control Sheet

Project Name: COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Project Ref: C/7500

Report Title: Appendix 1 Photo-study

Doc Ref: C/7500

Date: 30th May 2022

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		27 th May 2022
Reviewed by:	Stefano Smith	Director		28 th May 2022
Approved by:	Stefano Smith	Director		30 th May 2022
For and on behalf of Stefano Smith Planning				

Revision	Date	Description	Prepared	Reviewed	Approved

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.

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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 44 Jordan Lane, Edinburgh EH10 4QX ('application site') on behalf of Ms Lindsay Callander (the applicant').

1.2 Structure

- 1.2.1 This Photo-study provides the visual context of the proposed development in the established residential/mixed-use/town centre area of this part of the Morningside Conservation Area.

1.3 Key Findings

- 1.3.1 The following key findings should be noted from the photo-study:
1. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
 2. Jordan Lane is essentially a residential street, but the immediate surrounding area is characterised by mixed use.
 3. The character of the local area is one of an established mixed use, including residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
 4. Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage and The Ball Room Sports Bar in close proximity to the application site.
 5. Jordan Lane is accessed to the west from Morningside Road which is the primary north-south route through the area, and acts as the main shopping street for the area.
 6. To the east of Jordan Lane is a dead-end leading to residential properties at 20 Jordan Lane (Helen's Place) and Jordan House.
 7. Jordan Lane is a controlled parking area with on-street parking.
 8. A frequent public transport system offers regular services to most parts of the City.

2 Photo-study

Photo 1a – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 1b – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane



Photo 1c – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane

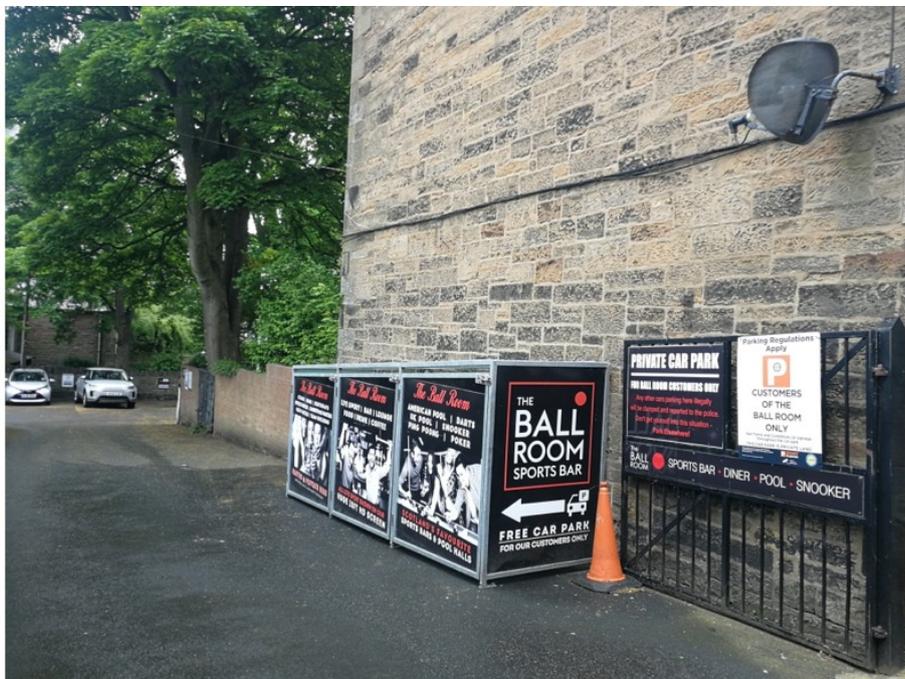


Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 1d – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane

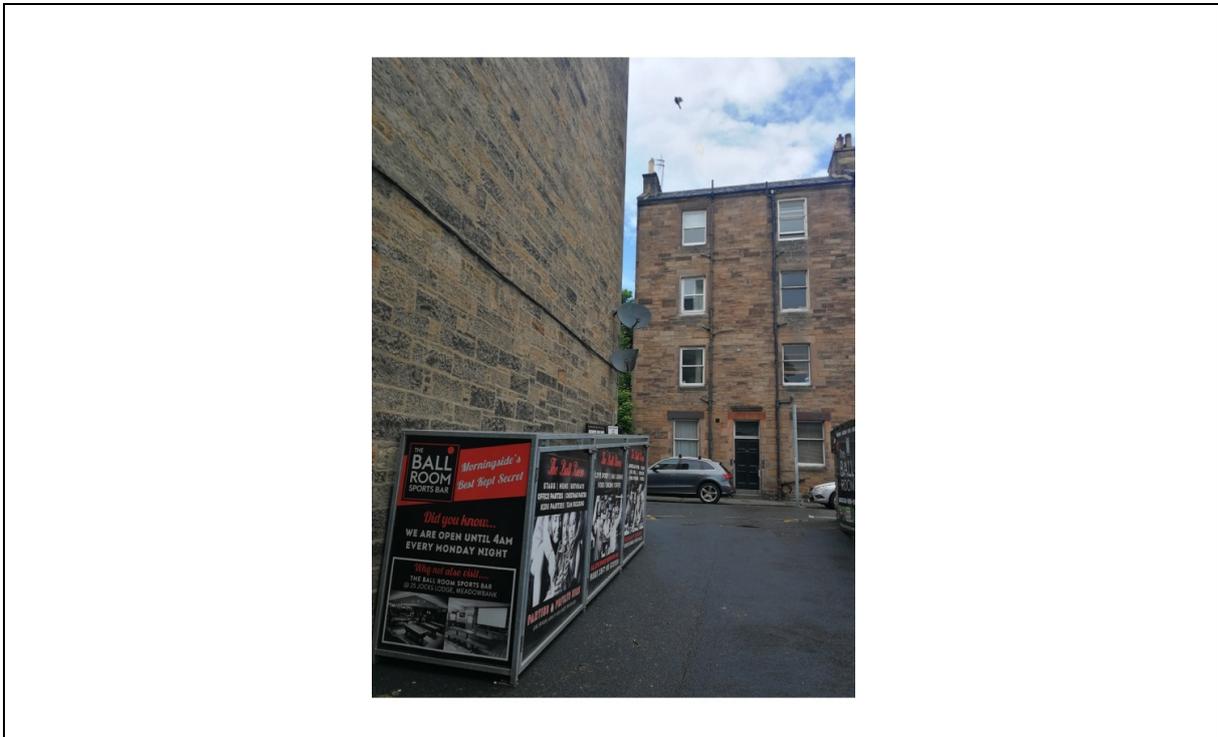


Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 1e – Application site and established residential/mixed-use area of the Morningside Conservation Area: Jordan Lane



Photo 2a – Established town centre/mixed-use area of the Morningside Conservation Area: Jordan Lane/Morningside Road



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 2b – Established town centre/mixed-use area of the Morningside Conservation Area: Jordan Lane/Morningside Road



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 2c – Established town centre/mixed-use area of the Morningside Conservation Area: Jordan Lane/Morningside Road

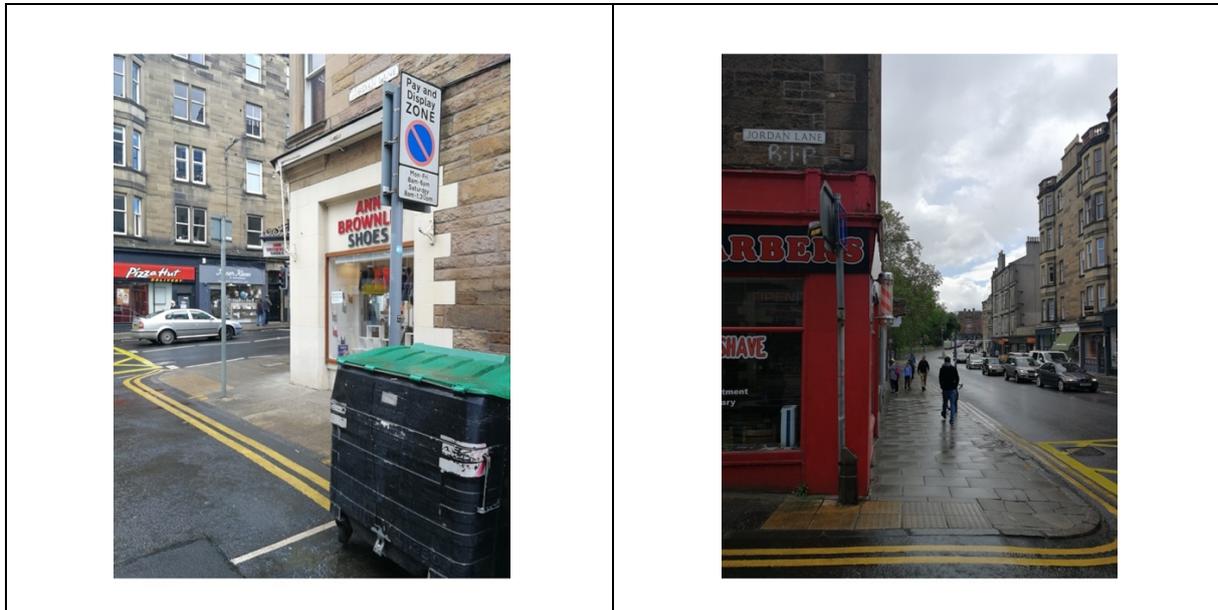


Photo 3a – Established controlled parking and public transport accessibility of the Morningside Conservation Area: Jordan Lane/Morningside Road/Morningside & Bruntsfield Town Centre



