

Public Document Pack



To: Councillor McRae, Convener; Councillor Greig, Vice-Convener; and Councillors Alphonse, Boulton, Clark, Copland, Farquhar, Lawrence and Macdonald.

Town House,
ABERDEEN 08 May 2024

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in **Committee Room 2 - Town House** on **WEDNESDAY, 15 MAY 2024 at 10.00 am.** This is a hybrid meeting and Members may also attend remotely.

The meeting will be webcast and a live stream can be viewed on the Council's website. <https://aberdeen.public-i.tv/core/portal/home>

ALAN THOMSON
INTERIM CHIEF OFFICER – GOVERNANCE

B U S I N E S S

MEMBERS PLEASE NOTE THAT ALL LETTERS OF REPRESENTATION ARE NOW AVAILABLE TO VIEW ONLINE. PLEASE CLICK ON THE LINK WITHIN THE RELEVANT COMMITTEE ITEM.

MOTION AGAINST OFFICER RECOMMENDATION

- 1.1. Motion Against Officer Recommendation - Procedural Note (Pages 5 - 6)

DETERMINATION OF URGENT BUSINESS

- 2.1. Determination of Urgent Business

DECLARATION OF INTERESTS AND TRANSPARENCY STATEMENTS

- 3.1. Members are requested to intimate any declarations of interest or connections

MINUTES OF PREVIOUS MEETINGS

- 4.1. Minute of Meeting of the Planning Development Management Committee of 18 April 2024 - for approval (Pages 7 - 14)

COMMITTEE PLANNER

- 5.1. Committee Planner (Pages 15 - 18)

GENERAL BUSINESS

- 6.1. Planning Appeal Update (Pages 19 - 22)

PLANNING APPLICATIONS WHICH ARE THE SUBJECT OF WRITTEN REPORTS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 7.1. Detailed Planning Permission for the change of use from house (use class 9) to House in Multiple Occupation (HMO) - 458 King Street Aberdeen (Pages 23 - 30)

Planning Reference – 240314

All documents associated with this application can be found at the following link and enter the reference number above:-

[Link.](#)

Planning Officer: Robert Forbes

- 7.2. Section 42 (Variation to Conditions) - removal of condition 1 of planning ref A6/0654 (dwelling house to be occupied by person employed full time in cattery and equestrian business on property known as Erinvale Cattery & Livery) - Erinvale, Anguston Road, Peterculter Aberdeen (Pages 31 - 42)

Planning Reference – 240214/S42

All documents associated with this application can be found at the following link and enter the reference number above:-

[Link.](#)

Planning Officer: Matthew Easton

WHERE THE RECOMMENDATION IS ONE OF REFUSAL

- 8.1. Detailed Planning Permission for the Demolition of existing building and re-development of site to include change of use to form a mixed-use of 4 business units (class 4), 2 ancillary cafe/restaurant units (class 3) with drive thru takeaway (sui generis), electric vehicle charging hub, car parking, soft landscaping and associated works - Alba Gate, Stonewood Park Aberdeen (Pages 43 - 72)

Planning Reference – 231422

All documents associated with this application can be found at the following link and enter the reference number above:-

[Link.](#)

Planning Officer: Alex Ferguson

OTHER REPORTS

- 9.1. Planning Enforcement Activity Report - April 2023 to March 2024 - CR&E/24/148 (Pages 73 - 114)
- 9.2. Aberdeen Planning Guidance: Short-term Lets - CR&E/24/143 (Pages 115 - 148)

DATE OF NEXT MEETING

- 10.1. Thursday 20 June 2024 - 10am

Integrated Impact Assessments related to reports on this agenda can be viewed [here](#)

To access the Service Updates for this Committee please click [here](#)

Website Address: aberdeencity.gov.uk

Should you require any further information about this agenda, please contact Lynsey McBain, Committee Officer, on 01224 067344 or email lymcbain@aberdeencity.gov.uk

Agenda Item 1.1

Members will recall from the planning training sessions held, that there is a statutory requirement through Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 for all planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. All Committee reports to Planning Development Management Committee are evaluated on this basis. It is important that the reasons for approval or refusal of all applications and any conditions to be attached are clear and based on valid planning grounds. This will ensure that applications are defensible at appeal and the Council is not exposed to an award of expenses.

Under Standing Order 29.11 the Convener can determine whether a motion or amendment is competent and may seek advice from officers in this regard. With the foregoing in mind the Convener has agreed to the formalisation of a procedure whereby any Member wishing to move against the officer recommendation on an application in a Committee report will be required to state clearly the relevant development plan policy(ies) and/or other material planning consideration(s) that form the basis of the motion against the recommendation and also explain why it is believed the application should be approved or refused on that basis. The Convener will usually call a short recess for discussion between officers and Members putting forward an alternative to the recommendation.

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PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 18 April 2024. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor McRae, Convener; Councillor Greig, Vice Convener; and Councillors Alphonse, Boulton, Clark, Copland, Farquhar, Lawrence and Macdonald.

The agenda and reports associated with this minute can be found [here](#).

Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent minute and this document will not be retrospectively altered.

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 14 MARCH 2024

1. The Committee had before it the minute of the previous meeting of 14 March 2024, for approval.

The Committee resolved:-

to approve the minute as a correct record.

COMMITTEE PLANNER

2. The Committee had before it the committee business planner, as prepared by the Chief Officer – Governance.

The Committee resolved:-

to note the committee business planner.

PLANNING APPEAL UPDATE

3. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which provided an update in relation to various planning appeals.

The report informed members about planning appeals and notifications in relation to Aberdeen City Council decisions that the Scottish Government's Division for Planning and Environmental Appeals (DPEA) had received or decided since the last Planning Development Management Committee meeting and also listed appeals that were still pending.

The Committee resolved:-

to note the information.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

18 April 2024

31 ST ANDREWS STREET - 240097

4. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for Detailed Planning Permission for the installation of a window and door to the north elevation (amendment to previous approval (retrospective) at 31 St Andrews Street Aberdeen, be approved unconditionally.

The Committee heard from Aoife Murphy, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Committee then heard from Boyd Wright, who objected to the proposed application.

The Committee resolved:-

to seek a revised management plan from the developer and to approve the application with a condition added to read:-

(01) REAR EXTERNAL DOOR

That the door hereby approved on the rear elevation as shown on drawing ref. 4035[2] 101 shall not be used other than for emergency purposes and not for any other means of access.

Reason: to ensure the amenity for neighbouring properties is protected.

35C KING'S CRESCENT ABERDEEN - 240143

5. The Committee had before it a report by the Chief Officer – Strategic Place Planning **which recommended:-**

That the application for Detailed Planning Permission for the change of use from flat to HMO (House in Multiple Occupation) at 35C King's Crescent Aberdeen, be approved subject to the following condition:-

Condition

(1) 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.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

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The Committee heard from Alex Ferguson, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Committee then heard from Steven Berry, Old Aberdeen Community Council, who objected to the proposed application.

The Committee then heard from Richard Dingwall, agent for the application, who spoke in support of the proposed application.

The Committee resolved:-

to approve the application conditionally.

WALLACE TOWER, TILLYDRONE ROAD ABERDEEN - 231583

6. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for Detailed Planning Permission for the change of use from residential dwelling (class 9) to mixed use (class 3 and 4) including community cafe, ancillary office accommodation and meeting hall; erection of single storey extension; formation of external seating area; erection of bin store and associated hard and soft landscaping works including cycle parking at Wallace Tower, Tillydrone Road Aberdeen, be approved subject to the following conditions:-

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) EXTERNAL MATERIALS DETAILS

That no development shall take place unless a scheme/samples detailing all external finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed.

Reason – in the interest of visual amenity

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(03) IMPLEMENTATION LANDSCAPING SCHEME

That all planting, seeding and turfing comprised in the approved scheme of landscaping consisting of the drawings 'Planting Plan'; 'Planting Legend' and 'Hard Landscape Materials Plan' by Heather Dale Garden Design, dated 19th January 2024 shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority.

Reason - in the interests of the amenity of the area.

(04) TREE REPLACEMENT SCHEME

That prior to the commencement of the development hereby approved no trees will be removed from within or outside the site unless details of a suitable tree replacement planting scheme has been submitted to, and approved in writing by the Planning Authority in consultation with Environmental Services. For the avoidance of doubt, replacement trees shall be located within the boundary of Seaton Park, and the details to be submitted shall include a specification of their locations, number, species, sizes and stage of maturity at planting.

Reason – In the interest of visual amenity and to ensure appropriate tree cover will remain in Seaton Park.

(05) TREE PROTECTION MEASURES (01)

That no development shall take place until tree protection barriers as shown on drawing 'Tree Survey Drawing' by Struan Dalgleish, April 2023 have been erected. Once in place, these tree protection barriers shall remain in situ until construction of the hereby approved development has been completed and all plant and machinery have been removed from site.

Reason – In the interest of protection of trees

(06) TREE PROTECTION MEASURES (02)

That no materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the scheme of tree protection as shown on drawing 'Tree Survey Drawing' by Struan Dalgleish, April 2023 - without the written consent of the Planning Authority and no fire shall be lit in a position where the flames could extend to within 5 metres of foliage, branches or trunks.

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Reason - In order to ensure adequate protection for the trees on site during the construction of the development.

(07) COOKING RESTRICTIONS

That no cooking or frying operations (including but not limited to deep fat frying, shallow frying, oven cooking, boiling, stewing, grilling or broiling) shall be carried out on the premises, unless a suitable Odour Impact Assessment (including a Local Extract Ventilation needs assessment) by a competent person, in line with relevant guidance, has been submitted to and approved in writing by the Planning Authority in consultation with Environmental Health, and subsequently the Local Extract Ventilation system has been installed in accordance with the approved details.

Reason – In the interest of amenity

(08) INSTALLATION BIN AND BIKE STORE

That the development hereby approved shall not be brought into use until the bin store and bike stands as specified on drawings PL(00)101A and PL(04)103 have been installed and are available for use unless otherwise agreed in writing.

Reason – In the interest of public health and to promote sustainable transport methods

(09) DISABLED PARKING SPACE

That the development hereby approved shall not be occupied until details of a disabled parking space to be provided in the bellmouth off Tillydrone Road have been submitted to and agreed in writing by the Planning Authority and the disabled parking space subsequently installed in accordance with the approved details.

Reason – To ensure accessible access to the development.

(10) INSPECTION OF TREES (PROTECTED SPECIES)

That one week prior to any tree works, a licensed bat surveyor shall carry out a check of any affected trees to establish whether any evidence of roosting bats or other protected species are present. If any protected species are found in the trees, then felling must be delayed until the end of the season and carried out under license as appropriate.

