

# Development Management Sub-Committee Report

**Wednesday 22 November 2023**

**Application for Planning Permission STL  
32A Royal Circus, Edinburgh, EH3 6SS**

**Proposal: Retrospective change from residential to short-term let apartment (Sui Generis).**

**Item – Committee Decision  
Application Number – 23/00880/FULSTL  
Ward – B11 - City Centre**

## **Reasons for Referral to Committee**

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-Committee as it has received more than twenty material representations in support and the recommendation is to refuse planning permission.

### **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 adverse 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 or the loss of residential accommodation.

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.

## **SECTION A – Application Background**

### **Site Description**

The application site relates to a lower-ground and sub-basement floor, two-bedroom flat at 32A Royal Circus. The dwelling forms part of a four-storey, with lower ground and basement, traditional terrace. Access to the application property is via a private front door set within the basement well and is accessed from an external stair from footpath level on Royal Circus.

Royal Circus is predominantly residential and low levels of commercial use. The property is immediately neighboured by a coffee shop to the south which is accessed from Northwest Circus Place. The other immediate neighbouring properties are all residential. Though there are elements of commercial use in the wider area, Royal Circus retains its original residential character.

The site is located within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site. The property is situated within a category 'A' Listed Building (29678), designated 14/09/1966.

## **Description of The Proposal**

The application is for retrospective change from residential to a short-term let (Sui Generis).

## **Supporting Information**

- Planning Statement

## **Relevant Site History**

No relevant site history.

## **Other Relevant Site History**

No further relevant site history.

## **Pre-Application process**

None.

## **Consultation Engagement**

Historic Environment Scotland

Refer to Appendix 1 for a summary of the consultation response.

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 14 March 2023

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

**Press Publication Date(s):** 24 March 2023

**Site Notices Date(s):** 21 March 2023

**Number of Contributors:** 4

## **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 does not harm the character of the listed building, or its setting. It is therefore acceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

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

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

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

There are no external alterations. The change of use from a 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 comply with 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 NPF4 and LDP 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- NPF4 Historic Assets and Places Policy 7.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering NPF 4 Policy 7.

The non-statutory Guidance for Business (2023) is a material consideration that is relevant when considering LDP Policy Hou 7 and the Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

### Listed Buildings, Conservation Area, and World Heritage Site

Historic Environment Scotland were consulted as the building is category A listed and made no comment on the proposals. The impact on the setting of the listed building and on the setting of neighbouring listed buildings has been assessed in section a).

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 proposed change of use does not involve operational development resulting in physical changes to the property. 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*

Although the property is situated towards the southern end of the crescent, where commercial activities become present, it remains within a predominantly residential area. The application property is directly below a residential terraced town house with a coffee shop and residential uses either side. The property has access to a rear garden which is immediately overlooked by a number of neighbouring residential properties.

The use as a short term let would allow visitors to come and go from the premises for inconsistent periods of time on a regular basis throughout the year in a manner dissimilar to that of a permanent resident. A transient visitor may also have less regard for neighbours' amenity than individuals using the property as a principal home. The use as a short term let is not consistent with the existing neighbouring residential uses or the character of the immediate area.

The proposed use would increase the ambient background noise levels beyond what residents would reasonably expect within the immediate area. The increase in frequency of movement to the property at unpredictable hours would have a detrimental impact on the amenity of the immediate neighbouring properties. This effect would be increased by the external access stair situated immediately below neighbouring residential windows at 32 Royal Circus. The access to outdoor amenity space at the rear would result in a detrimental impact on neighbouring residential amenity. The application received objections from neighbours who noted that the use of the outdoor amenity space by STL users had caused disturbances at night.

The submitted planning statement refers to STL cases from 2021-22 which were either granted planning permission or where the appeal was allowed by the DPEA. These applications pre-date the adoption of NPF4. Notwithstanding this, these cases have different contexts with each application assessed on individual merit.

The proposal will have an unacceptable impact 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.

The planning statement notes that a change of use to short term let is supported by Edinburgh's LDP paragraph 56, which states that "the strength of Edinburgh's economy is based on a range of key sectors, for example tourism, financial services, life sciences and higher education". The statement further comments that the property is situated in an area that lacks hotel accommodation and will support the local tourism economy by supplying alternative accommodation. The property operates at more than 80% occupancy annually. It is suggested that the modest scale of the property influences users to eat out, in turn supporting local businesses. Within the statement it is noted that other policy documents support the proposed STL use.