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Photo 3b – Established controlled parking and public transport accessibility of the Morningside Conservation Area: Jordan Lane/Morningside Road/Morningside & Bruntsfield Town Centre

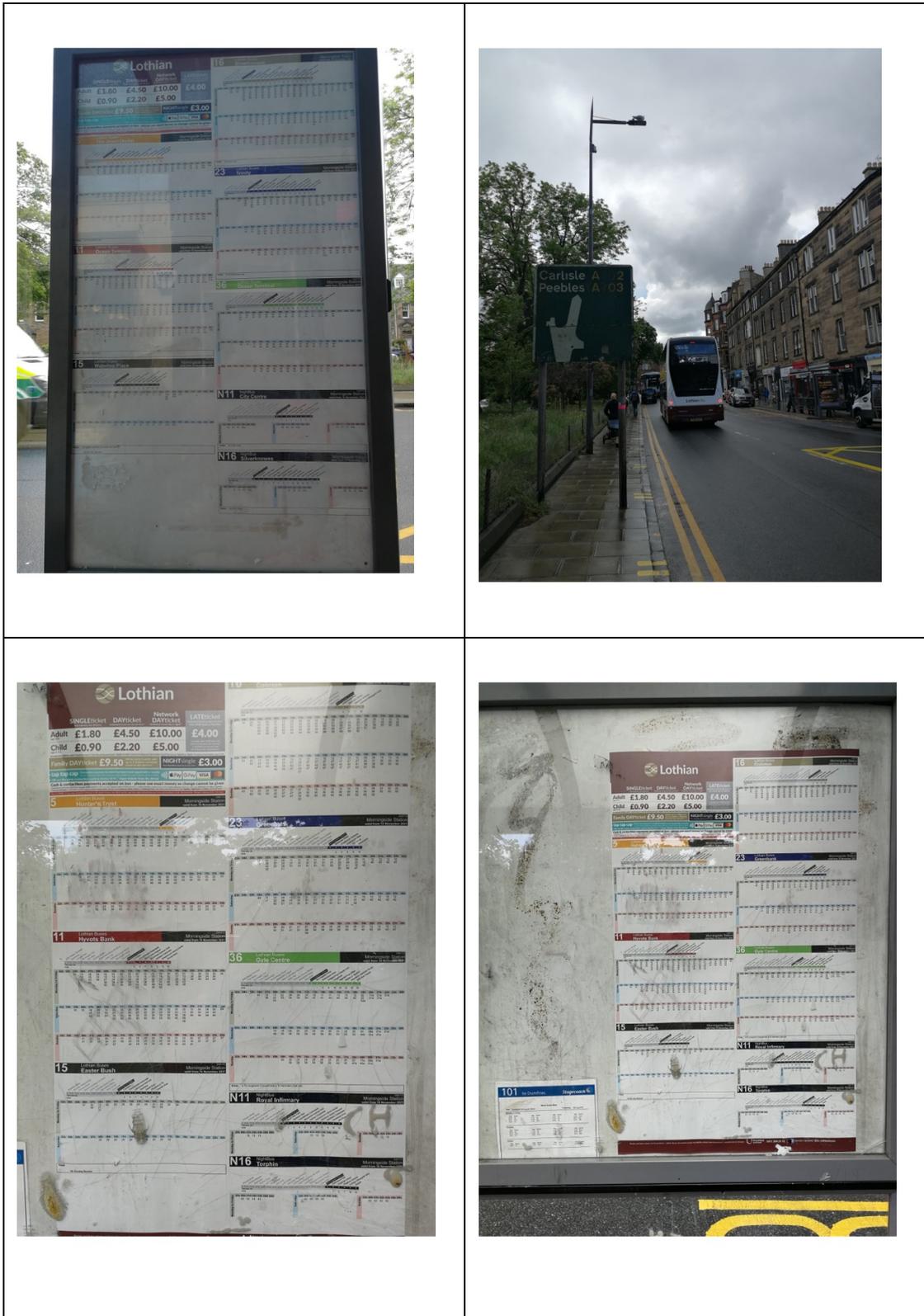


Photo 3c – Established controlled parking and public transport accessibility of the Morningside Conservation Area: Jordan Lane/Morningside Road/Morningside & Bruntsfield Town Centre



Photo-study – COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX



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Planning Statement

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

at

44 Jordan Lane, Edinburgh EH10 4QX

on behalf of

Ms Lindsay Callander

May 2022



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Prepared by **Stefano Smith Planning**

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Document Control Sheet

Project Name: COU from Flat (sui generis) to Short-term Let (sui generis) (retrospective) at 44 Jordan Lane, Edinburgh EH10 4QX