Reason – In the interest of protection of protected species.

(11) DELIVERIES

That service deliveries/ uplifts to and from the premises shall not occur other than during the hours from 07:00 until 19:00, Mondays to Fridays and during the hours from 08:00 until 13:00, unless the planning authority has given prior written approval for a variation.

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Reason - In order to preserve the amenity of the neighbourhood.

(12) EXTERNAL SEATING AREA

That the external seating area approved as part of this development shall not be used after 22:00 and that no amplified music shall be used in the external seating area.

Reason – In order to preserve the amenity of the neighbourhood

The Committee heard from Dineke Brasier, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Committee then heard from Steven Berry, Old Aberdeen Community Council, who objected to the proposed application.

The Committee resolved:-

to approve the application conditionally with an extra condition added to read:-

(13) DETAILS FOR AIR SOURCE HEAT PUMP

That no development shall take place until full details, including predicted noise emissions, from the air source heat pump to be installed, have been submitted and approved in writing by the Local Planning Authority and thereafter the air source heat pump to be installed shall be in accordance with the approved details unless otherwise agreed in writing.

Reason: In the interests of amenity.

WALLACE TOWER, TILLYDRONE ROAD ABERDEEN - 231582

7. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for Listed Building Consent for the conversion of the existing building to form a community cafe with ancillary office accommodation and ancillary meeting hall; erection of single storey extension; associated external and internal alterations including to internal partitions; creation of new door opening; and replacement internal doors; formation of external seating area and bin store with associated soft and hard landscaping works, at Wallace Tower, Tillydrone Road Aberdeen, be approved subject to the following condition:-

Condition

(01) EXTERNAL MATERIALS DETAILS

That no development shall take place unless a scheme/samples detailing all external

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

18 April 2024

finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed.

Reason – In the interests of visual amenity.

The Committee heard from Dineke Brasier, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Committee then heard from Steven Berry, Old Aberdeen Community Council, who objected to the proposed application.

The Committee resolved:-

to approve the application conditionally.

- **Councillor Ciaran McRae, Convener**

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	A	B	C	D	E	F	G	H	I
1	PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
3			16 May 2024						
4	458 King Street - 240313	To approve or refuse the application for Change of use from class 9 (house) to HMO (House of Multiple Occupancy)		Robert Forbes	Strategic Place Planning	Place	1		
5	Alba Gate Stoneywood - 231422	To approve or refuse the application for demolition of existing building and redevelopment of site to form Class 4 business units, EV charging hub, two Class 3 units (one with drive-through lane) and associated parking, infrastructure and landscaping		Alex Ferguson	Strategic Place Planning	Place	1		
6	Erinvale, Anguston Road, Peterculter - 240214/S42	To approve or refuse the application for removal of condition 1 (occupancy)		Matthew Easton	Strategic Place Planning	Place	1		
7	Annual Enforcement Update	Annual Enforcement Update and Charter Update		Dineke Brasier	Strategic Place Planning	Place	1		
8	Aberdeen Planning Guidance - Short Term Lets	At the meeting on 18 January 2024 it was agreed to instruct the Chief Officer - Strategic Place Planning to report the results of the public consultation and any proposed revisions to the draft Aberdeen Planning Guidance to a subsequent Planning Development Management Committee within six months of the end of the consultation period.		David Berry	Strategic Place Planning	Place	5		
9	Pre Application Forum - Land North of Aryburn Farm, Dyce, Aberdeen - 230869	To hear from the applicant in regards to the Proposed battery storage units with associated infrastructure, control and switch building, containers and associated works including access		Gavin Clark	Strategic Place Planning	Place	1		

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
10			28 May 2024						
11	PUBLIC HEARING - Rosehill House, Ashgrove Rd West - 230414	To hold a public hearing in regards to the proposed application for proposed McDonalds restaurant at Rosehill House, Ashgrove Road West Aberdeen		Lucy Greene	Strategic Place Planning	Place	6		
12			20 June 2024						
13			22 August 2024						
14			19 September 2024						
15			07 November 2024						
16			05 December 2024						
17	Draft Aberdeen Guidance Wind Turbine	At the Council meeting on 3 November 2023, it was agreed to instruct the Chief Officer - Strategic Place Planning to update the draft Aberdeen Planning Guidance on Wind Turbine Development in light of consultation responses received and the policy shift within NPF4 and incorporate it within draft Aberdeen Planning Guidance on Renewable Energy Development, a draft of which should be reported to the Planning Development Management Committee within 12 months.		David Dunne	Strategic Place Planning	Place	5		
18			Future applications to PDMC (date of meeting yet to be finalised.						
19	Woodend - Culter House Road - 210889	To approve or refuse the application for erection of 19no. self-build dwelling houses with associated landscaping, access and infrastructure		Dineke Brasier	Strategic Place Planning	Place	1		

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
20	Rosehill House, Ashgrove Rd West - 230414	To approve or refuse the application for McDonald's Restaurant with drive thru		Lucy Greene	Strategic Place Planning	Place	1		
21	Waterton House Abereen - 230297	To approve or refuse the application for PPP for 16 residential plots		Lucy Greene	Strategic Place Planning	Place	1		
22	Land at Persley Croft, Parkway - 231134	To approve or refuse the application for Battery energy storage system (BESS) development with a capacity up to 49.9MW including erection of welfare unit, substation and fencing; demolition of an existing buildings and associated Infrastructure		Matthew Easton	Strategic Place Planning	Place	1		
23	Land at Rigifa, Cove Road - 231336	To approve or refuse the application for the erection of battery storage units with associated infrastructure, control building, switch room, inverter containers, lighting, fencing and associated works including access road		Gavin Clark	Strategic Place Planning	Place	1		
24	APG: Health Impact Assessments	To ask to consult		Donna Laing	Strategic Place Planning	Place	5		
25	19 South Avenue - 231605	To approve or refuse the application for sub-division of existing feu and erection of 2no. Semi-detached dwelling houses with associated car parking, landscaping and access		Gavin Clark	Strategic Place Planning	Place	1		
26	Land At Coast Road St Fittick's Park/ Gregness Headland/ Doonies - 231371	To approve or refuse the application for proposed business / industrial development (Class 4/5/6); road infrastructure; active travel connections; landscaping and environmental works		Lucy Greene	Strategic Place Planning	Place	1		

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
27	Land At Greenferns Landward (OP 22), to the South of Kepplehills Road Newhills, Aberdeen - 240216	To approve or refuse the application for residential development comprising around 435 homes, open space, landscaping and supporting infrastructure		Gavin Clark	Strategic Place Planning	Place	1		
28	Land at Maidencraig - north and south of A944	To approve or refuse the application for Variation of conditions 6 and 7 (completion of junction and access road) of application reference 190043/S42		Gavin Clark	Strategic Place Planning	Place	1		
29	Lady Helen Parking Centre - Foresterhill - 240336	To approve or refuse the application for variation of condition 2 and 7 (use of car park by staff)		Matthew Easton	Strategic Place Planning	Place	1		
30	Flat F, 37 Holburn Street Aberdeen - 240336	To approve or refuse the application for change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people		Esmond Sage	Strategic Place Planning	Place	1		
31	55 Spital - 240410	To approve or refuse the application for change of use from flat to HMO (House in Multiple Occupation)		Roy Brown	Strategic Place Planning	Place	1		
32	Land At Craigshaw Drive - 240313	To approve or refuse the application for erection of electric vehicle charging depot and battery facility, comprising of vehicle charging power units and upstands, grid-scale battery electricity storage units, welfare units, associated plant, equipment and car parking and other associated works		Roy Brown	Strategic Place Planning	Place	1		

Planning Development Management Committee – 15 May 2024

Planning Appeals Update

This report informs Planning Development Management Committee (PDMC) members about planning appeals and notifications in relation to Aberdeen City Council decisions that the Scottish Government’s Division for Planning and Environmental Appeals (DPEA) has received or decided since the last PDMC meeting. It also lists appeals that are still pending.

Appeals Lodged

Type of appeal	Enforcement Notice	Application Reference	N/A
Address	Land to rear of 6 Craigden		
Description	Change of Use from Public Open Space to Private Gated Communal Garden and the Erection of Associated Enclosure Fence with Gate without the benefit of planning permission.		
History	Refusal of change of use application (221307/DPP) upheld by the Local Review Body last year. Enforcement Notice subject to this appeal was subsequently served.		
DPEA weblink	Scottish Government - DPEA - Case Details (scotland.gov.uk)		

Appeals Determined

Type of Appeal	Planning Permission	Application Reference	231263/DPP
Address	Upper Birchwood, 1 South Avenue		
Description	Erection of Shed to Front (Retrospective)		
History	Refused by PDMC of 7 December 2023 against officer recommendation		
DPEA Decision	<p>Planning permission appeal allowed – planning permission granted. Appeal for Costs declined</p> <p>Design, materials and scale are appropriate for a garden shed which;</p> <ul style="list-style-type: none"> - is largely unobtrusive and screened by the existing fence - does not intrude on the principal elevation of the house. - does not have a detrimental effect on neighbouring properties 		

	(including the ground flood flat) by reason of physical or amenity impact, overshadowing or overlooking. Is, therefore, compliant with relevant NPF4 policies 14 (Design, Quality and Place) and 16 (Quality Homes) and LDP policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity).
DPEA weblink	Scottish Government - DPEA - Case Details (scotland.gov.uk)

Type of Appeal	Advertisement Consent	Application Reference	231081/ADV
Address	Queen Elizabeth Bridge Roundabout, Craig Place		
Description	Installation Of 1 Illuminated Free Standing Digital Display		
History	Refused by officers under delegated powers		
DPEA Decision	<p>Appeal dismissed – application refused</p> <p>The proposed display board would be contrary to the interests of public safety in that would be positioned in front of an existing unadopted footpath, reducing natural surveillance and potentially decreasing public safety in the area.</p>		
DPEA weblink	Scottish Government - DPEA - Case Details (scotland.gov.uk)		

Appeals Pending

Type of appeal	Planning Permission	Application Reference	231018/DPP
Address	693 George Street		
Description	Change Of Use from Class 1A (Shops, Financial Professional and Other Services) to Hot-Food Takeaway (Sui Generis) and Installation of Kitchen Extract Vent to Rear Elevation (Part-Retrospective)		
History	Refused by PDMC of 14 March 2024 against officer recommendation		
DPEA weblink	Scottish Government - DPEA - Case Details (scotland.gov.uk)		

