

# Development Management Sub-Committee Report

**Wednesday 6 September 2023**

**Application for Planning Permission STL  
BF 6A Huntly Street, Edinburgh, EH3 5HB.**

**Proposal: Retrospective change of use of one bedroom basement residential apartment to short-term let apartment (Sui Generis).**

**Item – Local Delegated Decision  
Application Number – 23/01424/FULSTL  
Ward – B05 - Inverleith**

## **Reasons for Referral to Committee**

The application has been referred to the Development Management Sub-Committee because the application has attracted a petition in support with more than 20 signatures. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

### **Recommendation**

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

### **Summary**

The change of use of this property to a short-term let (STL) will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) 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 site is a one-bedroom basement flat at 6A Huntly Street, Canonmills. There are technically two accesses to the property. The first is from the front door on Huntly Street accessed via a shared basement corridor and internal door. However, this is no longer used by guests as the internal door has been blocked. The second access, which is in use, is via a rear entrance door, through a shared rear garden area and steps leading from a lockable gate on Canon Lane. The application property is located at the basement level of a four storey tenement. It shares the basement level with another residential unit which has its aspect to the front of the building. The size of the property is 49 square metres.

Huntly Street has a mix of uses including residential and commercial. Public transport links are easily accessible from the site.

The application property is part of a category B listed building, LB 29126. dated 25/11/1965.

The site lies within the New Town Conservation Area.

### **Description of the Proposal**

The application is for a change of use from residential to short term let. No internal or external physical changes are proposed. The applicant has advised that the property has been used as a short term let since June 2022. Therefore, the application is retrospective.

### **Supporting Information**

Supporting Planning Statement.

### **Relevant Site History**

18/03100/LBC

BF

6A Huntly Street

Edinburgh

EH3 5HB

Remove existing window and extend opening to form new door to rear of property

Granted

7 August 2018

18/09538/LBC

BF

6A Huntly Street

Edinburgh

EH3 5HB

Remove existing window and extend opening to form larger window to rear of property.  
Form openings within internal masonry walls.

Refused

19 December 2018

### **Other Relevant Site History**

Pending planning enforcement investigation in relation to the unauthorised use of the property as a short term let (reference 22/00754/ESHORT).

### **Pre-Application process**

There is no pre-application process history.

### **Consultation Engagement**

No consultations undertaken.

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 5 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:** 15

## **Section B - Assessment**

### **Determining Issues**

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

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

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

This report will then consider the proposed development under Sections 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:

### **a) The proposals harm the listed building and its setting?**

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

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

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

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

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

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

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

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

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

As stated previously, there are no external changes proposed. The change of use from residential premises to a short term let will not have any material impact on the character of the conservation area. The change of use would preserve the appearance of the conservation area.

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

The proposals are acceptable with regard to Sections 59 and 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.

## Listed Buildings and 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. The proposals 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 relate 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 shares its access to the street (Canon Lane) with other properties in the block via a communal rear garden area. This access also passes the rear windows of a residential property of the neighbouring block.

The applicant has submitted a planning statement to address the NPF 4 policies. The statement describes the application property as located in a mixed use area with uses that function late into the night. The statement also suggests that as the size of the property is small (49 square metres) it could not accommodate large numbers of guests.

The surrounding area of the application site is mixed and includes residential properties. There are shops which would only be operating during the day. The use of the property as an STL would introduce an increased frequency of movement to the property and the rear shared garden area which provides primary access to the property. The proposed one bedroom 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 in a manner dissimilar to that of permanent residents. 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 than individuals using the property as a principal home. There could also be a negative impact on community cohesion and sense of place.

The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbance, further impacting on neighbouring amenity. However, this would be of lesser impact as it is likely that servicing would be conducted during the daytime.

The potential for noise to be generated as described, would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental 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*

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential accommodation, this will only be supported where the loss is outweighed by demonstrable local economic benefits.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

The applicant's planning statement suggests that as the size of the property is only 49 square metres, this does not offer adequate space to provide for full time residential use. It submits that the STL provides valuable tourist accommodation as well as generating business for local shops and services and this use is a more efficient use of the property.

