

# Planning Committee Training - STLs

Friday 14<sup>th</sup> March 2025

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# Pre STL-Control Area

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- S26 of 1997 Act, Meaning of “development”  
... “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the **making of any material change in the use of any buildings** or other land.
- Moore v Secretary of State for Communities and Local Government
- Cameron v Scottish Ministers
- Fact and degree assessment of the characteristics associated with the use.

# STL-Control Area

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- Material change of use: short term lets [s26B](#) of the Town and Country Planning (Scotland) Act 1997 as amended.
- (1) provision to introduce control area
- (2) in a control area, use of dwelling as STL is **deemed** to involve a material change of use
- (3) excludes private residential tenancies and use of principal homes or part of.

# Outcome of the Judicial Review

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- The JR confirmed the STLCA cannot be applied retrospectively.
- Mandatory condition applies to all STLs.
- Properties operating as a STL **prior to 5<sup>th</sup> September 2022** must be considered under **Section 26** of the 1997 Act.
- Secondary let properties which began operating as a STL **post 5<sup>th</sup> September 2022** must be considered under **Section 26B** of the 1997 Act.
- Other STL uses still considered under **Section 26** of the 1997 Act.

# Certificate of Lawfulness

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## Certificate of Lawfulness of Existing Use

1. The material change of use began 10 years before the date of the application and has operated continuously.
2. The change of use began within the last 10 years and does not require planning permission.

# Handling Certificate of Lawfulness

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- [Planning Enforcement Circular 10/2009 Annex F](#)
- The assessment is on the facts of the case and planning law.
- 10 years use – relevant period from the date of the application back 10 years.
- The onus of proof on the applicant.
- 'On the balance of probability' not 'beyond reasonable doubt'.

# Case Studies – 10 years

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- Flat 4, 72 Rose Street South Lane  
CLUD-230-2022  
Allowed – dealt with COVID periods
- 1F4, 34 Broughton Road  
CLUD-230-2029  
Dismissed – breaks and ability to take enforcement action.



# Handling Certificate of Lawfulness

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- Fact and degree assessment to determine a material change of use.

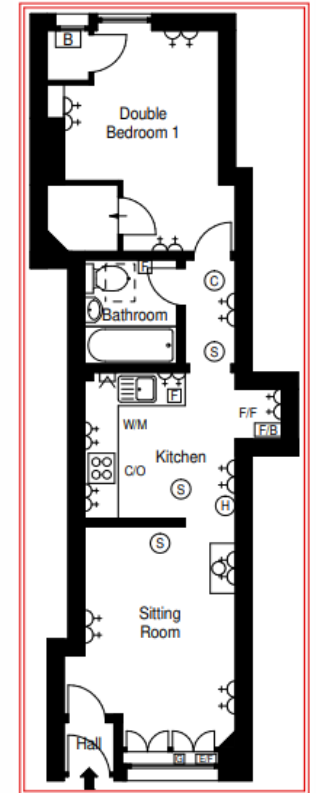
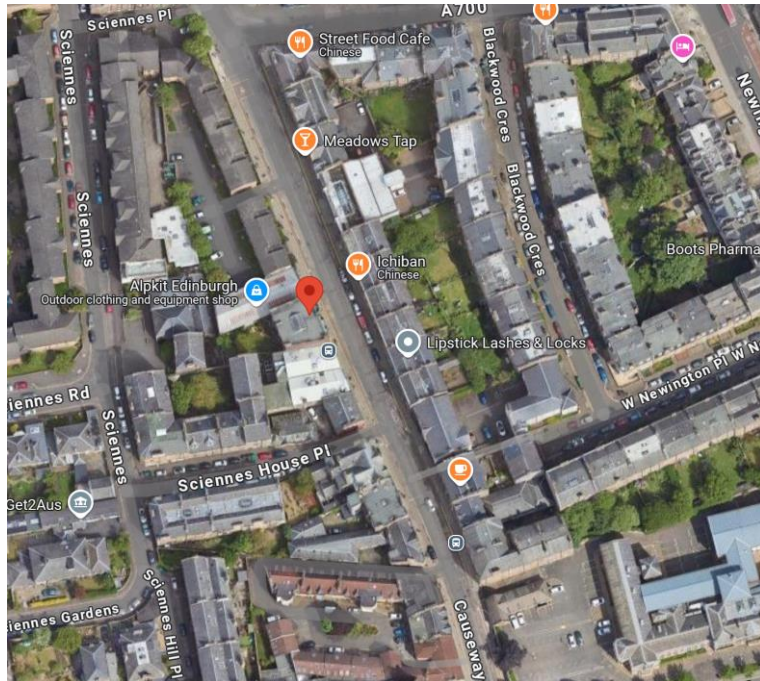
Consideration given to:

- the frequency of arrivals and departures,
- the number of people staying,
- the character of the property/area and the likely frequency and intensity of noisy or otherwise unsociable activities.

\*When did the material change of use occur (*Cameron*)?

# Case Studies – Not a MCOU

- 58 Causewayside – Allowed CLUD-230-2137





# Planning applications

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## **NPF4 Policy 30 Tourism**

e) Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

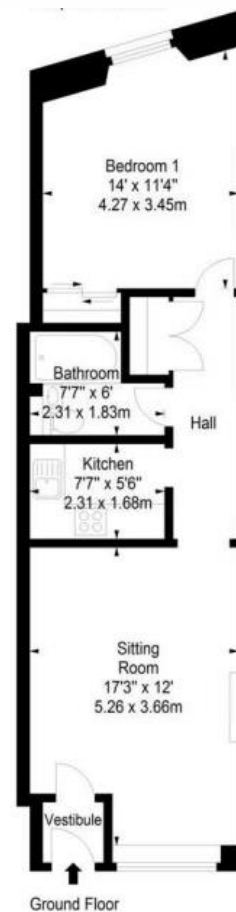
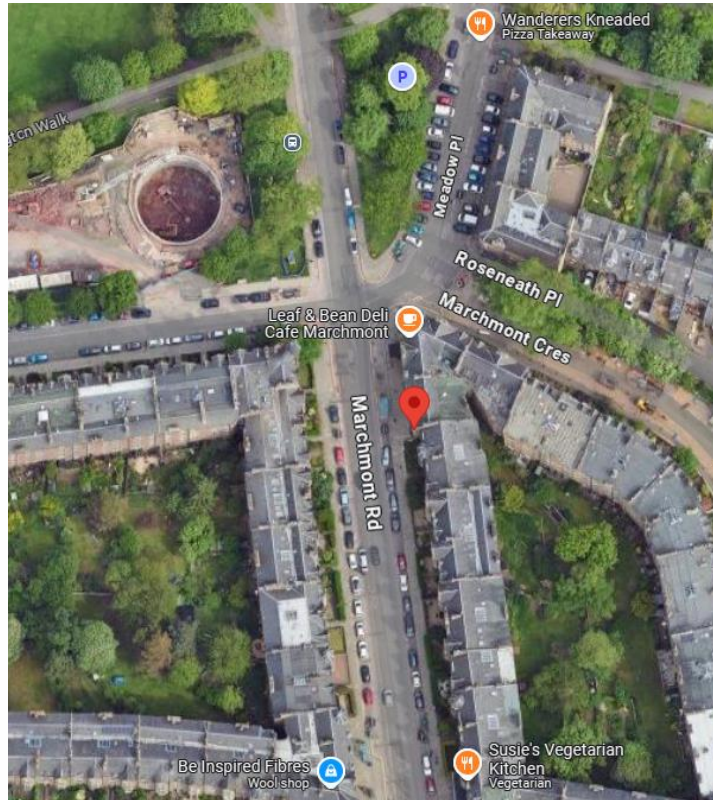
- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

## **CP 2030 Policy Hou 6**

Developments, including change of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

# Appeals

- 9 Marchmont Road





# Appeals

- 3 Tron Square