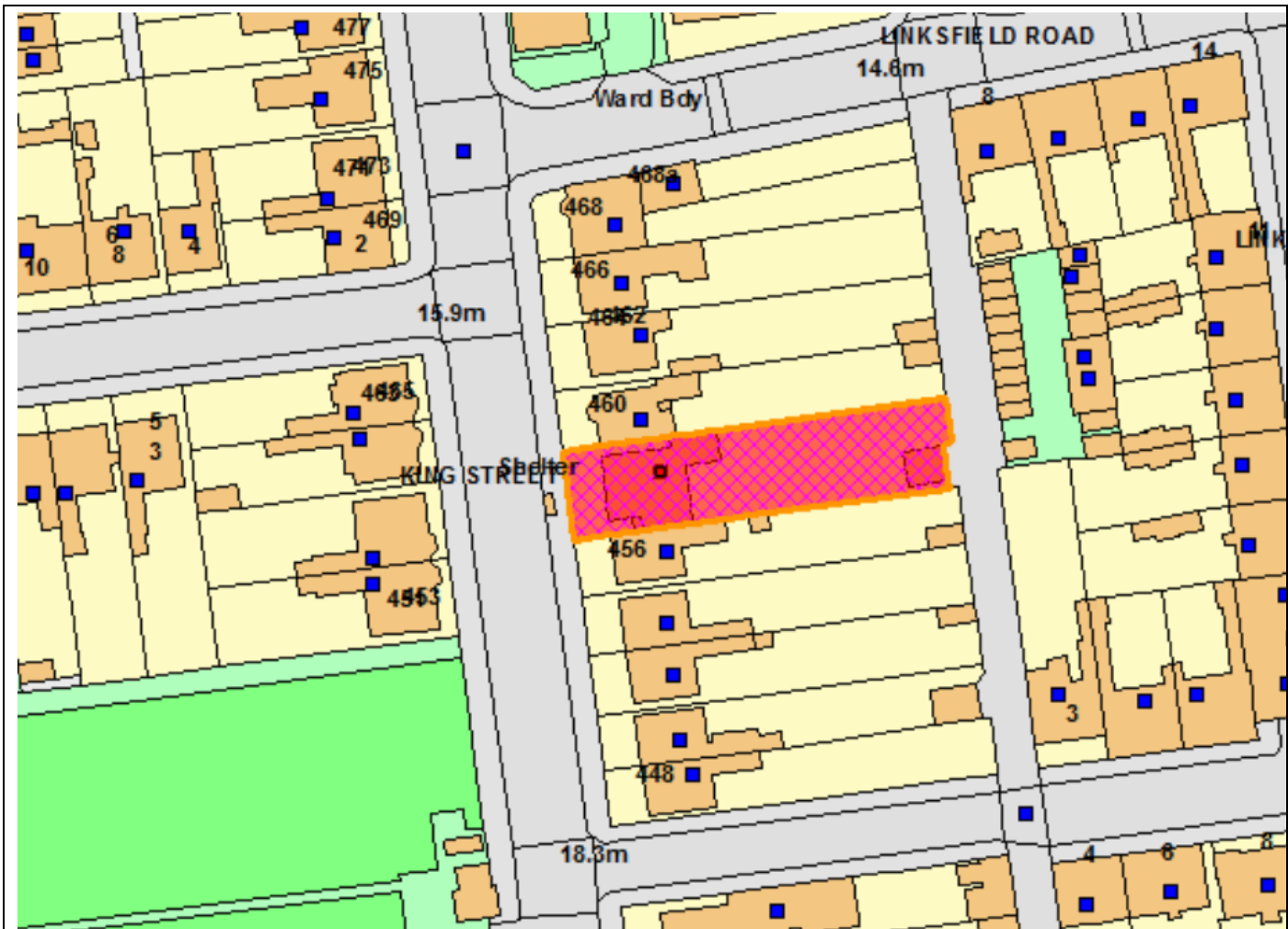
Type of Appeal	Certificate of Lawfulness	Application Reference	231216/CLE
Address	First Floor Left, 23 Hollybank Place		
Description	Existing Use of Flat as Short Term Let Accommodation (Sui Generis) with Maximum Occupancy of 2 People		

History	Refused by officers under delegated powers
DPEA weblink	Scottish Government - DPEA - Case Details (scotland.gov.uk)

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 <p>ABERDEEN CITY COUNCIL</p>	Planning Development Management Committee
	Report by Development Management Manager
	Committee Date: 15 May 2024

Site Address:	458 King Street, Aberdeen, AB24 3DE
Application Description:	Change of use from house (use class 9) to House in Multiple Occupation (HMO)
Application Ref:	240314/DPP
Application Type	Detailed Planning Permission
Application Date:	13 March 2024
Applicant:	Taylor JACS Limited
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council:	Castlehill And Pittodrie



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The site comprises a traditional granite building of 19th century origin and associated garden ground / garage. The detached 2 storey building fronts onto and is accessed from King Street. Its frontage is set back from the pavement by around 6m. The premises comprises a 5 bedroom house and has a large private rear garden area. Access to the front door is via a path from King Street. Access to the rear lane is available via the ancillary detached garage and a pedestrian gate. There are neighbouring residential premises to the north, west and south and lock-up garage to the east, across Pittodrie Lane. Notwithstanding that the site currently operates with an HMO license, its authorised planning use is as a house.

Relevant Planning History

A pre-application enquiry was submitted for the proposal in January 2024 (ref. 240060/PREAPP) and response provided in March 2024.

APPLICATION DESCRIPTION

Description of Proposal

Change of use to enable the premises to operate as a house in multiple occupation with 6 occupants. The proposed ground floor layout would comprise 2 bedrooms, a shared lounge, dining kitchen and ancillary rooms. The proposed upper floor layout would comprise 4 bedrooms, a bathroom and store. No physical development, external alterations or extension are proposed. Existing access arrangements would be maintained. Secure cycle storage would be available on site within a lockable store / outbuilding and the garage.

Amendments

None.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SAA0Y9BZL5E00>

- Planning Statement
- Waste Storage Statement
- Amenity Statement
- Cycle Storage Statement
- Site Photos

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the local Community Council object to the proposal and the recommendation is approval.

CONSULTATIONS

ACC - Waste And Recycling – No objection. Advise that bin collection is undertaken from King Street using wheelie bins.

ACC - Roads Development Management Team – No objection. Note that in terms of ACC parking guidelines, the proposal does not result in an increased car parking requirement. Note that on-site

cycle parking is proposed. Consider that the site is very accessible by public transport, walking and cycling.

Castlehill And Pittodrie Community Council – Object on the basis of potential increased car parking pressure and potential obstruction of access for emergency vehicles and bin collection vehicles. Request clarification regarding existing on-street parking restrictions / enforcement of parking controls.

REPRESENTATIONS

One objection has been received from a resident which raises the following concerns:

- Lack of car parking provision / obstruction of adjacent driveway
- Obstruction of access to adjacent premises for emergency vehicles
- There should not be multiple people living in a family house.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where making any determination under the planning acts, regard is to be had to the provisions of the Development Plan; and, that any determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Development Plan

National Planning Framework 4

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan.

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 3 (Biodiversity)
- Policy 7 (Historic Assets and Places)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 15 (Local Living and 20 Minute Neighbourhoods)
- Policy 16 (Quality Homes)

Aberdeen Local Development Plan 2023 (ALDP)

- Policy H1 (Residential Areas)
- Policy H8 (Houses in Multiple Occupation)
- Policy D2 (Amenity)
- Policy D7 (Our Granite Heritage)
- Policy NE3 (Our Natural Heritage)
- Policy R5 (Waste Management Requirements for New Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)

Aberdeen Planning Guidance (APG)

- Houses in Multiple Occupation and Overprovision

- Transport and Accessibility

Other National Policy and Guidance

- Planning Circular 2/2012 - Houses in Multiple Occupation: Guidance on Planning Control and Licensing

<https://www.gov.scot/publications/houses-multiple-occupation-guidance-planning-control-licensing/>

This states that :

“HMOs provide a vital source of accommodation, and planning authorities should seek to ensure that an adequate supply is available to meet demand.”

Other Material Considerations

- ACC Local Housing Strategy 2017-2023 (LHS) states that local authorities have the power to refuse to grant a HMO licence where it considers that there is overprovision in an area.

EVALUATION

Principle of Development

The site has good connectivity with supporting / related uses in the wider area, including access to the range of services and amenities available nearby (e.g. Aberdeen Sports Village, at the University of Aberdeen campus, a supermarket, public house) such that there is no conflict with NPF4 policy 15. NPF4 policy 16 contains no specific reference to the appropriateness of the location of HMO premises within residential areas and thus has limited application. However, there is no conflict with its objectives and expectations. The appropriateness of use of the premises as an HMO and compliance with ALDP policies H1 and H8 and Houses in Multiple Occupation and Overprovision APG is dependent on a number of factors which are considered below.

Existing Residential Amenity

Use as an HMO is in principle compatible with residential amenity and complementary to residential use. The proposal would not affect the character of the area as it already includes HMO licensed premises. As no external alterations or additions to the building are proposed, the appearance of the surrounding area would not be affected. Thus, there is no evident conflict with ALDP policy H1.

Amenity for Occupants

ALDP Policy D2 seeks to ensure that all residential developments benefit from a satisfactory quality of amenity, taking into consideration matters such as privacy, internal floor space, external amenity space, outlook and sunlight and daylight receipt. In this instance, no new residential development is proposed, although the proposal would increase the occupancy of the premises and intensify its use. Thus policy D2 is of limited weight. The premises benefits from a large mature rear garden. Photographic evidence has been provided to evidence that the garden is well maintained and provides generous space for food / plant growing, sitting out and drying laundry and that the communal areas within the house are of generous size and provide a high level of amenity. Whilst occupants of the site would be exposed to a degree of traffic noise and associated air pollution from King Street, that is an existing situation. The overall level of amenity provided would be satisfactory.

Waste

Whilst the proposal would generate a need for increased waste / recycling storage, that can be accommodated on site at the frontage, without requirement for a planning condition as waste uplift

would be by wheelie bin and no physical waste storage structures are required. Thus there is no conflict with the objectives of NPF4 policy 12 and ALDP policy R5.