The current lawful use of the property is for residential accommodation. Consequently, the use of the property as an STL would therefore result in a loss of residential accommodation, regardless of its size, which given the recognised need and demand for housing in Edinburgh is important to retain, where appropriate.

In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

#### Parking Standards

There is no off street car parking available within the site. The site is accessible by public transport. There is no cycle parking standard for STLs. Bikes could be parked within the property if required. The proposals comply with LDP policies Tra 2 and Tra 3.

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

The change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been justified. 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 policy NPF 4 policy 30(e) and LDP policy Hou 7.

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

The following material planning considerations have been identified:

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.

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.

Public representations

A summary of the representations is provided below:

15 contributors: 13 objections and one in support.  
One petition with 21 signatures in support of application.



#### *material considerations – objections*

- Negative impact on residential amenity. Addressed in c) above.
- Negative impact on housing stock. Addressed in c) above.
- Contrary to NPF 4 Policy 30(e). Addressed in c) above.
- Contrary to LDP Policy Hou 7. Addressed in c) above.
- Rear garden is shared and not private. Addressed in c) above.
- Parking problems. Addressed in c) above.

#### *non-material considerations – objections*

- Will increase litter problems. The applicant should agree a waste strategy with CEC Waste Services.
- Encourages anti-social behaviour. This is a Policy Scotland matter and not a planning consideration.
- Too many STLs in the area. This application has to be considered on its individual merits.
- Loss in value of nearby properties. This is not a material planning consideration.

#### *material considerations – support*

- Will boost local economy. Addressed in c) above.
- No detrimental impact on residential amenity. Addressed in c) above.
- No complaints have been lodged. Addressed in d) above.

#### *non-material considerations – support*

- The STL use is well run. This is assessed through the licensing scheme and not planning.

### **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 change of use of this property to an STL will have an unacceptable impact on neighbouring amenity. The loss of the residential accommodation has not been adequately justified. 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 policy NPF 4 policy 30(e) 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 property as a short term 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 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short term let will result in an unacceptable impact on local amenity and the loss of a residential property is not justified.

### Background Reading/External References

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

**Further Information - Local Development Plan**

**Date Registered: 30 March 2023**

### Drawing Numbers/Scheme

01

Scheme 1

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

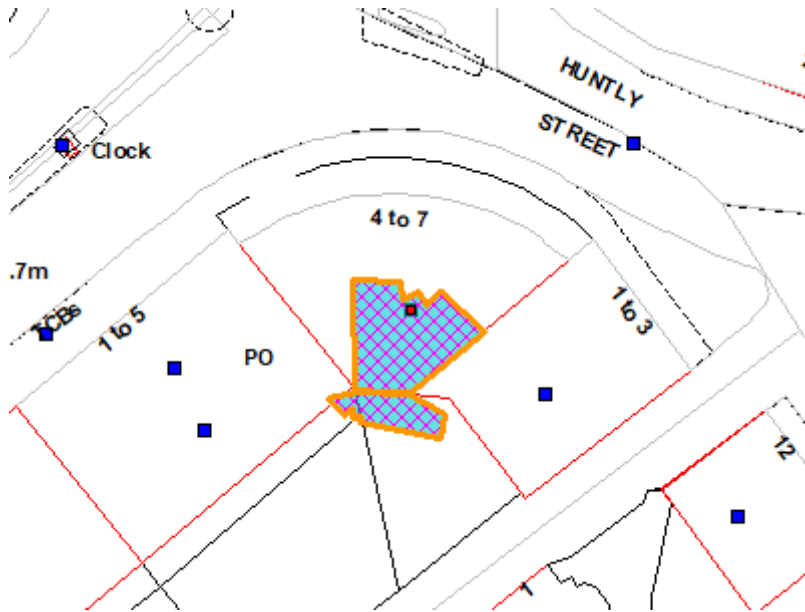
Contact: Lesley Porteous, Planning Officer  
E-mail: lesley.porteous@edinburgh.gov.uk

## Appendix 1

### Summary of Consultation Responses

No consultations undertaken.

### Location Plan



© Crown Copyright and database right 2014. All rights reserved. Ordnance Survey License number 100023420