

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 15 April 2024. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor McRae, Chairperson; and Councillors Boulton, Farquhar and Greig (Reviews 1 and 2 only).

The agenda, reports and recording associated with this meeting can be viewed [here](#).

93 ASH-HILL DRIVE - CHANGE OF USE OF FLAT TO SHORT TERM LET ACCOMMODATION (SUI GENERIS) WITH MAXIMUM OCCUPANCY OF TWO PEOPLE

1. The Local Review Body (LRB) of Aberdeen City Council met on this day to review the decision taken by an appointed officer under the Council's Scheme of Delegation for the refusal of the application for change of use of flat to Short Term Let (STL) accommodation (sui generis) with maximum occupancy of two people at 93 Ash-hill Drive, Aberdeen, AB16 5YR.

Councillor McRae as Chair for the meeting, gave a brief outline of the business to be undertaken, advising that the LRB would be addressed by the Assistant Clerk, Mr Mark Masson with regards to the procedure to be followed and thereafter, by Ms Lucy Greene who would be acting as the Planning Adviser to the Body in the following case under consideration this day.

The Chairperson stated that although the Planning Adviser was employed by the planning authority, she had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. He emphasised that the officer would not be asked to express any view on the proposed application.

The Local Review Body was then addressed by Mr Masson, Assistant Clerk in regard to the procedure to be followed, at which time reference was made to the procedure note circulated with the papers calling the meeting and to more general aspects relating to the procedure.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 13 August 2023; (3) the Decision Notice dated 29 November 2023; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant/agent; and (6) consultee correspondence from the Council's Environmental Health Team, the Roads Development Management Team and Waste Planning Team.

Ms Greene then described the site and outlined the appellant's proposal for detailed planning permission.

Ms Greene indicated that the appointed officer's reasons for refusal outlined in the report of handling was as follows:-

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- Impact on amenity of flat below at first floor level (no. 89), due to STL at no. 85 at ground floor level. Approval would result in flats above and below being in STL use;
- Cumulatively would result in significant noise impact, disturbance and decline in real or perceived security and privacy – to the detriment of residential amenity of no. 89;
- Adverse impact on residential amenity of area around the application flat;
- Conflict with Policies 14 – Design of National Planning Framework (NPF) 4, H1 – Residential Areas, D1 - Quality Placemaking, D2 – Amenity of the Local Development Plan 2023; and
- Adverse impact on amenity would outweigh the economic benefits from the STL and therefore proposal would be contrary to Policy 30 – Tourism of NPF4

Ms Greene outlined the key points from the appellant's Notice of Review as follows:-

- There would be little difference between the use as a STL and long term let, in terms of noise, disturbance and security and privacy;
- A residential let would involve occupancy by 4 people with more disturbance;
- The STL would involve a weekly change in visitors with cleaning being similar to a permanent resident;
- In terms of security, there would be negligible difference over and above the flat below already in STL use. Airbnb allowed for background checks of guests; and
- Overall, due to minimal change there would be no adverse impact on residential amenity and no conflict with policies quoted.

In terms of Consultations, Ms Greene advised that the Roads Team had no objection, the Waste Team advised that general information was provided regarding waste collection and there was no objection and that Environmental Health Team had no objection. She indicated that there was no response received from Rosehill and Stockethill Community Council and there were no other objections received.

Ms Greene advised that the applicant had expressed the view that no further procedure was required.

The Chairperson and Councillors Boulton, Farquhar and Greig all indicated in turn that they each had enough information before them and therefore agreed that the review under consideration should be determined without any further procedure.

In terms of relevant policy considerations, Ms Greene referred to the National Planning Framework 4, the Aberdeen Local Development Plan 2023, Scottish Government's publication on 'Short Term Lets: Business and regulatory impact assessment' from November 2021 and Circular 1/2023: Short Term Lets and Planning.

Ms Greene responded to various questions from members relating to the application including the impact on provision of housing and the location of the proposed STL.

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Members each advised in turn and by a majority of 3 to 1, agreed to reverse the appointed officer's earlier decision. Planning permission was therefore granted conditionally.