HMO Overprovision

Notwithstanding that, in terms of Planning legislation (i.e. the use classes order), the authorised use of the premises is a house, it currently operates with an HMO license, with up to 5 occupants permitted. Although there are HMO licensed premises within the wider area (e.g. adjacent to the site, at No. 460), records held by the Council demonstrate that the application site does not lie within an area where there is a high level of HMO provision (Froghall, Powis and Sunnybank - 08 - existing 6.3% provision). The proposed use would therefore not result in the overprovision, or exacerbate an existing overprovision, of HMOs in the defined Data Zone Area. Thus there is no conflict with this part of ALDP policy H8 and associated APG. There would be no conflict with the LHS. It is noted that ACC has separate power as a Licensing Authority to refuse to grant a HMO licence where it considers that there is overprovision in an area. Furthermore the guidance within Planning Circular 2/2012 that planning authorities should seek to ensure that an adequate supply of HMOs is available to meet demand weighs in favour of the proposal.

Traffic Impact / Parking

The site is located within walking distance of the University of Aberdeen and related supporting facilities (e.g. Aberdeen Sports Village) and is located close to regular bus services such that there is good accessibility by sustainable transport modes and no conflict with the objectives of NPF3 policy 13 and ALDP policy T2. Secure on-site cycle parking is potentially available on site within an existing outbuilding / shed / garage in accordance with the objectives of ALDP policy T3. Details of this provision can be required by condition.

In terms of Transport and Accessibility APG, the change of use would not result in increased on-street parking pressure as the theoretical car parking generation for both uses would equate to 3 spaces. Whilst there are double yellow lines at the site frontage on King Street, it is unlikely that occupants would choose to park on that street. The site lies outwith Old Aberdeen controlled parking zone (CPZ) or any other such CPZ, although there are parking restrictions on part of King Street close to the site and on the lane at the rear of the site during events at Pittodrie Stadium. ACC Roads DM have no objection to the proposal on road safety grounds or generation of car parking pressure. Thus there is no conflict with that aspect of ALDP policy H8. Given the similarity between the existing and proposed uses in terms of parking generation, the site context and Roads consultee response, any marginal change in car parking pressure does not warrant refusal.

Heritage Impact

Although the site is not located within a conservation area, the house is of historic interest and retains much of its traditional character. As the premises is a granite building, continued active use of it accords with the objectives of NPF4 policy 7 and ALDP policy D7, by helping to ensure that the building is suitably maintained. The proposal does not result in the subdivision of existing rooms or other subdivision of the premises and thus helps to preserve its character, and could readily be converted back to its original use as a large family house.

Climate / Nature Crises

Notwithstanding the expectations of NPF4 policies 1 and 3 and ALDP policy NE3, given that no physical development is proposed, it would be unreasonable to require the development to address biodiversity or climate change matters. Any policy tension therefore does not warrant refusal in this instance. As the proposal is solely for a change of use there is no requirement to address energy / water saving matters, and there is no conflict with ALDP policy R7 and related guidance.

Matters raised in objection

- Matters relating to parking / access are addressed above. The concerns raised regarding the

legibility / enforceability of existing parking restrictions in the rear lane are an existing issue which it is not appropriate to address as separate powers exist to address such concerns. ACC Roads officers have taken the existence of such restrictions into account in their assessment.

- As waste uplift and emergency vehicle access to the site and adjacent houses is available from King St and there are parking restrictions there, there is no risk of vehicles obstructing such access.
- Whilst the proposal results in the conversion of a family house to another use that results in multiple occupation, there is no planning policy which requires retention of family houses. The proposal does not result in the subdivision of existing rooms or other subdivision of the premises and thus helps to preserve its character, and could readily be converted back to its original use as a large family house.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

There is considered to be no conflict with the objectives of Policy 16 (Quality Homes) within National Planning Framework 4 (NPF4) and Policy H1 (Residential Areas) within the Aberdeen Local Development Plan 2023 (ALDP). Active re-use of the premises accords with the objective of NPF4 Policy 7 (Historic Assets and Places) and ALDP Policy D7 (Our Granite Heritage). There is good accessibility by sustainable transport modes and no conflict with the objectives of NPF4 Policy 13 (Sustainable Transport), Policy 15 (Local Living and 20 Minute Neighbourhoods) and ALDP Policy T2 (Sustainable Transport). A condition can be imposed to ensure provision of secure on-site cycle parking in accordance with the objectives of ALDP Policy T3 (Parking). ACC Roads Development Management Service have no objection to the proposal on road safety grounds / generation of car parking pressure. There is no conflict with the objective of NPF4 Policy 12 (Zero Waste) and ALDP Policy R5 (Waste Management Requirements for New Developments). Adequate amenity would be provided in accordance with the expectations of ALDP Policy D2 (Amenity). There is no conflict with ALDP Policy H8 (Houses in Multiple Occupation) and Aberdeen Planning Guidance regarding Houses in Multiple Occupation and Overprovision.

Any tension with NPF4 Policy 1 (Tackling the Climate and Nature Crises) and Policy 3 (Biodiversity) and ALDP Policy NE3 (Our Natural Heritage) does not warrant refusal in this instance. Planning Circular 2/2012 - Houses in Multiple Occupation: Guidance on Planning Control and Licensing is a material consideration that weighs in favour of approval.

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) CYCLE STORAGE

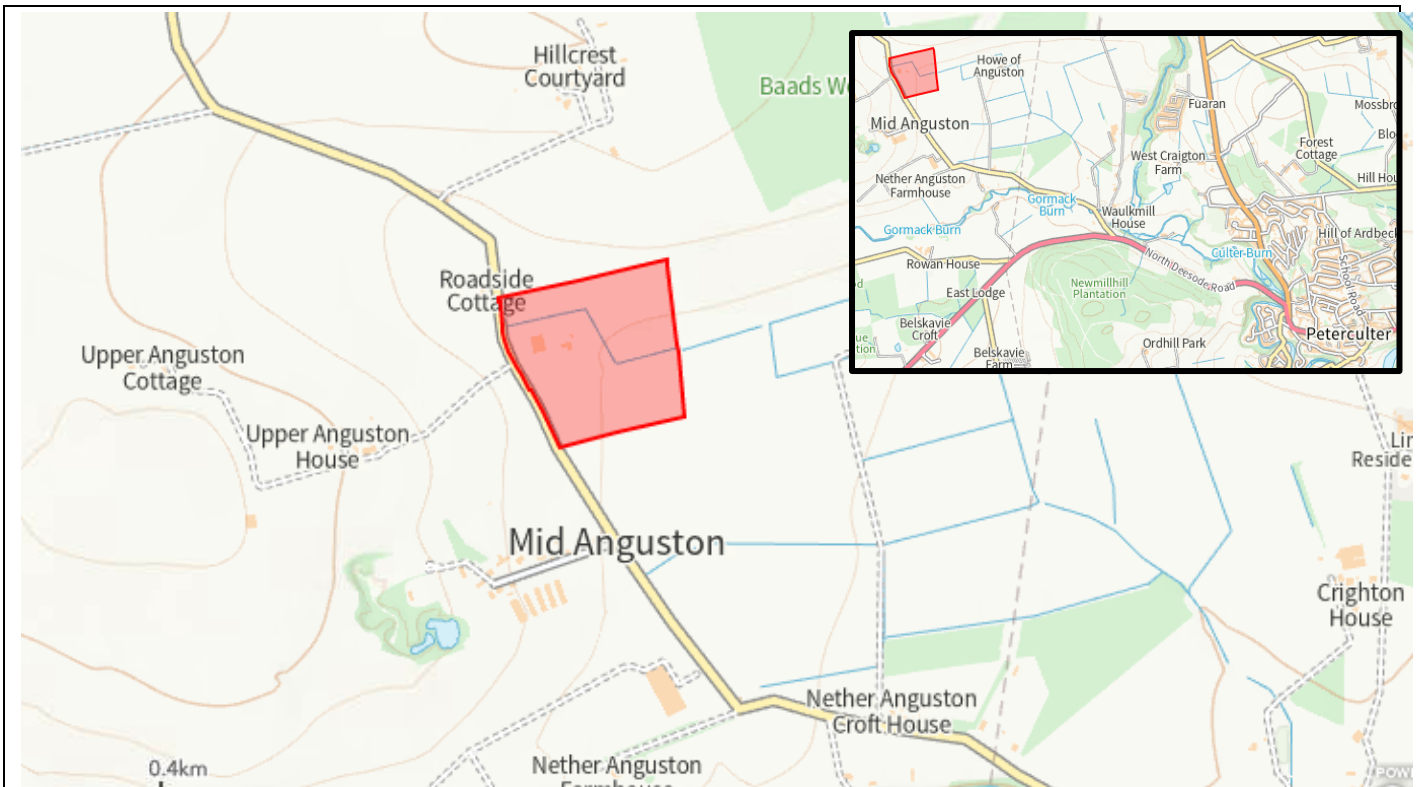
The house in multiple occupation hereby approval shall not be brought into use unless details of proposed on site secure cycle storage facilities on site have been submitted to and approved in writing by the Planning Authority. The approved use shall not take place unless the required cycle parking facilities have been implemented on site and are subsequently retained.

Reason – In the interest of provision of sustainable transport facilities.

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 <p>ABERDEEN CITY COUNCIL</p>	Planning Development Management Committee
	Report by Development Management Manager
	Committee Date: 15 May 2024

Site Address:	Erinvale, Anguston Road, Peterculter Aberdeen AB14 0PP
Application Description:	Removal of condition 1 of planning ref A6/0654 (dwelling house to be occupied by person employed full time in cattery and equestrian business on property known as Erinvale Cattery & Livery)
Application Ref:	240214/S42
Application Type	Section 42 (Variation to Conditions)
Application Date:	26 February 2024
Applicant:	Mrs Lesley Nicol
Ward:	Lower Deeside
Community Council:	Culter



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application relates to Erinvale, which is in open countryside, to the north of Mid Anguston and to the east of Upper Anguston, some 3km to the northwest of the centre of Peterculter. It incorporates a detached dwellinghouse completed in 2007, a building accommodating Erinvale Cattery and an adjacent agricultural shed. The surrounding land holding extends to around eight hectares and is used for sheep farming.