Project Ref: C/7500

Report Title: Planning Statement

Doc Ref: C/7500

Date: 30th May 2022

	Name	Position	Signature	Date
Prepared by:	Stefano Smith	Director		27 th May 2022
Reviewed by:	Stefano Smith	Director		28 th May 2022
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Figures

Figure 1a Edinburgh Local Development Plan Proposal Map (Extract) (Designated Conservation Area)

Figure 1b Edinburgh Local Development Plan Proposal Map (Extract) (Town Centre)

Figure 2 Morningside Conservation Area Boundary

Figure 3 Location Plan

Figure 4 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 44 Jordan Lane, Edinburgh EH10 4QX ('application site') on behalf of Ms Lindsay Callander (the applicant').
- 1.1.2 The one-bedroom flat at 44 Jordan Lane, Edinburgh (the subject property) is owned by Ms Lindsay Callander. It was subsequently let as a short-term rental property providing visitor accommodation – 'secondary letting' where the host is letting premises which are not their own home. The proposed visitor accommodation 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 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. Ms Callander therefore wishes to regularise the situation through the submission of a 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 44 Jordan Lane 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 approximately 4.5kms (3 miles) to the south of the city centre within the Morningside/Bruntsfield town centre. The City By-pass can be accessed within approximately 1.5kms (1 mile) of the property.
- 2.1.2 There are excellent shopping facilities located at Morningside Road including a Waitrose superstore and a wide choice of small specialist shopping, along with the usual variety of banks, building societies and a post office. Sporting and recreational facilities close by include the Braidburn Valley Park, Hermitage Park, Blackford Hills, Craiglockhart Sports Centre and a variety of golf courses including the Braid Hills Golf Course.
- 2.1.3 A frequent public transport system offers regular services to most parts of the City. See Figures 1a and 1b.

Figure 1a – Edinburgh Local Development Plan Proposal Map (Extract) (Designated Conservation Area)

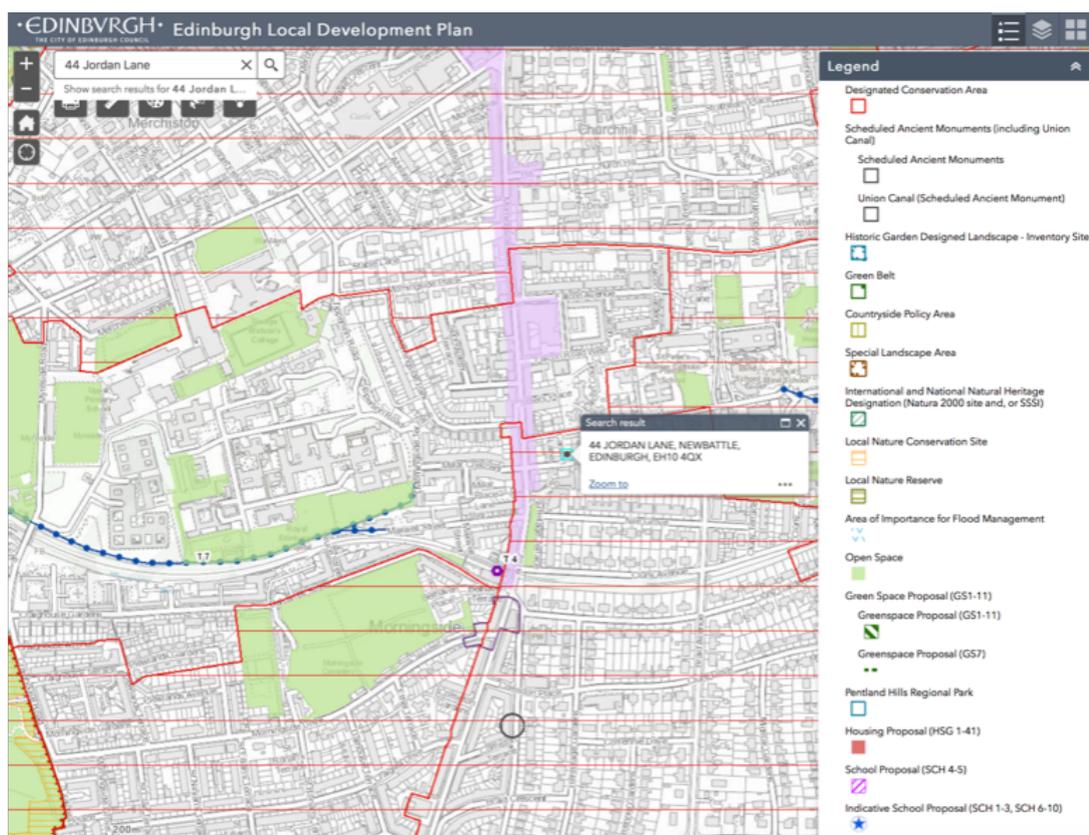
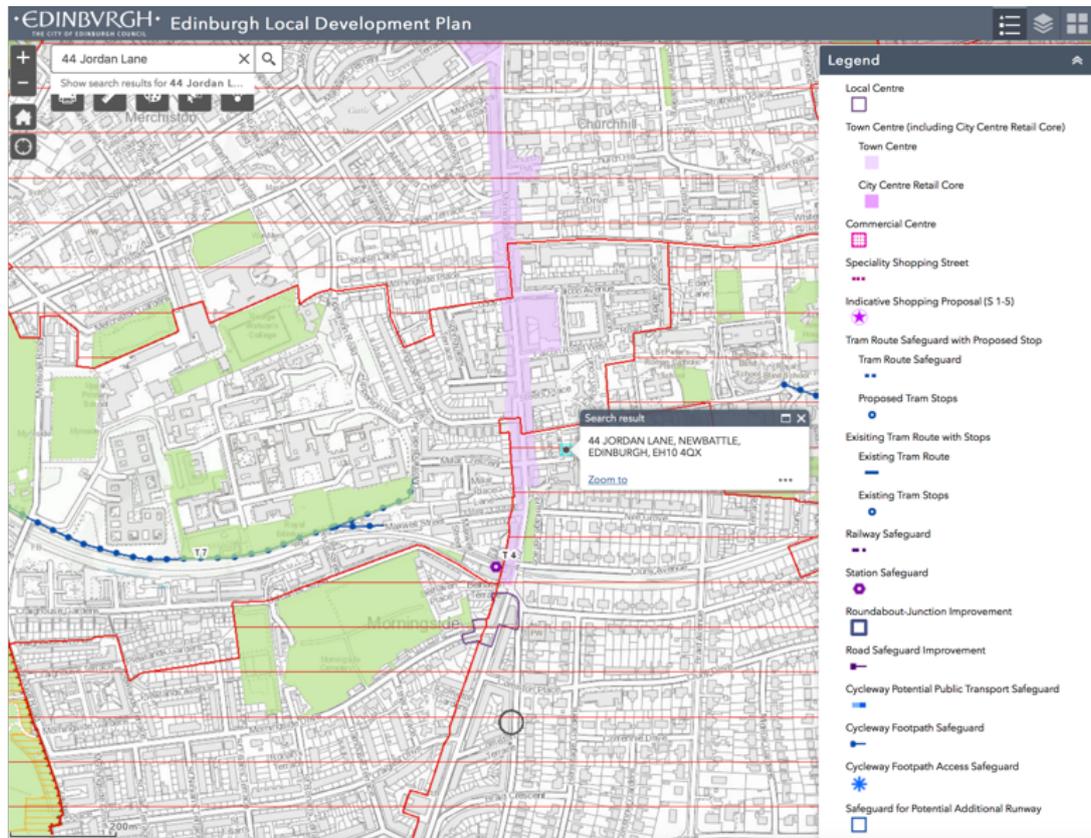