The Chairperson and Councillors Boulton and Farquhar agreed to reverse the decision of the appointed officer, however Councillor Greig advised that he supported the appointed officer's decision to refuse planning permission.

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application. More specifically, the reasons on which the Local Review Body based this decision are as follows –

Taking into account the nature of the property, the fact that there is one other flat in short term let use within the block of eight, and the fact that there are no objections, it is considered that there would not be a significant impact on the amenity, including privacy, of occupiers of other flats within the block. The proposal would therefore comply with Policy H1: Residential Areas, D1: Quality Placemaking, D2: Amenity and Policy 14 – Design, quality and place in National Planning Framework 4 (NPF4).

Although the property is not within the city centre as noted in Policy VC2: Tourism and Culture in the adopted Aberdeen Local Development Plan 2023 (LDP), the short term let use would result in accommodation being provided close to the hospital for patients' families, close to other attractions such as bowling competitions and events at Hazlehead Park. It is also accessible from by public transport in accordance with Policy 13: Sustainable Transport in NPF4 and Policy T2: Sustainable Transport in the LDP 2023.

With the attachment of a condition limiting the permission to a temporary five year period, the use can be reviewed in order to assess the impact of short term lets on the availability of housing and would comply with Policy 30 in National Planning Framework 4 (NPF4)

CONDITIONS

This permission is granted subject to the following conditions.

(01) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

(02) TIME LIMIT FOR SERVICED APARTMENT USE

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The use of the flat for short term let accommodation as hereby approved, shall expire 5 years following the date of the grant of permission as stated on this notice, unless a further planning permission has been granted for continued use of the property as serviced apartment accommodation in the meantime. Should no further planning permission be granted then the property shall revert to a flat in residential use after the aforementioned 5-year period.

Reason: In order to allow reassessment of the local housing need and demand situation and the local economic benefits derived from the use of the property as short term let accommodation to be reassessed in 5 years' time, to ensure that the loss of the property as residential accommodation would remain compliant with Policy 30 of NPF4.

16 BRIGHT STREET - CHANGE OF USE OF FLAT TO SHORT TERM LET ACCOMMODATION (SUI GENERIS) WITH MAXIMUM OCCUPANCY OF FOUR PEOPLE (RETROSPECTIVE)

2. The LRB then considered the second request for a review to evaluate the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the application for change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of four people (Retrospective) at 16 Bright Street, Aberdeen, AB11 7TE.

The Chairperson advised that Ms Lucy Greene would again be acting as the Planning Adviser to the Body in the following case under consideration this day and reiterated that although the Planning Adviser was employed by the planning authority, she had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. She emphasised that the officer would not be asked to express any view on the proposed application.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 13 October 2023; (3) the decision notice dated 27 February 2024; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant's agent; and (6) correspondence from consultee Aberdeen City Council's Roads Development Management Team and Waste Planning Team; and (7) a letter of representation.

Ms Greene then described the site and outlined the appellant's proposal.

She indicated that the appointed officer's reasons for refusal outlined in the decision notice was as follows:-

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- Location of access door on rear elevation, bringing transient guests into private area, passing rear window to use external stairs, detriment to privacy and sense of security;
- Walking past rear garden to access property and to access the rear garden in upper section of rear curtilage;
- Overall harm to amenity – privacy, security and enjoyment of garden;
- Despite likely local economic benefits, impact on local amenity would outweigh this; and
- Contrary to LDP policy H1 (Residential Areas), Policy 30 (Tourism) in NPF4.