Relevant Planning History

- Planning permission (A3/2083 / 032066) was approved in October 2004 for the change of use of the land to equestrian use.
- Planning permission (A4/1991 / 041495) was approved under delegated powers in March 2005 for re-location of an equestrian building, positioning of a temporary caravan, erection of a cattery building, relocation of access road and change of use from agricultural to equestrian use.
- Planning permission (A6/0654 / 060633) was approved by the Planning Committee in accordance with officer recommendation in June 2006 for the erection of a dwelling house to be associated with the cattery and livery stable. Condition 1 of the planning permission restricted occupancy of the house to persons employed full time in the cattery and equestrian business. The house was completed in 2007.
- A section 42 application (131114) to remove condition 1 of planning permission A6/0654 was refused under delegated powers in February 2014. The reason for the decision was that the removal of the condition would be *“contrary to Scottish Planning Policy and Policy NE2 (Green Belt) of the Aberdeen Local Development Plan, which seek to protect the integrity of green belts and, in particular, seek to avoid the granting of individual planning permissions to prevent the cumulative erosion of a green belt. If it were not for the specific individual requirements of the business the house would not have complied with planning policy and ultimately refused. The removal of this condition would undermine the policies which seek to protect the integrity of the green belt which seeks to safeguard against unsustainable development and suburbanisation of the area. It was judged necessary to impose condition 1 to ensure that the development complied with planning policies. The business is still operating successfully, which requires on-site care for the welfare of the animals. No evidence has been submitted that with the condition the applicants have been unable to raise the finances that they require. It is judged that condition 1 meets the tests set out in Circular 4/1998. The advice in the letter from the Chief Planner (04.11.2011) has been considered. The proposal to delete condition 1 is considered unacceptable in planning policy terms.”*

APPLICATION DESCRIPTION

Description of Proposal

The application is submitted under the provisions of section 42 of the Town and Country Planning (Scotland) Act 1997 and seeks to remove condition 1 of planning permission A6/0654.

Condition 1 places a restriction on the occupancy of the dwellinghouse at Erinvale and only allows the house to be occupied by persons employed full-time in the cattery and equestrian business. The full condition reads –

“The dwelling house hereby granted planning permission shall not be occupied by any person other than a person employed full-time in the cattery and equestrian business on the property known as Erinvale Cattery and Livery and located at Upper Anguston and the dependants, widow or widower of such a person in accordance with the planning authority's policy of restricting isolated developments in the countryside unless specifically required in connection with an essential rural occupation - in order to preserve the amenity and integrity of the Green Belt and the Council's Green Belt Policy.”

At present the livery business is no longer active, whilst the cattery business, which operates alongside the applicant's sheep farming business, has been active since 2005 and remains so.

The applicant are seeking to retire which will involve the closure of the cattery business and a gradual reduction in the scale of the sheep farming operation. They would like to remain in their home of around 17 years as they continue their sheep farming on a small-scale, but without having to continue the cattery business. This would not be possible with the occupancy condition in place and therefore its removal is sought.

Amendments

None.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S9AZSTBZKHP00>

- Supporting Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it is being recommended for approval and has been the subject of formal objection by the local community council within whose area the application site falls, thus falling outwith the scheme of delegation.

CONSULTATIONS

Culter Community Council – reflecting feedback from our community, the community council has serious concerns about this application. These concerns are entirely about the potential precedent which would arise should the subject condition be removed, and do not in any way arise from the declared intentions of the current occupiers.

The planning authority will be aware of the history in the rural area around the west side of Culter, which includes a number of applications for dwelling-houses, each allegedly in support of an agricultural business. Once the applicants have obtained planning permission with a condition

imposing an agricultural tie, they have fought tooth and nail to get the condition removed, which then allows the house to be sold easily and for a significant increase in price to an Aberdeen commuter – thereby undermining the point of the green belt.

The community council would be happy to see some form of suspension of the condition, so as to allow the current occupiers to remain in the dwelling-house having retired and ceased to run an agricultural-related business, but at such time when the current occupiers decide they can no longer continue to live there, the suspension would lapse leaving the condition in place for any future occupiers. This arrangement would of course require to have a robust legal basis. Should the planning authority be minded approving the application in its current form, a very clear direction should be included, making it clear that the condition has been lifted because of the 17-year occupancy by the original occupiers, running a successful agricultural business, with their declared intent to retire in the dwelling-house.

REPRESENTATIONS

One letter of representation has been received from a neighbouring residential property which expresses support for the application. The matters raised are summarised below.

- A precedent has been set for the removal of the condition as removal of a similar restrictive occupancy condition was approved in January 2011 at Nether Anguston Croft, located 1km south of Erinvale (ref. 101729).
- Erinvale has been established for 17 years and has been built to an excellent standard and are comparable to other domestic residential properties in the Anguston area. Some of these established homes also have a parcel of land and outbuildings as part of their overall domestic residential property and Erinvale provides the same.
- Erinvale is an established family home like many others in the area and having such a restrictive occupancy condition removed would allow my neighbours of 17 years to enjoy their retirement and allow future owners the freedom to buy and use their home without constraints.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where making any determination under the planning acts, regard is to be had to the provisions of the Development Plan; and, that any determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the planning authority in determining the application only to consider the question of the condition(s) subject to which the previous planning permission should be granted. The planning authority has the option to approve the permission subject to new or amended conditions or to approve planning permission unconditionally. Alternatively, the planning authority can refuse the application, which would result in the conditions on the original application remaining.

Development Plan

National Planning Framework 4

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan.

- Policy 8 (Green Belts)

Aberdeen Local Development Plan (2023)

- Policy NE1 (Green Belt)

Other National Policy and Guidance

- Planning Circular 4/1998: The Use of Conditions in Planning Permissions (Scottish Government)
- Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements (Scottish Government)
- Circular 3/2022 (Development Management Procedures) – Annex H: Applications for Planning Permission Under Section 42 (Scottish Government)

EVALUATION

The determining factor in the consideration of the application is whether the retention of the condition is required. The planning authority have the option to refuse the application in which case the condition would remain; amending the terms of the condition; or removing it completely.

Background

The intention of green belts is to encourage, promote and facilitate compact urban growth and use the land around our towns and cities sustainably. Within green belts tight control is applied to new developments, with only certain types of development being supported and only in limited circumstances. At the time planning application A6/0654 (“the original application”) was considered in 2006, standalone new houses were not supported within the green belt. For a new house associated with agriculture or other business to be supported as an exception, it was accepted practice by the Council that new business enterprises in the green belt had to already be established and their viability and profitability demonstrated before planning permission was granted. Furthermore, it had to be demonstrated that the house was required to provide accommodation for an essential worker who required to be housed on the site.

In the original application, it was found that the applicant had demonstrated as far as one reasonably could that the business had been and would continue to be viable in the long term and that in the interests of animal welfare and to meet a statutory requirement, there was a need for permanent residential accommodation on the site. It was therefore found that there would be no conflict with green belt policy or with the purpose and principles of the green belt. Since a new house would otherwise be unacceptable in the green belt, it was considered necessary to attach the condition restricting the occupancy of the house. In the absence of such a restriction, there is a risk that new houses in the green belt would be sold for profit after construction or a short period of occupation, which would result in unsustainable urbanisation of the countryside and the erosion of the landscape setting of the city.

The green belt zoning continues to apply to Erinvale, where Policy 8 (Green Belts) of National Planning Framework 4 (NPF4) and Policy NE2 (Green Belts) of the Aberdeen Local Development Plan (ALDP) apply. Development continues to be tightly controlled within the green belt, with only certain types of development supported. Both NPF4 and the ALDP list the range of developments which may be permitted. Of relevance in this case is the section of Policy 8 which supports “residential accommodation required and designed for a key worker in a primary industry within the immediate vicinity of their place of employment where the presence of a worker is essential to the operation of the enterprise, or retired workers where there is no suitable alternative accommodation available”. Policy NE2 has a less specific provision, which allows for development which “is directly associated with and required for agriculture, woodland or forestry”.

The Scottish Government provides advice on the appropriate use of conditions through two relevant planning circulars, with specific sections on the use of occupancy conditions. Paragraph 95 of Planning Circular 4/1998 (The Use of Conditions in Planning Permissions) relates to domestic occupancy conditions in general, rather than green belt specifically, and states that –

95. Subject to the advice about affordable housing, staff accommodation, agricultural and forestry dwellings and seasonal use, if the development of a site for housing is an acceptable use of the land, there will seldom be any good reason on land use planning grounds to restrict the occupancy of those houses to a particular type of person (e.g. those already living or working in the area). To impose such a condition would be to draw an artificial and unwarranted distinction between new houses or new conversions and existing houses that are not subject to such restrictions on occupancy or sale. It may deter housebuilders from providing homes for which there is a local demand and building societies from providing mortgage finance. It may also impose hardship on owners who subsequently need to sell. It involves too detailed and onerous an application of development control and too great an interference in the rights of individual ownership.

However, paragraph 95 goes on to say that –

Such conditions should, therefore, not be imposed save in the most exceptional cases where there are clear and specific circumstances that warrant allowing an individual house (or extension) on a site where development would not normally be permitted.

Paragraphs 98 and 99 on staff accommodation explains that –

98. The above considerations may equally apply to staff accommodation. Where an existing house is within the curtilage of another building and the two are in the same occupation, any proposal to occupy the two buildings separately is likely to amount to a material change of use, so that planning permission would be required for such a proposal even in the absence of a condition. Planning authorities should normally consider applications for such development sympathetically since, if the need for such a dwelling (for the accommodation of an employee, for example) disappears, there will generally be no justification for requiring the building to stand empty or to be demolished.

99. Conditions tying the occupation of dwellings to that of separate buildings (e.g. requiring a house to be occupied only by a person employed by a nearby garage) should be avoided. However, exceptionally, such conditions may be appropriate where there are sound planning reasons to justify them, e.g. where a dwelling has been allowed on a site where permission would not normally be granted. To grant an unconditional permission would mean that the dwelling could be sold off for general use which may be contrary to development plan policy for the locality. To ensure that the dwelling remains available to meet the identified need, it

may therefore be acceptable to grant permission subject to a condition that ties the occupation of the new house to the existing business.

Also of relevance are paragraphs 100-102 which relate to agricultural and forestry dwellings.

100. In many parts of Scotland planning policies impose strict controls on new residential development in the open countryside. There may, however, be circumstances where permission is granted to allow a house to be built to accommodate a worker engaged in bona fide agricultural or forestry employment on a site where residential development would not normally be permitted. In these circumstances, it will often be necessary to impose an agricultural or forestry worker occupancy condition.

101. Planning authorities will wish to take care to frame agricultural occupancy conditions in such a way as to ensure that their purpose is clear. In particular, they will wish to ensure that the condition does not have the effect of preventing future occupation by retired agricultural workers or the dependants of the agricultural occupant.

102. Where an agricultural occupancy condition has been imposed, it will not be appropriate to remove it on a subsequent application unless it is shown that circumstances have materially changed and that the agricultural need which justified the approval of the house in the first instance no longer exists.

Planning Circular 3/2012 (Planning Obligations and Good Neighbour Agreements) also contains advice on the use of imposing restrictions on the use of land and buildings. Although this is in the context of planning obligations (legal agreements), it is also directly relevant to the use of conditions. This part of the circular translates into policy the advice contained in the Chief Planner's letter of 4 November 2011 covering the use of occupancy conditions. Paragraphs 49-51 state –

49. While the most common use of planning obligations is to ensure the provision of infrastructure to make a development acceptable in planning terms, there is a limited role for obligations in restricting the use of land or buildings.