Figure 1b – Edinburgh Local Development Plan Proposal Map (Extract) (Town Centre)



- 2.1.4 44 Jordan Lane, Edinburgh ('application site') is located within the **Morningside Conservation Area**. It is not a Listed Building. See Figure 2.
- 2.1.5 The Morningside Conservation Area lies to the south of The Grange Conservation Area and was originally designated in 1996. The conservation area is situated some 4kms from the City centre.
- 2.1.6 The northern boundary of the conservation area zig zags between Jordan Lane and Canaan Lane. In this small area there is a small eclectic mix of buildings and periods, ranging over vernacular single storey buildings, to Georgian detached buildings and Victorian tenements. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
- 2.1.7 Residential uses predominate throughout the conservation area, producing a Victorian environment of high quality and high amenity.
- 2.1.8 This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.

2.1.10 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:

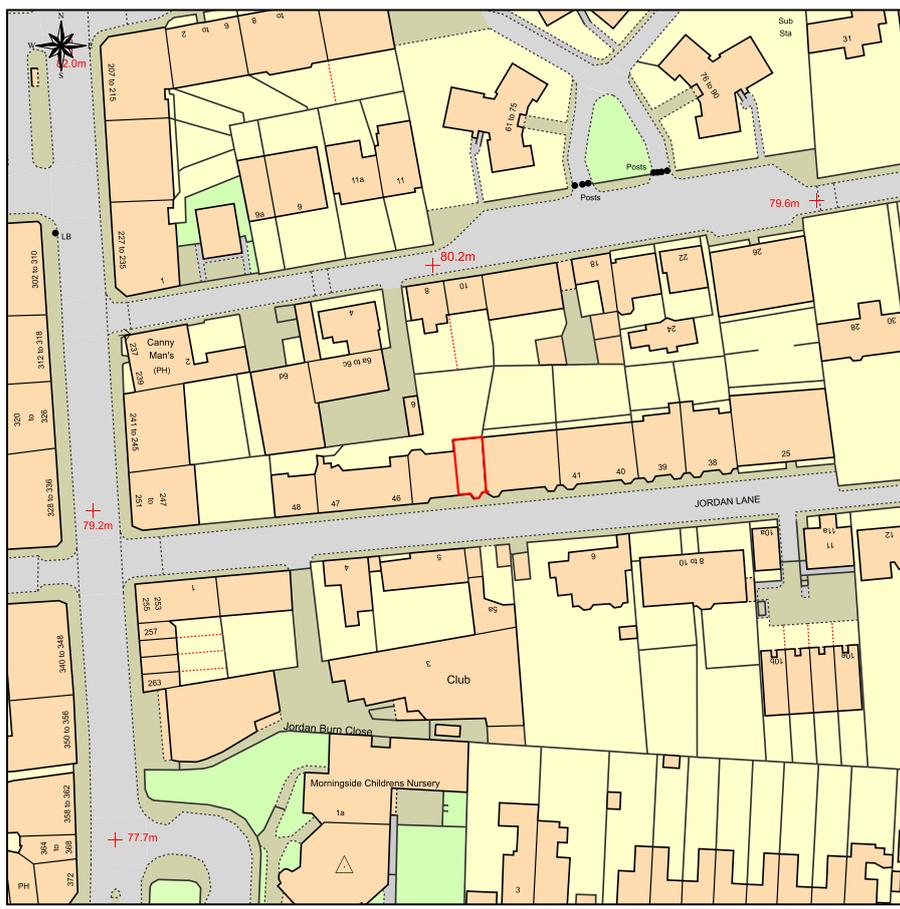
1. The application site is a flat on the ground floor of a Victorian tenement with its own dedicated main door access.
2. Jordan Lane is essentially a residential street, but the immediate surrounding area is characterised by mixed use.
3. The character of the local area is one of an established mixed use, including residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
4. Jordan Lane is predominantly residential in character, albeit there is a motor mechanics garage and The Ball Room Sports Bar in close proximity to the application site.
5. Jordan Lane is accessed to the west from Morningside Road which is the primary north-south route through the area, and acts as the main shopping street for the area.
6. To the east of Jordan Lane is a dead-end leading to residential properties at 20 Jordan Lane (Helen's Place) and Jordan House.
7. Jordan Lane is a controlled parking area with on-street parking.
8. A frequent public transport system offers regular services to most parts of the City.

2.2 Site Description

2.2.1 The property is a main-door flat, situated in the prime residential area of Morningside, located approximately 4.5 kms (3 miles) south of Princes Street. See Figure 3.

Figure 3 Location Plan

Location Plan of EH10 4QX



This Plan includes the following Licensed Data: OS MasterMap Colour PDF Location Plan by the Ordnance Survey National Geographic Database and incorporating surveyed revision available at the date of production. Reproduction in whole or in part is prohibited without the prior permission of Ordnance Survey. The representation of a road, track or path is no evidence of a right of way. The representation of features, as lines is no evidence of a property boundary. © Crown copyright and database rights, 2022. Ordnance Survey 0100031673

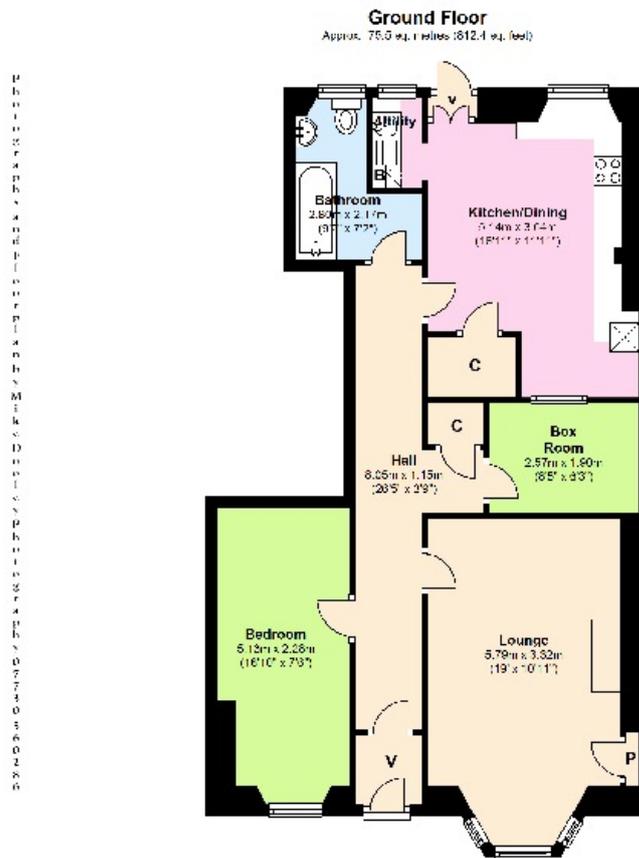
Scale: 1:1250, paper size: A4



Prepared by: Stefano Smith, 28-05-2022

- 2.2.2 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 45 Jordan Lane.
- 2.2.3 The accommodation comprises: an entrance vestibule, hall, bay-windowed sittingroom, dining kitchen with utilityroom off, double bedroom, large boxroom, and bathroom. The property further benefits from access to a well-maintained communal garden to the rear from the kitchen.
- 2.2.4 The approximate gross internal floor area of the flat is 75.5 sqm. See Figure 4.