Ms Greene outlined the key points from the appellant's Notice of Review as follows:-

- Policy was incorrectly interpreted;
- Inconsistency of determination of STLs across city, 11 of 178 refused – tenements;
- Failure to account for material considerations – cases;
- Arguable there was no change of use as no STL control zone;
- Amenity was not adversely affected – no enforcement and good ratings;
- No impact on local housing need;
- Property used to be one house (1999) and approved with the rear access steps;
- Property could be HMO – higher risk for amenity;
- STL had provided accommodation for families whilst they care for relatives;
- Submission included a letter from the resident of lower flat – citing contentment with situation and management of the flat;
- Public transport and nearby facilities – complied with policies on transport;
- Tourism Policy VC2 supported visitor facilities and offered different accommodation;
- Request clarification over privacy issue regarding the rear door and passageway;
- Permanent residents would create more comings and goings;
- In last year occupancy equalled 62% with average stay 7.6 days;
- Suggested solution to erect signage requesting silence and 5 year condition;
- Regarding privacy and security – this had not been a problem in real-life, 5 year permission would provide solution;
- Guests do not walk past neighbours garden – factual inaccuracy;
- No facilities/seating/dogs/drying green were provided - rear garden could be removed from guest use; and
- Proposal aligned with policy H1 – Residential Areas and policy 30 on Tourism.

Ms Greene made reference to the letter of objection which made reference to parking pressure, increased potential for parked cars to block driveways, compatibility with resident use in street and the transient population noting that it could also set precedent. No comments were submitted by the Community Council. In terms of the consultee responses, the Council's Roads and Waste Teams had no objection.

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Ms Greene advised that the applicant had expressed the view that no further procedure was required.

At this point in the proceedings, the LRB considered whether they had sufficient information before them to proceed to determine the review.

The Chairperson and Councillors Boulton, Farquhar and Greig all indicated in turn that they each had enough information before them and therefore agreed that the review under consideration should be determined without any further procedure.

In terms of relevant policy considerations, Ms Greene referred to National Planning Framework 4, the Aberdeen Local Development Plan 2023, the Scottish Government's publication on 'Short Term Lets: Business and regulatory impact assessment' from November 2021 and Circular 1/2023: Short Term Lets and Planning.

Ms Greene responded to various questions from members relating to access to the garden, the five year temporary condition and signage.

Members each advised in turn and by a majority of 3 to 1, agreed to reverse the appointed officer's earlier decision. Planning permission was therefore granted conditionally.

The Chairperson and Councillors Boulton and Farquhar agreed to reverse the decision of the appointed officer, however Councillor Greig advised that he supported the appointed officer's decision to refuse planning permission.

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application.

More specifically, the reasons on which the Local Review Body based this decision are as follows:-

The short term let has been operating for some time with no evidence of problematic issues for the ground floor neighbour, with a letter having been provided in relation to that. In view of this the use is considered acceptable as being complementary to residential use and privacy issues are regarded as having been satisfactorily addressed. The proposal is relatively close to the city centre and therefore complies with Policy VC2: Tourism and T2: Sustainable Transport in the adopted Aberdeen Local Development Plan 2023 (LDP). The proposal would comply with Policy H1: Residential Areas and although there are tensions with Policy D2: Amenity, for the reasons noted above the proposal is considered acceptable. In terms of parking the short term let use was considered to have a similar demand as a residential use, and the proposal complies with Policy T3 in the LDP.

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A condition is attached to restrict the permission to a five year temporary period in order for the impact on housing supply to be assessed at that time. The proposal therefore complies with Policy 30 in National Planning Framework 4 (NPF4).

CONDITIONS

This permission is granted subject to the following conditions.

(01) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

(02) TIME LIMIT FOR SERVICED APARTMENT USE

The use of the flat for short term let accommodation as hereby approved, shall expire 5 years following the date of the grant of permission as stated on this notice, unless a further planning permission has been granted for continued use of the property as serviced apartment accommodation in the meantime. Should no further planning permission be granted then the property shall revert to a flat in residential use after the aforementioned 5-year period.

Reason: In order to allow reassessment of the local housing need and demand situation and the local economic benefits derived from the use of the property as short term let accommodation to be reassessed in 5 years' time, to ensure that the loss of the property as residential accommodation would remain compliant with Policy 30 of NPF4.

Prior to consideration of the following review, Councillor Greig left the meeting by virtue of him being an elected member in the Ward where this review was located.