50. Such restrictions have historically been used particularly in respect of housing in rural areas. Imposing restrictions on use are rarely appropriate and so should generally be avoided. They can be intrusive, resource-intensive, difficult to monitor and enforce and can introduce unnecessary burdens or constraints. In determining an application, it may be appropriate for the planning authority to consider the need for the development in that location, especially where there is the potential for adverse impacts. In these circumstances, it is reasonable for decision-makers to weigh the justification against the potential impacts, for example on road safety, landscape quality or natural heritage, and in such circumstances it may be appropriate for applicants to be asked to make a land management or other business case.

51. Where the authority is satisfied that an adequate case has been made, it should not be necessary to use a planning obligation as a formal mechanism to restrict occupancy or use.

Applicant's Case

A supporting statement has been submitted on behalf of the applicant and explains the reasoning behind seeking removal of the condition. In summary this outlines that the applicants are seeking to retire, which will involve the closure of the cattery business and a gradual reduction in the scale of the sheep farming operation.

It is the applicant's desire to remain living in their home once the cattery closes. The presence of the condition presents two problems in this regard. The first is that it would be unlawful for the applicant to remain living in their home once the cattery closes. Secondly, if they were to seek to sell the house to downsize in future, or if rehousing became necessary due to ill health or advanced age, it would be difficult, if not impossible, to sell the house with the condition attached. The applicant contends that condition limits the saleability of the house, as it ties a sizeable property to a demanding custom-built business which drastically restricts the pool of potential buyers. A cattery business is not particularly marketable and the issues associated with gaining mortgages for houses with occupancy conditions attached is well-documented. The condition reduces the value of the property to such an extent that the return on sale would limit the applicant's options for downsizing or rehousing in later retirement. The condition is described as an unreasonable and artificial barrier on their individual property rights and the Scottish planning system has generally directed that their use be avoided for in excess of 12 years.

Removal of Condition

The requirement for the house, as an exception to green belt policy, was established through the original application in 2006. The application now being considered does not propose any physical development and therefore there would be no conflict with Policy 8 of NPF4 and Policy NE2 of the ALDP on green belts. Any impact on the green belt because of the presence of the house has already occurred. That said, the house and accompanying landscaping surrounding it has become well established and the building sits comfortably in the landscape.

The advice on the use of conditions in Circular 4/1998 explains that occupancy conditions should only be used in the most exceptional cases, where there are clear and specific circumstances that warrant allowing a house on a site where development would not normally be permitted. New houses in the green belt are only permitted in limited specific circumstances, therefore when a house is granted consent for agricultural or other purposes, it is entirely reasonable to attach such a condition. Taking into account this advice and green belt policy, the use of occupancy conditions is deemed to continue to be a legitimate way of supporting the development of new houses in the green belt where they are necessary, but at the same time protecting the green belt from erosion by unnecessary development.

The advice is also clear that if the reason justifying the condition no longer exists or circumstances otherwise change, planning authorities should take a sympathetic view on the removal of conditions. This is to avoid situations where a house remains vacant or the owners are forced to demolish a building as it is not possible to occupy it within the terms of the condition.

In this case, it is accepted that as it stands, if the business closed, the condition would require the applicants to move out of Erinvale. This would also be the case if the applicant's retired but the cattery business continued under different ownership or was staffed by other employees. At this stage however, the business is still operational, so the circumstances are yet to change.

In recognition of the applicant's position that they wish to retire in the near future, it is appropriate to redraft the condition so that the occupancy restriction lapses on the closure of the business. From the applicant's point of view, once the business has closed, this would allow them to continue to occupy the house into the future without restriction or sell it should they wish. From the Council's perspective, it would retain the status quo until the circumstances change, in effect preventing the house from being occupied by or sold to a third party, until after the business closes and the original reason for the condition no longer exists. The condition would also require the Council to be notified by the applicant no sooner than 14 days before the business ceases operation, to ensure that all parties area aware of when the condition no longer has effect. This approach would align with paragraph 102 of Circular 4/1998 which explains it is not appropriate to remove such conditions

unless it is shown that circumstances have materially changed and that the need which justified approval of a house in the first instance no longer exists.

An alternative option is that the condition is removed fully now. However, this would bring the risk that when the condition is removed, the cattery business could be transferred to a third party separately from the house, with the potential that the new cattery owner subsequently contends that a new second house is required to support the business. This approach would not accord with paragraph 102 as the condition would be removed before the circumstances have changed,

The third option is to retain the condition as it is. However, given the applicant's stated intention of retiring, it is considered that this would impose an unreasonably burden on the applicant which could result in the unlawful occupation of the house if they were to remain in it after the business closed, or result in the house becoming vacant on a long-term basis, both undesirable situations which would be to the benefit of no party. Retention of the condition even when the circumstances have changed would be in conflict with the advice on the use of such conditions, which expects planning authorities to deal with changes in circumstances sympathetically and reasonably.

In summary, the revised condition would strike a balance between removing the condition when the circumstances change without the need for a further application, but also maintain the condition until the circumstances do in fact change.

The applicant's supporting statement provides two examples of applications at other locations in the city where occupancy conditions have previously been removed, dating from 2010 and 2018. In seeking the fully removal of the condition, it is asserted by the applicant that the decisions should carry significant material weight in the assessment of this application due to the high degree of similarity in their surrounding circumstances. However, these are not directly relevant to this application. In both examples, the activity to which the occupancy of the house in question was tied to had already ceased by the time approval was granted for removal of the condition, which is not the case in this application.

In terms of the concerns raised by the Culter Community Council, it is acknowledged that there is pressure on the green belt in terms of demand for new houses. However, the tight control applied to development within the green belt through NPF4 and the ALDP provides a suitable framework for considering applications on a case-by-case basis. To minimise the potential for such controls to be circumvented, the Council have operated a long-standing policy of attaching occupancy conditions when new houses are approved. It is inevitable however that over time circumstances will change and such conditions will no longer be relevant or justified. Each application to remove a condition is considered on its individual merits and therefore any decision made on this application would not set a precedent for future applications at different sites.

The community council's suggestion of an amended condition has been considered, which would see the occupancy restriction suspended to allow the applicant to remain in the house on retirement, but once they decide they can no longer continue to live there at some future point, the suspension would lapse, reinstating the restriction for any future occupiers. This mechanism however would be unworkable and unreasonable. The first problem is that the cattery business to which the house is tied is very unlikely to exist at the future point, so it would be unreasonable to require any future occupant of the house to work in a business that does not exist. Even if the business did happen to exist at the future point, as the applicant has indicated in their supporting statement, the pool of buyers looking to purchase a house and work in a cattery full time, is likely to be extremely small. Therefore, if the restriction were reinstated at a future date, it is likely that this would result in the house becoming vacant on a long-term basis, which would be an unsustainable use of existing housing stock.

The representation from a neighbouring resident which supports the applicant's application to fully remove the condition has been taken in account. For the reasons noted above the proposed retention of an amended condition is considered more appropriate than full removal.

Other Conditions

In addition to the occupancy restriction condition, three other conditions were attached to the original planning permission, all relating to matters which required to be addressed prior to construction of the house commencing. The first covered the provision of site access to the Council's archaeologist, the second to approval of external finishing materials and the third to details of sewage disposal. With the house complete these conditions are redundant and it is therefore unnecessary to re-apply them to the new planning permission.

Since 1 October 2022, there has been a requirement to attach a condition controlling the duration of a consent and when it lapses. However, this does not apply if the development subject of the application has already been carried out before the grant of planning permission. Therefore, as the house has already been constructed, a condition specifying the duration of consent is not required.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

Taking into account the advice from Scottish Government on the use of conditions as well as Policy 8 (Green Belts) of National Planning Framework 4 (NPF4) and Policy NE2 (Green Belts) of the Aberdeen Local Development Plan (ALDP), the use of occupancy conditions is deemed to continue to be a legitimate way of supporting the development of new houses in the green belt where they are necessary, but at the same time protecting the green belt from erosion from unnecessary development.

In recognition of the applicant's position that they wish to retire in the near future, it is considered appropriate to redraft the condition so that the occupancy restriction lapses on the closure of the business. From the applicant's point of view, once the business has closed, this would allow them to continue to occupy the house into the future without restriction or sell it should they wish. From the Council's perspective, it would retain the status quo until the circumstances change, in effect preventing the house from being occupied by or sold to a third party, until after the business closes and the original reason for the condition no longer exists.

The revised condition would strike a balance between removing the condition when the circumstances change without the need for a further application, but also retain the condition until the circumstances do in fact change, maintaining the Council's long-standing approach to controlling the occupancy of new houses in the green belt and supporting the outcomes of Policy 8 (Green Belts) of NPF4 and Policy NE2 (Green Belts) of the ALDP.

CONDITIONS

(01) OCCUPANCY OF DWELLINGHOUSE

Part A – The dwellinghouse shall not be occupied by any person other than a person employed full-time in the cattery and equestrian business on the property known as Erinvale Cattery and Livery and located at Upper Anguston and the dependants, widow or widower of such a person.

Part B – In the event that the cattery and equestrian business close, from the date the business ceases to operate, Part A of this condition shall no longer apply.

