

# Development Management Sub-Committee Report

**Wednesday 23 August 2023**

**Application for Planning Permission STL  
5B Balcarres Street, Edinburgh, EH10 5JB**

**Proposal: Change of use (retrospective) from ancillary garden building to short-term let unit (Sui Generis).**

**Item – Committee Decision  
Application Number – 23/01379/FULSTL  
Ward – B10 - Morningside**

## **Reasons for Referral to Committee**

Given the significance of the issue of short term lets to the public interest at present, the Chief Planning Officer considers this application should be decided by Committee.

### **Recommendation**

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

### **Summary**

The proposal complies with sections 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.

However, the change of use of this property to a STL will have an unacceptable impact on neighbouring amenity. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity.

The proposal does not comply with the Development Plan NPF4 policy 30 (e) part (i) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

## **SECTION A – Application Background**

### **Site Description**

The application property comprises a single-storey ancillary building within the garden ground of 5B Balcarres Street, Morningside. The building (previously granted permission for use as a home office) is located to the northwest of the main property at the site and is accessed via a shared driveway which serves both 5A and 5B Balcarres Street.

Although there are a mix of uses nearby, including health services directly to the northwest and a variety of commercial properties close to Morningside Road, the surrounding area is predominantly residential. The site is bordered to the northeast by the rear gardens of a residential tenement block fronting Balcarres Street.

The site is located within the Plewlands Conservation Area.

### **Description Of The Proposal**

Planning permission is sought for the retrospective change of use from ancillary garden building to short term let (sui generis). No internal or external changes to the building are proposed.

### **Supporting Information**

- National Planning Framework 4 Supporting Planning Statement

### **Relevant Site History**

20/01545/FUL

5B Balcarres Street

Edinburgh

EH10 5JB

Construct single storey home office and form terraced garden. Alter existing window opening.

Granted

2 July 2020

20/04942/FUL

5B Balcarres Street

Edinburgh

EH10 5JB

Construct single storey home office and form terraced garden. Alter existing window opening. (Revision of Approval 20/01545/FUL). (Part in retrospect).

Granted

5 February 2021

### **Other Relevant Site History**

No other relevant site history.

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

No consultations undertaken.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 3 April 2023

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 14 April 2023

**Site Notices Date(s):** 11 April 2023

**Number of Contributors:** 1

## 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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

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

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

In the assessment of material considerations this report will consider:

- equalities and human rights.
- public representations; and
- any other identified material considerations.

### Assessment

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

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

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states: "In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Plewlands Conservation Area is characterised by distinctive Victorian/Edwardian terraced housing.

There are no external changes proposed. The change of use from an ancillary residential premises to a STL will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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

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

### **c) The proposals comply with the development plan.**

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Sustainable Places Policy 1.
- NPF4 Historic Assets and Places Policy 7.
- NPF4 Productive Places Tourism Policy 30.
- 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 historic assets.

The non-statutory 'Guidance for Businesses' (2023) is a material consideration that is relevant when considering change of use applications.

### Conservation Area

There are no external or internal works proposed and as such there will not be a significant impact on historic assets and places. The proposal complies with NPF 4 Policy 7.

### Proposed Use

With regards to NPF 4 Policy 1, the proposals do not involve operational development and therefore, will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote, and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (e) specifically relates to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

The non-statutory Guidance for Businesses (2023) states that an assessment of a change of use of dwellings to a short term let 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.

Amenity:

The application property comprises an outbuilding ancillary to the main dwelling house at the site. The surrounding area is predominantly residential with a low degree of activity in the immediate vicinity of the property.

The applicant's supporting planning statement asserts that the use of this property for STL purposes would have a limited impact on neighbouring residential amenity given the size and self-contained nature of the proposed STL unit and the proximity of the owners/operators.

The use of the property as an STL would, however, introduce an increased frequency of movement to the property and into the shared driveway access. The proposed STL use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year. There is no guarantee that guests would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity. Although the property consists of a small self-contained unit, it is accessed via a shared driveway and is adjacent to a shared garden area and rear tenement windows. The presence of the current owners/operators on site may mitigate potential disturbances, however, given the context of the site and the shared spaces, limited weight is given to this consideration.