Figure 4 Floorplan of application site



- 2.2.5 The car parking on Jordan Lane is mainly on-street within a parking controlled zone – permit holders only. However, there are a small number of pay and display spaces in the surrounding streets which are applicable Monday to Friday 8.30am to 5.30pm. It is free outside of these times. The free parking starts about a 5-minute walk away from the application site.

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 Ms Lindsay Callander in 2018. Following internal redecoration it was subsequently let as a short-term rental property in February 2018 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 four years and is advertised on the Airbnb website – https://www.airbnb.co.uk/rooms/22653201?source_impression_id=p3_1653920258_9ql%2F58fOXkBViq%2Fj

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; and
- Smoking is not allowed within the apartment.

3.3.3 The limited number of occupants and the 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, letting periods and limiting letting to 2/3 persons at any one time (the majority of guests are couples), 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 Morningside 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 6 Conservation Areas – Development sets out criteria for assessing development in a conservation area; and
 - 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 Morningside Conservation Area Character Appraisal emphasises that the area is characterised by residential uses that predominate throughout the area, producing a Victorian environment of high quality and high amenity, that is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities. Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.
- 4.1.5 The external ambient noise in such a mixed use town 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 or enhances the special character or appearance of the conservation area; and
- c) Any impacts on equalities or human rights are acceptable.

a) Principle of development

5.2.2 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.

5.2.3 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.
- 5.2.4 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"*.
- 5.2.5 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.
- 5.2.6 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.
- 5.2.7 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.
- 5.2.8 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.
- 5.2.9 The current parameters for letting the property, and the evidence of the nature of the operation over the past four years, 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 four years.

- 5.2.10 The application site is a self-contained flat with its own main door access with direct street access on to Jordan Lane. Unlike other flats with a communal entrance hall there would be no undue disturbance arising from visitors using the entrance.
- 5.2.11 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. Jordan Lane and the local area is a mixed use area of residential, retail, cafes, pubs, restaurants, commercial and office. It is a vibrant town centre hub.
- 5.2.12 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. Whilst Jordan Lane is relatively quiet the immediate surrounding area has a lively town centre hub 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.
- 5.2.13 The proposal complies with **Policy Hou 7**.

b) Conservation Area

- 5.2.14 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."*
- 5.2.15 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.
- 5.2.16 The Morningside Conservation Area Character Appraisal emphasises that the area is characterised by residential uses that predominate throughout the area, producing a Victorian environment of high quality and high amenity. This is contrasted with Morningside Road and Comiston Road, the main through route which is a place of activity in terms of social and commercial activities.

Morningside Road in particular is the main shopping street for the area containing a full range of shops and services.

5.2.17 The external ambient noise in such a mixed use town centre location will mitigate any potential impact on residential amenity of short-term letting.

5.2.18 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.

5.2.19 The proposal complies with LDP **Policy Env 6**.

c) Impacts on Equalities or Human Rights

5.2.20 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

Report of Handling

**Application for Planning Permission
44 Jordan Lane, Edinburgh, EH10 4QX**

Proposal: Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).

**Item – Local Delegated Decision
Application Number – 22/02875/FUL
Ward – B10 - Morningside**

Recommendation

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

Summary

The proposal is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

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 property is a self-contained one-bed apartment set within the ground floor of a four-storey Victorian tenement at 44 Jordan Lane, Morningside. The property has its own main access door on to Jordan Lane. It has direct access to a communal garden from the kitchen to the rear.

Jordan Lane is predominantly residential. The immediate surrounding area contains a mix of uses including shops, cafes, restaurants and bars. The property is a two-minute walk from Morningside Road which is a key thoroughfare into the city centre and an important bus route. The property is very close to the town centre of Bruntsfield/Morningside as identified in the Local Development Plan (LDP) 2016..

The application site is located in the Morningside Conservation Area.

Description Of The Proposal

The application seeks planning permission for a change of use from residential to a short term let visitor accommodation. It is a retrospective application because the short term let use has been operating since 2018.

Supporting Information

Planning statement.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning site history.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 25 October 2022

Date of Advertisement: 24 June 2022

Date of Site Notice: 24 June 2022

Number of Contributors: 2

Section B - Assessment

Determining Issues

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

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

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

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

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

The Morningside Conservation Area Character Appraisal emphasises that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.

