

Development Management Sub-Committee Report

Wednesday 2 October 2024

**Application for Planning Permission STL
Flat 10 30A Shandwick Place, Edinburgh, EH2 4RT.**

Proposal: Change of use from residential apartment to short term let (STL) apartment.

**Item – Committee Decision
Application Number – 24/03268/FULSTL
Ward – B11 - City Centre**

Reasons for Referral to Committee

The application has been referred to Development Management Sub-Committee because the application has attracted more than 20 letters in 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 the character 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 three-bedroom flat at 30A (flat 10) Shandwick Place in the west end of the city. The application property occupies the third and fourth storeys of the four-storey tenement. There are 11 flats in the tenement block, and all share the main entrance door from Shandwick Place. Behind the main entrance door, a short flight of stairs provides access to a hallway where a further staircase provides access up to flat 10 on the third floor. Only one other flat share this staircase, with all remaining flats sharing a separate staircase. A secondary entrance for flat 10 is shown from Queensferry Street Lane to the rear of the property. This entrance and stairwell is shared by one other flat.

Shandwick Place is a key thoroughfare served by public transport routes and benefiting from significant footfall. There are a mix of uses on the street including residential, offices, retail, restaurants, public houses and bars.

The application property is a category C listed building (LB 30181, 30/01/1981).

The application site is in the Old and New Towns of Edinburgh World Heritage Site and the New Town Conservation area.

Description of the Proposal

The application is for a change of use from residential to short term let (STL) (sui generis). No internal or external physical changes are proposed. The application is not retrospective.

Supporting Information

Planning Statement.
Comparative Economic Analysis Report.

Relevant Site History

No relevant site history.

Other Relevant Site History

21/00258/ESHORT

Alleged unauthorised change of use from residential use to short stay commercial visitor accommodation at Flat 10, 30A Shandwick Place.

Enforcement Notice served 16.09.2021.

Enforcement Notice appealed.

Appeal dismissed and case closed 04.02.2022.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

No consultations undertaken.

Publicity and Public Engagement

Date of Neighbour Notification: 19 July 2024

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 26 July 2024

Site Notices Date(s): 23 July 2024

Number of Contributors: 33

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 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 nor 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:

- NPF 4 Sustainable Places Policy 1.
- NPF 4 Historic Assets and Places Policy 7.
- NPF 4 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, Conservation Area and World Heritage Site

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

This three-bedroom property is included within a tenement block. It shares the main entrance door and lower landing with all other properties and a stairwell with one other property.

The applicant has submitted a planning statement which addresses amenity. The statement describes how the location of tenement block 30A is in a busy, mixed use area. It also asserts that any negative impact on residential amenity will be minimal as no more than six guests can be accommodated within the property, and although the property shares a main entrance with all other properties it is accessed, within the tenement, by a staircase which is only shared by one other property.

There is a mix of uses in the surrounding area and as such there is a high ambient noise level. Consequently, the introduction of an STL use in this location will have no further deterioration in the amenity of the surrounding area. However, the use of this property as an STL would introduce an increased frequency of movement to the property via the main entrance and lower landing shared with 10 other properties and the stairwell shared with one other property. The proposed three-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 a potential negative impact on residents' security as STL guests are unfamiliar faces.

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.

The applicant has also commissioned a comparative economic analysis report assessing the difference in local benefits between use of the property for short-term let and residential. However, this is based on general assumptions in terms of occupancy, length of stay, patterns of behaviour of guests etc which is reinforced as the proposal is not retrospective, and therefore limited weight has also to be attached.

Notwithstanding the applicant's submissions in the planning statement and the comparative analysis report, 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, particularly in this central, sought-after location, is important to retain, where appropriate.

Further, it is important to recognise that residential occupation of the property 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, as well as by making 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).

Car Parking

There is no off street car parking available within the site. The site is accessible by public transport. There are no cycle parking standards for STLs. 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 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.

On 10 September 2024 Scottish Ministers issued a Direction under section 20 (5) of the Town and Country Planning (Scotland) Act 1997 that City of Edinburgh Council consider modifying the proposed City of Edinburgh Local Development Plan 2, City Plan 2030 as detailed within the annexe to the direction. The required modifications are being reviewed and will be considered at a further meeting of the Planning Committee and then further Full Council.

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

Thirty-three representations have been received. Thirty comments in support and three objections.

A summary of the representations is provided below:

material considerations-objections

- Negative impact on residential amenity (including residents' security). Addressed in c) above.
- Negative impact on housing stock. Addressed in c) above.

non-material considerations- objections

- Will encourage anti-social behaviour. This is a matter for Police Scotland.
- Don't want another rental property in the building. Each application must be assessed on its individual merits.
- The property was previously used for short-term let which resulted in enforcement action. Referred to in Planning History. Each application must be assessed on its individual merits.

material considerations-in support

- The property is in a mainly commercial area. Addressed in c) above.
- There will be no negative impact on residential amenity. Addressed in c) above.
- Would contribute to the local economy. Addressed in c) above.

non-material considerations-in support

- The property was commercial until 2012. The property is currently a residential unit.
- STL guests like to stay in the heart of the city.

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 the character 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 property 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: 18 July 2024

Drawing Numbers/Scheme

01

Scheme 1

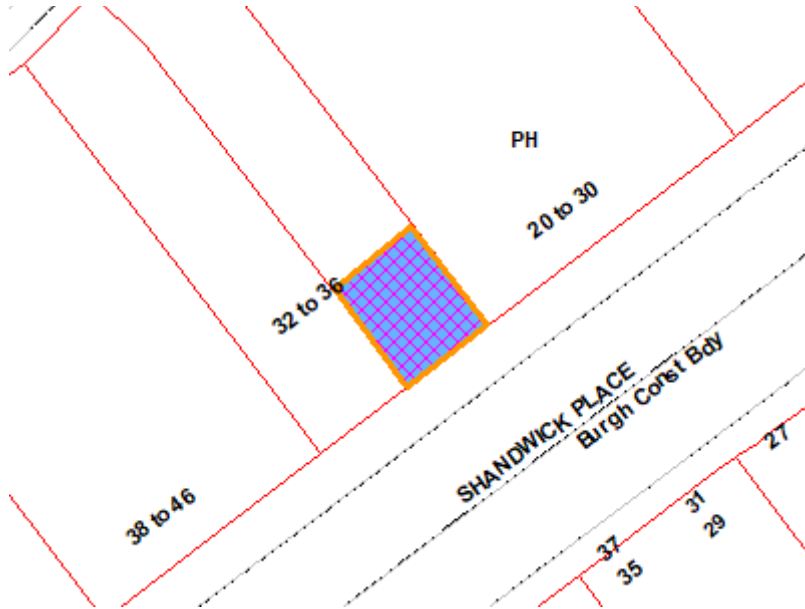
David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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

Summary of Consultation Responses

No consultations undertaken.

Location Plan



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