The additional servicing that operating a property as an STL requires compared to that of the current use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

In summary the proposed STL use would result in significantly different level of ambient background noise than neighbouring residents might reasonably expect and will have an unacceptable effect on the living conditions and amenity of nearby residents. The proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation:

The change of use will not result in any loss of residential accommodation. The existing use of the building is for a home office, ancillary to the main dwelling house at 5B Balcarres Street. NPF 4 policy 30(e) part (ii) is not applicable.

### Parking Standards

Although one off-street parking space is available with the property, there are no parking requirements for STLs. Cycles could be parked inside the property. The proposals comply with LDP Policies Tra 2 and Tra 3.

### **Conclusion in relation to the Development Plan**

The proposal complies with policy 30 (e) part (ii) of NPF4 as the STL use will not result in the loss of residential accommodation.

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity. The proposal does not comply with the Development Plan NPF4 policy 30 (e) part (i) and LDP policy Hou 7.

### **d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only limited weight can be attached to it as a material consideration in the determination of this application.

### Emerging policy context

City Plan 2030 represents the settled will of the Council, and it has been submitted to Scottish Ministers for examination. As such, limited 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 petition with 30 signatures of support for this application was received. A summary of the comments is provided below:

#### *material considerations*

- The STL use does not adversely impact the residential amenity of neighbouring properties. Addressed in part c).

#### *non-material considerations*

- The STL business at the application property is well reviewed/managed. Only limited weight can be given to consideration regarding the current operation/management of an STL.
- The STL unit provides the area with affordable short-term accommodation. Not a material consideration.

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

Identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

### **Overall conclusion**

The proposal complies with sections 64 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 change of use of this property to an STL will, however, have an unacceptable impact on neighbouring amenity. Whilst it is recognised that there is an economic benefit to the city as a whole from the provision of tourist accommodation, in this case it does not outweigh the adverse impact on residential amenity.

The proposal does not comply with the Development Plan NPF4 policy 30 (e) part (i) and LDP policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following:

### Reason for Refusal: -

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity as the use of this dwelling as a short stay let will result in an unacceptable impact of local amenity.

### Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 28 March 2023

### Drawing Numbers/Scheme

01

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

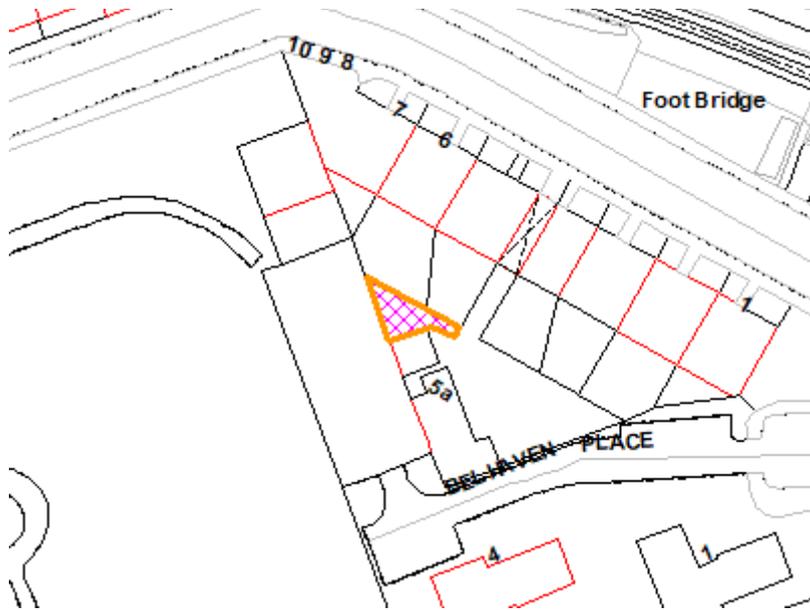
Contact: Sean Christie, Assistant Planning Officer  
E-mail: [sean.christie@edinburgh.gov.uk](mailto:sean.christie@edinburgh.gov.uk)

Appendix 1

**Summary of Consultation Responses**

No consultations undertaken.

**Location Plan**



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