There are no external changes proposed. Therefore, the impact on the appearance of the conservation area is acceptable. The proposal will not have a negative impact on the character of the conservation area.

Conclusion in relation to the conservation area

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

b) The proposals comply with the development plan?

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

- LDP Environment policy Env 6
- LDP Housing policy Hou 7
- LDP Transport policies Tra 2 and Tra 3.

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

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

Conservation Area

The impact on the character and appearance of the conservation area has been considered above in a). 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.

Proposed Use and Principle of Development

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

The main policy that is applicable to the assessment of short-stay commercial visitor accommodation (SCVA) lets is LDP policy Hou 7 (Inappropriate Uses in Residential Areas) which states that developments, including changes of use which would have a materially detrimental impact on the living conditions of nearby residents, will not be permitted.

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

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

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

The property is a ground floor flat accessed via a main door opening directly on to Jordan Lane. It is a one bedroom property- with a box room - on the ground floor of a four storey flatted block.

The property is in a residential street formed mainly of tenements. The use of the property as a short term let would have the potential to introduce an increased frequency of movement to the flat and in the street at unsociable hours. 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 and may impact on community cohesion and neighbours' sense of security.

The location of the flat, on the ground floor, surrounded by a high number of residential units, creates a situation where such a use would instead bring additional noise and disturbance immediately outside the flat in the residential street.

Anti-social behaviour can be dealt with through relevant legislation, such as by Police Scotland or Environmental Health Acts.

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

There is controlled parking on Jordan Lane where residents permits are required.. The site is highly accessible by public transport. There is no cycle parking standards for SCVAs. Bikes could be parked within the property if required. The proposals comply with policies Tra 2 and Tra 3.

Conclusion in relation to the Development Plan

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

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

The following material planning considerations have been identified:

SPP - Sustainable development

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

The proposal does not comply with Paragraph 29 of SPP. It would not protect the amenity of existing development nor contribute to a sustainable community and, therefore, will 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

A summary of the representations is provided below:

material considerations

- Negative impact on residential amenity. Addressed in b) above.
- Not in accordance with Scottish Planning Policy on 'Socially Sustainable Places'. Addressed in c) above.
- Negative impact on parking. Addressed in b) above.
- Negative impact on community and security. Addressed in b) above.
- Increase in litter. The applicant should agree a waste strategy with CEC Waste Services.

non-material considerations

- Worsens Edinburgh's housing crisis. This is not a material consideration under the current LDP. 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.
- Does not accord with Scottish Government Housing Policy on More Homes. The application has to be assessed against the Strategic and Local Development Plans.
- Housing should be for local people. This is not a material consideration.

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 regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve the character or appearance of the conservation area.

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 May 2022

Drawing Numbers/Scheme

01,02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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

Appendix 1

Consultations

No consultations undertaken.

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

Ms Lindsay Callander.
Blaiket Mains
Crocketford Road
Dumfries
DG2 8QW

Decision date: 25 October 2022

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

Change of Use from a Flat (sui generis) to Short-term Let (sui generis) (in retrospect).
At 44 Jordan Lane Edinburgh EH10 4QX

Application No: 22/02875/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 31 May 2022, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

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

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01,02, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Lesley Porteous directly at lesley.porteous@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

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

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

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	<p>Change of use (retrospective) from residential to short-term let apartment (Sui Generis)</p>	<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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Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 100581278-001

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

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

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

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

Please identify/describe the location of the site or sites

Northing	<input type="text" value="674542"/>	Easting	<input type="text" value="325711"/>
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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)

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

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

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

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

Yes No

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

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

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

Application Details

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

22/01089/FUL

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

07/03/2022

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

20/05/2022

Review Procedure

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

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

Yes No

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

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

Yes No

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

Yes No

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

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

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mr Angus Dodds

Declaration Date: 04/07/2022

Proposal Details

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

Application Status

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

Attachment Details

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



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

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

Date of appeal decision: 19 October 2020

Decision

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

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan comprises the Edinburgh Local Development Plan 2016 (LDP) and the SESplan Strategic Development Plan 2013 (SDP). No specific SDP policies have been drawn to my attention in relation to this appeal.
2. Because the appeal site is situated within the New Town Conservation Area I am required by Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
3. The appeal site is currently a one-bedroom, ground floor residential flat within an area defined as urban in the LDP. Although concerns have been raised by third parties that short-term holiday accommodation places a burden on local housing supplies, I have been provided with only limited anecdotal evidence of any such effect. In the absence of planning policy that would systematically address any such issue, should it exist, or more rigorous data, it is not a point to which I can give any significant weight.
4. Having regard to the provisions of the development plan the main issues in this appeal are amenity, impacts on the conservation area, and road safety/parking. I consider each of these factors in turn below.