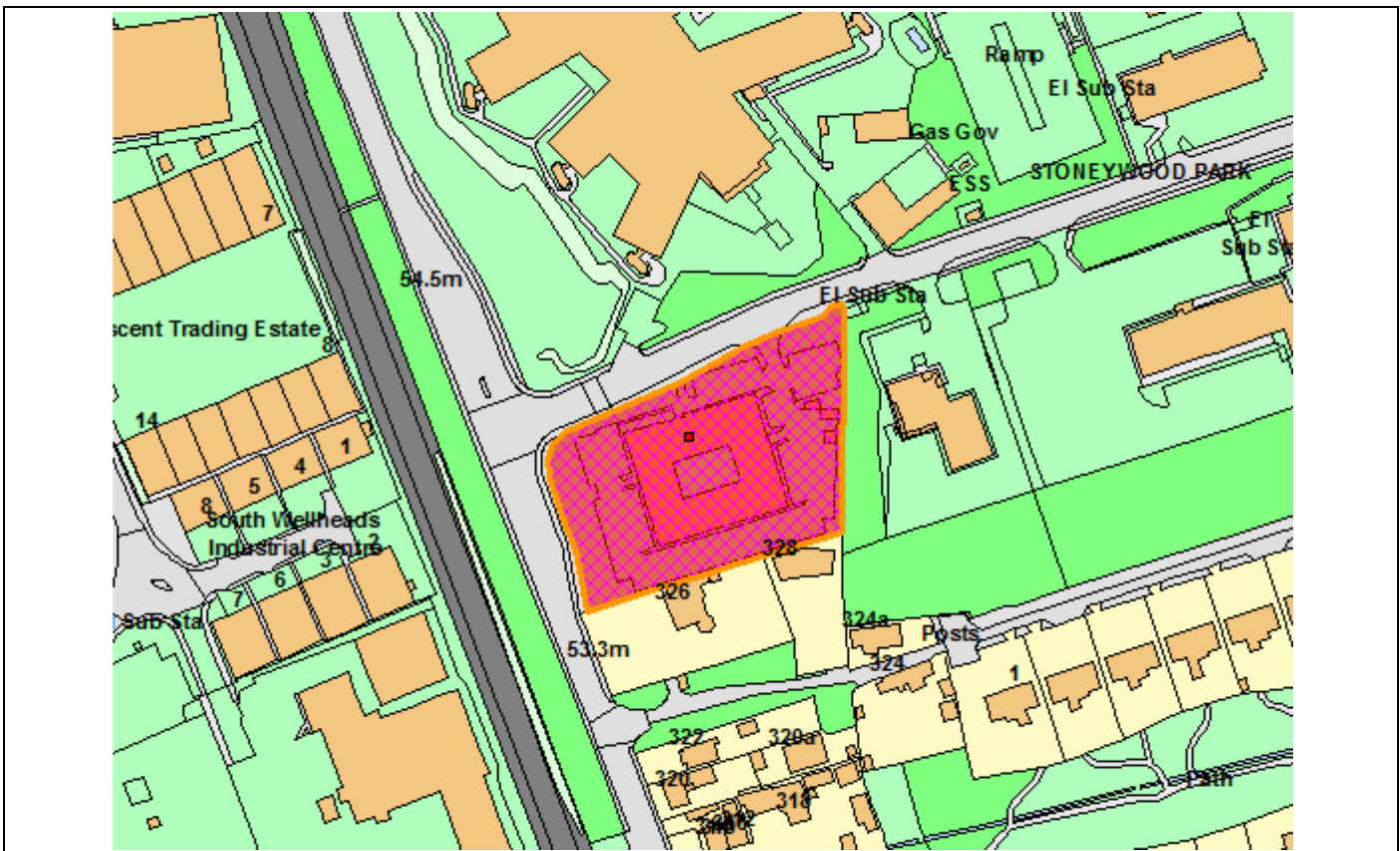
Prior to the business closing, but no sooner than 14 days before the event, the applicant shall notify the planning authority of the intention to close the cattery and equestrian business and the date on which it will cease operation.

Reason – to restrict the occupancy of the house as considered necessary to support the development of new houses in the green belt where they are necessary, whilst protecting the green belt from erosion by unnecessary development, in accordance the aims of Policy 8 (Green Belts) of National Planning Framework 4 and Policy NE2 (Green Belts) of the Aberdeen Local Development Plan.

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 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p>Committee Date: 15 May 2024</p>

Site Address:	Alba Gate, Stoneywood Park, Aberdeen, AB21 7DZ
Application Description:	Demolition of existing building and re-development of site to include change of use to form a mixed-use of 4 business units (class 4), 2 ancillary cafe/restaurant units (class 3) with drive thru takeaway (sui generis), electric vehicle charging hub, car parking, soft landscaping and associated works
Application Ref:	231422/DPP
Application Type:	Detailed Planning Permission
Application Date:	18 December 2023
Applicant:	CoCity
Ward:	Dyce/Bucksburn/Danestone
Community Council:	Dyce and Stoneywood



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application relates to a commercial site at the western edge of the Stoneywood Park Industrial Estate, which accommodates an existing two-storey 1970's-built office building with a square footprint, set around an internal courtyard. The building is bound on all sides by the site's existing car parking provision. The site is accessed via a single in/out entrance on the northern boundary, taken off Stoneywood Park. There is a significant amount of existing landscaping, in the form of established trees and shrubs within and along all boundaries, including a landscaped buffer strip to Stoneywood Road along the western boundary. Significant mature trees line the eastern boundary within the curtilage of the neighbouring industrial use to the east. Those trees are protected by a Tree Preservation Order.

The site is bound by Stoneywood Park Road to the north with the BP Headquarters beyond, Stoneywood Road (A947) to the west, with the Aberdeen to Inverness railway line and Wellheads Industrial Estate beyond, residential properties immediately to the south and other business and industrial properties to the east, forming the Stoneywood Park Industrial Estate. South east of the application site is the recent residential development by Dandara within Stoneywood Estate. The site falls within a 'Business and Industrial Land' B1 zoning on the Aberdeen Local Development Plan 2023 (ALDP) Proposals Map.

Relevant Planning History

<u>Application Number</u>	<u>Proposal</u>	<u>Decision Date</u>
200833/DPP	Re-development including the change of use and extension of the existing building to a mixed use unit which accommodates 50 residential units, co-working office space and cafe/bar and the erection of commercial unit to accommodate co-working and makers' space and a gym and associated works	03.09.2021 Status: Approved conditionally and with a legal agreement

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for the redevelopment of the application site to include the following:

- Demolition of the existing office building;
- Installation of an electric vehicle (EV) charging 'hub', comprising 24 parking bays (including two disabled bays), each with a rapid EV charge point;
- Erection of two single-storey detached Class 3 café / restaurant buildings, one of which would incorporate a drive-through car lane (and thus also be a hot-food takeaway);
- Erection of a single storey building to contain four business (Class 4) units;
- Formation of associated internal road, car parking, bin stores and areas of soft landscaping, including tree planting.

Amendments

The following amendments were made to the application following its initial submission:

- Various amendments were made to the site layout, including alterations to the internal road and car park layout, location of bin stores and soft landscaping; and
- The drive-through lane initially proposed for one of the Class 3 units was omitted from the plans and replaced with areas of outdoor seating and landscaping.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at –

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S42HP4BZHJ800>

- Planning, Design and Access Statement
- Town Centre First Assessment
- Transportation Statement
- Noise Impact Assessment
- Tree Survey and Arboricultural Impact Assessment
- Bat Potential Preliminary Roost Assessment
- Drainage Impact Assessment
- Pre-deconstruction audit
- Letters of support from P&J Live, Aberdeen & Grampian Chamber of Commerce and AGS Airports (owner of Aberdeen International Airport).

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee (PDMC) following agreement of a motion at the Full Council meeting of 17 April 2024 that the application should be considered by the PDMC, rather than being determined under delegated powers, in accordance with the Council's Scheme of Delegation.

CONSULTATIONS

Aberdeen International Airport – No objection, but request that no more than 5% of the new trees and shrubs to be planted would be of a species set out on a prescribed list provided by the Civil Aviation Authority due to their potential to host or attract birds to the site, which could harm the safe operations of Aberdeen International Airport.

ACC - Contaminated Land Team – No objection.

ACC - Roads Development Management Team – No objection. The RDM team have reviewed the development proposal in terms of access, parking, accessibility with regards to sustainable and active travel, refuse storage and collection and impact on the local road network. Overall, following the submission of amended plans with an updated internal road and car parking layout, the RDM Team has advised that it is generally satisfied with the development and subject to conditions in relation to the provision of tactile paving at pedestrian crossings and the submission of a Travel Pack, it has no objection to the development. The RDM team has also reviewed and provided comment on the supporting Drainage Impact Assessment, with no issues being raised.

ACC - Environmental Health – No objection, subject to conditions:

Noise

The noise impact assessment (NIA) submitted by Grosle Environmental Services on 19.02.24 has been reviewed. A number of noise mitigation measures have been detailed in the report and all measures require to be implemented in order to achieve the noise criteria and protect the amenity of the nearby noise sensitive receptors.

As there are no tenants confirmed for the two café/restaurants a planning condition in relation to mechanical plant for Units One and Two will be required. In order to mitigate noise nuisance from the proposed development, the recommendations for the rating levels of the combined mechanical plant at 326 Stoneywood Road must not exceed the octave band levels detailed in 6.2.1 and 6.2.2 of the NIA.

For the purpose of the NIA, the proposed opening times of the café/restaurant units are 06:00 to 23:00 Monday to Saturday, and 07:00 to 23:00 Sunday. The proposed opening times of the starter units are 08:00 to 18:00 Monday to Sunday. These hours for the development should also be incorporated into a planning condition.

Odour

It is noted that there are currently no confirmed tenants for the café/restaurant units. Odour assessments will be required for each unit once the tenants have been confirmed.

Dust Management

Due to the location of the proposed development, there is potential for an adverse impact on the amenity of nearby existing residences due to dust associated with each phase of the proposed works (e.g. demolition and construction). To address this, conditions should be attached to any permission requiring the submission of an Air Quality (Dusk) Risk Assessment and a Dust Management Plan.

ACC - Waste and Recycling – No objection. The proposed development would be classified as commercial and would therefore receive a business waste collection. Additional general comments regarding commercial waste for the applicant to be aware of are provided in their response.

Archaeology Service (Aberdeenshire Council) – No objection. The route of the former Aberdeenshire Canal runs immediately adjacent to the eastern boundary of the site. However, taking into consideration the results of trial trenching undertaken in 2013 on the canal remains, no further archaeological works are required in relation to the proposed development.

Health & Safety Executive – No objection – Do not advise against granting planning permission for the proposed development.

Scottish Water – No objection. Scottish Water is unable to confirm capacity in the Invercarnie Water Treatment Works at present and the applicant should submit a pre-development enquiry to Scottish Water in this regard. There is sufficient capacity in the existing Persley wastewater treatment works to accommodate the proposed development. For reasons of sustainability and to protect customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system. There are existing Scottish Water assets that

run through the application site (watermain, foul sewer and surface water sewer) and the applicant must identify any potential conflicts between the development and the existing water infrastructure with Scottish Water.

Dyce and Stoneywood Community Council – Support the application, for the following reasons:

The proposed development is consistent with Policy B1 (Business and Industrial Land) of the ALDP and would be far more suitable than the previously approved 'mixed-use community'. Further, the application shows that the existing building is derelict, uninhabitable and presents a safety hazard due to vandalism and arson attacks.

The design appears to be well thought-out and is consistent with Policies D1 (Quality Placemaking) and NE5 (Trees and Woodland) of the ALDP, with the majority of trees facing Stoneywood Road to be retained. The Planning Service should ensure that the southern boundary is suitably screened however, to ensure no negative effects on residential amenity.