125 BLENHEIM PLACE - ERECTION OF SINGLE STOREY EXTENSION; FORMATION OF DORMER; INSTALLATION OF REPLACEMENT WINDOWS AND DOOR TO REAR; AND FORMATION OF ROOF LIGHTS TO FRONT

3. The LRB then considered the third request for a review to evaluate the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the application for the erection of single storey extension; formation of dormer; installation of replacement windows and door to rear; and formation of roof lights to front at 125 Blenheim Place, Aberdeen, AB25 2DL.

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The Chairperson advised that Ms Lucy Greene would again be acting as the Planning Adviser to the Body in the following case under consideration this day and reiterated that although the Planning Adviser was employed by the planning authority, she had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. She emphasised that the officer would not be asked to express any view on the proposed application.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 9 January 2024; (3) the decision notice dated 8 March 2024; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; and (5) the Notice of Review submitted by the applicant's agent.

Ms Greene then described the site and outlined the appellant's proposal.

She indicated that the appointed officer's reasons for refusal outlined in the decision notice was as follows:-

- Proposed dormer conflicted with Policy D6-Historic Environment and D8 – Windows & Doors and HES Managing Change Guidance on Roofs, due to loss of historic dormer and erection of dormer that would create significant mass on rear roof;
- Roof was prominently visible from rear lane which was public;
- With exception of neighbour, other rear elevations designed with due consideration for context of area; and
- Detriment to character of Conservation Area, would not comply with Historic Environment Policy for Scotland, Policy H1- Residential Areas, D1-Quality Placemaking, D6, D8, Policy 7 – Historic Assets and Places, 14 – Design etc, 16-Quality Homes and Historic Environment S's Managing Change – Roofs, Aberdeen Planning Guidance (APG) – Householder Guide on dormers.

Ms Greene outlined the key points from the appellant's Notice of Review as follows:-

- Revisions – first floor timber s/c windows to remain; rooflight to front altered, dormer has peaked slated roof, with linking panel set back;
- Heritage Statement – dormer not original and dormer had upvc window and projecting fascia – complied with APG;
- Single storey extension and rooflight – deemed acceptable – dormer was only reason for refusal;
- Proposal was sympathetic, improved appearance of exterior of building and was in keeping with surroundings;
- Enhanced function of upper floor for family use;
- Significantly improved thermal properties and heat loss; and

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- Examples of recent approvals: 56 Fountainhall Road (dormer on roof), 59 Desswood Place (box dormer on rear extension) and contained photos of other dormers.

Ms Greene advised that there was no response from Queens Cross and Harlaw Community Council in relation to consultation.

Ms Greene advised that the applicant had expressed the view that a site visit should be undertaken by the Local Review Body.

At this point in the proceedings, the LRB considered whether they had sufficient information before them to proceed to determine the review.

The Chairperson and Councillors Boulton and Farquhar all indicated in turn that they each had enough information before them and therefore agreed that the review under consideration should be determined without any further procedure.

In terms of relevant policy considerations, Ms Greene referred to National Planning Framework 4, the Aberdeen Local Development Plan 2023 and the Householder Design Guide – Dormer principles.

Members each advised in turn and unanimously agreed to overturn the appointed officer's earlier decision to refuse the planning permission and approved the application.

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application.

More specifically, the reasons on which the Local Review Body based this decision are as follows:-

That the proposal preserves the character of the Albyn Place / Rubislaw Conservation Area as the existing dormer although historic is not original to the house and the design of the proposed dormer and its size and positioning on the roof are acceptable on the rear of the property. The proposed dormer responds, in the form of its roof, to the existing dormer and is a significant improvement compared to the previously refused application. The proposal represents adaptations for use of the building by families for today's living. The proposal therefore complies with Policy 7 (Historic Assets and Places) and Policy 14 (Design) in National Planning Framework 4 (NPF4), D6: Historic Environment and D1: Quality Placemaking in the adopted Aberdeen Local Development Plan 2023 (LDP) and Historic Environment Policy for Scotland.

There is no significant impact on the amenity of neighbours and the proposal therefore complies with Policy D2 Amenity and Policy H1: Residential Areas in the LDP.

CONDITIONS

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This permission is granted subject to the following conditions.

(01) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

- **COUNCILLOR CIARAN MCRAE, Chairperson**