The proposal for a change of use to an STL would result in the loss of residential accommodation. As there is a recognised need and demand for housing in Edinburgh, it is important to retain the existing supply where appropriate.

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.

However, having the property within residential use would also contribute to the economy, through the use of a variety of local services and employment opportunities across the City. Long term residents also have the ability to make consistent and long-term contributions to the local community.

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

Zero parking is acceptable as 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 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.

## 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.

## 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

The application received four representations, two objections, one general comment and a supporting petition which received thirty signatures.

### *material considerations*

- Concerns that a change of use will have a detriment to residential amenity to the local community. This has been addressed in section c).
- Concern that access to the rear garden, which is situated below immediate neighbouring properties, could be used for parties. This has been addressed in section c).

### *non-material considerations*

- Concerns to refuse bags being left on the pavement of Royal Circus.
- Concerns the landlord lives far from the property proposed.
- A general comment received stated that there should be relevant insurance including specifically an Elm Tree situated in the rear garden.

### *supporting petition*

- A supporting petition received 30 signatures which states *I fully support the planning application for a permanent change of use of the property at 32A Royal Circus, Edinburgh to provide short term let visitor accommodation as it is exceptionally well-run and has never attracted any complaints from any neighbours, and supports lots of local businesses in the New Town/Stockbridge area. In the circumstances, I consider that it meets the terms of Local Development Plan policy HOU7 and policy 30 e). of National Planning Framework 4.* Within the petition were specific non-material comments from people who had stayed in the property which noted the good location, local amenities and the effective management of the short term let.

### **Conclusion in relation to other 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 a short term let will have an adverse 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 or the loss of residential accommodation.

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.

### **Conditions**

### **Reasons**

#### **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 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 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 adverse impact on local amenity and the loss of a residential property has not been justified.

## **Background Reading/External References**

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

## **Further Information - Local Development Plan**

**Date Registered: 1 March 2023**

## **Drawing Numbers/Scheme**

01

Scheme 1

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

Contact: Benny Buckle, Assistant Planning Officer  
E-mail: [benny.buckle@edinburgh.gov.uk](mailto:benny.buckle@edinburgh.gov.uk)

## Appendix 1

### Summary of Consultation Responses

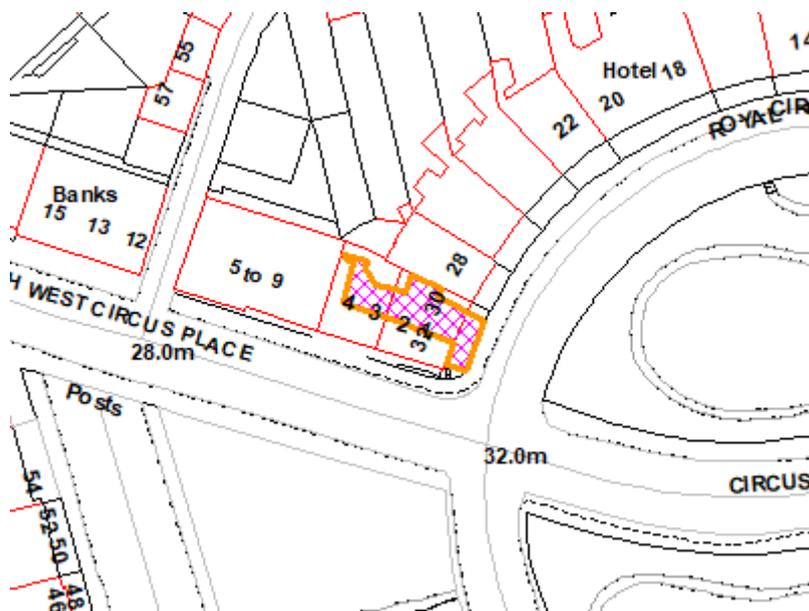
NAME: Historic Environment Scotland

COMMENT: No comments made.

DATE: 22 May 2023

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

### Location Plan



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