

Development Management Sub-Committee Report

Wednesday 21 August 2024

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

Proposal: Retrospective change of use from basement residential apartment (Sui Generis) to short-term let accommodation (Sui Generis).

**Item – Committee Decision
Application Number – 23/05375/FULSTL
Ward – B05 - Inverleith**

Reasons for Referral to Committee

The application has been referred to Development Management Sub-Committee because the application has attracted more than 20 letters of support, and the recommendation is for refusal. 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 proposal complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building, or its setting and it will preserve or enhance the character or appearance of the conservation area.

The 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. The application property is located at the basement level of a four-storey tenement comprising residential flats. It shares the basement level with another residential unit which has its aspect to the front of the building. The size of the application property is 49 square metres. The main access to the property is via a rear entrance door, through a rear garden area and steps leading from a lockable gate on Canon Lane. There is an amenity garden area adjacent to the access, but it is separated from the access by a fence and lockable gate and STL guests have no key.

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

Planning statement.

Relevant Site History

23/01424/FULSTL
BF 6A Huntly Street
Edinburgh
EH3 5HB

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

withdrawn
5 September 2023

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

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

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

Pre-application discussions took place on this application.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 25 October 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 3 November 2023

Site Notices Date(s): 31 October 2023

Number of Contributors: 285

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:

The application is in retrospect. The application form states that the operation of the property as a short term let commenced in June 2022. This is prior to 5 September 2022, when the Edinburgh short term let control area came into effect. As the designation does not have a retrospective effect it is necessary to consider whether the use of the property as a commercial short term let is a material change of use.

Granting planning permission would change the use from a residential dwelling to STL. The use of the property as a STL, as a result of the granting of planning permission, would constitute a material change in the use of the property under Section 26 of the Town and Country Planning (Scotland) Act 1997, given the associated characteristics of STL use in this location and property type.

a) The proposals harm the listed building or its setting?

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

- Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent.
- Managing Change in the Historic Environment: Setting.

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

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

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

Conclusion in relation to the listed building

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

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

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

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

The 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.

There are no external changes proposed. 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 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' (2024) 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.

Amenity

The applicant has submitted a supporting statement which seeks to demonstrate no negative impact on residential amenity. It asserts that the property is in a mixed use neighbourhood with its own main door access. It sets out that the floorspace (49 square metres) is below that which is advised in the Council's Design Guidance (52 square metres for a one-bed dwelling). It states that the property accommodates a maximum of two guests only and there are house rules which all STL guests must adhere to.

The space standards as set out in the Council's Design Guidance refer to new properties and do not apply to existing residential use. Although there are house rules in place to manage guests, as the applicant does not reside at the property, they do not have complete control over the behaviour of guests and cannot prevent noise and disturbance from occurring.

The wider surrounding area comprises mixed uses but in the close vicinity of the application property it is predominantly residential.

The use of this property as an STL would introduce an increased frequency of movement to the property via the rear garden area and steps leading to the lockable gate on Canon Lane. This access route passes the rear windows of a residential property of the neighbouring block. 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 is also the potential impact on community cohesion and neighbouring residents' security. It is noted however, that the size of the property having one bedroom will, to an extent, mitigate the amenity impacts of the proposed use.

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 includes a brief review of the independent economic assessment commissioned by the Planning Service and reported to Planning Committee in June 2023. The statement asserts that as there has been a very small number of short-term lets approved and less are therefore available, occupancy rates will increase for each STL property and the economic circumstances surrounding the value of short-term lets will change. It continues that although it is recognised that NPF 4 Policy 30 (e) (ii) forms part of the Development Plan, the likely significant loss of STL accommodation across the city over the next 12 months will have such an impact on the economic context that the independent economic assessment should be set aside in the determination of this application.

As explained in the summary of this assessment below, limited weight has to be attached to it in the determination of this application, as the assessment considered generalities more than specifics.

Notwithstanding the applicant's submissions in the planning statement, the current established planning use of the property is for residential accommodation. Consequently, the use of the property as an STL would result in a loss of residential accommodation, which given the recognised need and demand for housing in Edinburgh, is important to retain, where appropriate.

It is accepted that the use of the property by short term let guests will likely result in some economic benefit locally, and that there will be some positive impact on the local economy. However, residential occupation of the property also contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, and the ability to make 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

There is no car parking available at the site. The site is accessible to public transport. There are no cycle parking standards for STLs. The proposals comply with 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

On 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. On 27 June 2024 the Council accepted the recommendations and modifications required to the Proposed City Plan 2030. The Proposed City Plan 2030 has now been submitted to Scottish Ministers for their final consideration. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the adoption of the plan.

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

285 representations have been received. These include 17 objections, one petition in support with 45 signatures and 267 letters of support. Of the 267 letters of support, 125 provided no reasons for supporting.

A summary of the representations is provided below:

material considerations - objection

- Negative impact on residential amenity (including lack of community cohesion and security and privacy). Addressed in c) above.
- Will cause parking problems. Addressed in c) above.
- The property has shared accesses. Addressed in c) above.
- Negative impact on housing stock. Addressed in c) above.
- Contrary to LDP Policy Hou 7. Addressed in c) above.
- Contrary to NPF 4 Policy 30 (e). Addressed in c) above.

non-material considerations- objection

- Too many STLs in neighbourhood. Each application has to be assessed on its individual merits.
- Loss in value of surrounding properties. This is not a material planning consideration.
- Garden has collapsed into patio area, rendering shared garden unsafe. This is not a material planning consideration.

material considerations - in support

- Good for local economy. Addressed in c) above.
- Too small for residential use. Addressed in c) above.
- Private entrance via rear garden. Addressed in c) above.
- No loss of residential use. Addressed in c) above.
- No negative impact on conservation area. Addressed in b) above.
- Is in a mixed use area. Addressed in c) above.

non-material considerations- in support

- Great addition to Canonmills.
- Short-term let is very well run.
- Property is excellent value.
- Place is peaceful and cosy.
- Convenient for neighbours' friends staying.
- Applicant is valued member of community.
- High quality renovation.
- No known complaints from neighbours.

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 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will not harm the listed building or its setting and it will preserve or enhance the character or appearance of the conservation area.

The 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. 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 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: 29 September 2023

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lesley Porteous, Planning Officer
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Summary of Consultation Responses

No consultations undertaken.

Location Plan



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