The proposed land use is consistent with Policy VC8 (Town, District, Neighbourhood and Commercial Centres) of the ALDP because, in the Community Council's opinion, it caters for a catchment appropriate to the centre in which it is located and it does not conflict with the amenity of the neighbouring uses.

The proposal focuses on green transport and it is considered to be consistent with Policy T2 (Sustainable Transport). The proposals should ensure that as many of the EV charging points as possible are accessible to disabled and differently-abled drivers.

It is assumed that the development will be consistent with Policy CI1 (Digital Infrastructure), with high-speed wireless communications covering the whole site.

All local residents who responded to the application on the Community Council's Facebook page are supportive of the development.

REPRESENTATIONS

15 representations have been received (7 in support, 6 objections and 2 neutral). The matters raised can be summarised as follows –

Comments in support of the development:

1. The development would provide much-needed rapid EV-charging infrastructure in the area, to the benefit of the environment, the local community, businesses and passing traffic;
2. The development would represent a positive enhancement for the area compared to the existing derelict, vacant building which is undesirable and unattractive;
3. The provision of drive-through café facilities would be a very desirable and welcome addition;
4. The starter commercial units are proving popular around the city and should encourage local small business and help with the economic development within the area;
5. Welcome the opportunity to provide local jobs in the area;
6. The Aberdeen & Grampian Chamber of Commerce are fully supportive of the proposed development, noting that it has the potential to prove Scotland's largest EV hub, with associated sustainability benefits, whilst also including commercial units and drive-through facilities which would serve the surrounding residential population and make the EV charging hub financially viable;

7. 'Osprey Charging Network' – the operator lined up to install and run the EV charging hub, have written in support of the application, noting that the development would substantially increase the Ultra Rapid charging infrastructure in the north-east of Scotland, providing the first hub of 6+ chargers in the area, and the associated drive-through restaurants would support the EV charging hub customer base, providing amenities for drivers whilst charging;
8. The drive-through units would increase food & drink choice for local residents and workers;

Concerns raised:

9. The development would increase congestion, air pollution and noise for residents and walking/cycling commuters;
10. Despite the need for EV charging operators to have access to ancillary services such as drive-throughs, without commercial agreements in place with tenants, those buildings could remain unfinished and become an eyesore/magnet for increased anti-social behaviour;
11. Greater consideration should be given to the inevitable light pollution resulting from a 24 hour operation of this size and no details of lighting have been submitted;
12. The application cites a lack of EV charging in the local area and a growing demand for such facilities, but no evidence has been provided to support this (and there is a public EV point nearby at BP on Wellheads Road. There is a concern that the EV charging facility could sit unused, subject to a lack of maintenance and repair;
13. Policy 27 of NPF4 only supports drive-throughs where they are specifically supported in the local development plan. This discord has not been addressed by the applicant;
14. Why is the drive-through element necessary if the aim is to support the adjacent new business starter units?;
15. Why are business units proposed when the applicant states there is no interest in the continued business use of the existing building? Conditions are needed to ensure that the business units are in use before the drive-throughs are built, otherwise there is no guarantee they will ever be developed;
16. Similar planning applications were viewed as departures from the local development plan strategy, specifically 210015/DPP, which noted food & drink uses as not being in line with Policy B1;
17. The applicant hasn't justified the out-of-centre location, contrary to the town centre first approach advocated in NPF4. Have other 'in-centre' sites been considered?;
18. Hot-food takeaways with frying food would not be ok adjacent to the neighbouring houses.
19. The developers should limit the EV charging bays to cars only (not larger e-vehicles);
20. All, or at least some, of the EV charging bays should conform to PAS 1899 guidance on accessibility for those with disabilities.
21. The demand for drive-through restaurants is queried, with empty drive-through units available at the Haudagain retail site;
22. Is there any precedent or regulation of such a large-scale EV charging hub in close proximity to a residential area? The safety aspect is a concern;
23. There would be significantly more noise from vehicular and pedestrian traffic than experienced at present, to the detriment of residential amenity, and operating times and refuse collection are a concern;
24. The application would be more favourable if established dense evergreen planting tall enough to provide year-round screening to the neighbouring houses to the south were proposed;
25. There is a conflict between various drawings submitted in relation to which existing trees are to be retained and removed.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where making any determination under the planning acts, regard is to be had to the provisions of the Development Plan; and, that any determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Development Plan

National Planning Framework 4 (NPF4)

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan.

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 4 (Natural places)
- Policy 6 (Forestry, Woodland and Trees)
- Policy 7 (Historic Assets and Places)
- Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 14 (Design, Quality and Place)
- Policy 15 (Local Living and 20 Minute Neighbourhoods)
- Policy 22 (Flood Risk and Water Management)
- Policy 23 (Health and Safety)
- Policy 25 (Community Wealth Building)
- Policy 26 (Business and Industry)
- Policy 27 (City, Town, Local and Commercial Centres)

Aberdeen Local Development Plan 2023 (ALDP)

- Policy B1 (Business and Industrial Land)
- Policy B3 (Aberdeen International Airport and Perwinnes Radar)
- Policy B6 (Pipelines, Major Hazards and Explosive Storage Sites)
- Policy D1 (Quality Placemaking)
- Policy D5 (Landscape Design)
- Policy D6 (Historic Environment)
- Policy NE3 (Our Natural Heritage)
- Policy NE4 (Our Water Environment)
- Policy NE5 (Trees and Woodland)
- Policy R2 (Degraded and Contaminated Land)
- Policy R5 (Waste Management Requirements for New Developments)
- Policy R6 (Low and Zero Carbon Buildings and Water Efficiency)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy VC9 (Out of Centre Proposals)
- Policy WB2 (Air Quality)
- Policy WB3 (Noise)

Aberdeen Planning Guidance

- Transport and Accessibility
- Noise
- Hierarchy of Centres

Other National Policy and Guidance

- Historic Environment Policy for Scotland (HEPS)

Other Material Considerations

- Scottish Government Chief Planner letter – February 2023 (Transitional arrangements for National Planning Framework 4)

EVALUATION

Key matters for consideration

The key matters for consideration in the assessment of this application are:

- Is the proposed development compatible with the Business and Industrial land use zoning of the site?
- Is the proposed drive-through café/restaurant/hot-food takeaway unit acceptable?
- Would the development have an unacceptable impact on either Aberdeen City Centre, or Dyce District Centre?
- Would the development contribute towards tackling the climate and nature crises and would it aid with climate mitigation and adaptation?
- Is the development otherwise acceptable in accordance with all other relevant policies and guidance?

Business and Industrial Land zoning

The application site lies within an area zoned as Business and Industrial land in the Aberdeen Local Development Plan 2023 (ALDP) Proposals Map.

Policy 26 (Business and Industry) of NPF4 is supportive of business and industry uses on sites allocated for those uses in the LDP. It further states:

c) Development proposals for business and industry uses will be supported where they are compatible with the primary business function of the area. Other employment uses will be supported where they will not prejudice the primary function of the area and are compatible with the business/industrial character of the area.

e) Development proposals for business and industry will take into account:

- i. Impact on surrounding residential amenity; sensitive uses and the natural and historic environment;*
- ii. The need for appropriate site restoration at the end of a period of commercial use.*

Policy B1 (Business and Industrial Land) of the ALDP states that land zoned for business and industrial uses (Classes 4, 5 and 6) shall be retained for such uses and safeguarded from other, conflicting development types. It does however further note that other uses which may be suited to a business and industrial location shall be treated on their own merits, and that facilities that directly support business and industrial uses may be permitted where they enhance the attraction and sustainability of the city's business and industrial land, and are aimed at meeting the needs of businesses and employees within the business and industrial area, rather than the wider area. Policy B1 also notes that, where located beside residential areas, permissions will be restricted to Class 4 uses, with landscaped buffer zones and conditions restricting hours of operation etc potentially required, to safeguard residential amenity.

Class 4 units

The four Class 4 units proposed to be sited in one new building on the eastern edge of the site are compliant, in principle, with the aims of Policies 26 and B1, representing continued business use of the site.

EV Charging Hub

The 22 electric vehicle (EV) charging points to be installed alongside car parking bays at the northern edge of the site (plus two further adjacent EV disabled bays), in order to form an EV charging 'hub', would not comprise a use within Classes 4, 5 or 6, nor would the charging points be ancillary to the new Class 4 units. Policies 26 and B1 do not explicitly prohibit alternative, non-business and industrial uses in such areas but rather require alternative uses to be compatible with the business function and character of the area, whilst Policy B1 states that alternative uses will be assessed on their merits.

The provision of EV charging infrastructure is supported, in principle, by both NPF4 (Policy 13 – Sustainable Transport) and the ALDP (Policy T3 – Parking). Whilst the ALDP does not have any policies or guidance on where such infrastructure should generally be sited, the application site is considered to be in a good location for such a facility, being immediately adjacent to a main road (Stoneywood Road), in close proximity to a significant number of homes and businesses which could utilise the facility, and also relatively close to Aberdeen International Airport, P&J Live and the Aberdeen Western Peripheral Route (AWPR). The site is also a significant distance from the city centre, such that it would not encourage additional private vehicle trips into the city centre.

In summary, the application site is considered to be well suited to the provision of an EV charging hub, which could be used by employees of the various employment uses in the surrounding business parks and industrial estates in Dyce and Stoneywood, thus enhancing the attraction and sustainability of the business and industrial land use zoning, in accordance with the aims of Policies 26 of NPF4 and B1 of the ALDP, despite not being directly associated with a Class 4, 5 or 6 use.

Class 3 café / restaurant & hot-food takeaway units and drive-through

The two café / restaurant & hot-food takeaway units, one of which would be a drive-through development, would be of a scale and layout such that it is anticipated that they would serve a wider catchment area of customers than solely the employees of the surrounding business and industrial area, as is generally permitted by Policy B1 of the ALDP (*facilities that directly support business and industrial uses*). As such, the two food & drink units, in terms of the site's zoning in the ALDP, are not compliant with, and would represent a departure from, the Local Development Plan if approved.

However, there are various material considerations which are relevant to the assessment of this application, in respect of the non-compliance of the food & drink uses with Policy B1 of the ALDP, as follows:

- Lack of demand for continued business/industrial use

Paragraph 12.1 of the ALDP states: *‘Maintaining a ready supply of employment land in the right places is vital to Aberdeen retaining its position as a competitive and sustainable business location. To accord with this, a phased, large allocation of employment land has been identified, to meet the diverse needs of different types and sizes of businesses.’*

Therefore, given the primary aim of Policy B1 of the ALDP appears to be the protection of employment land supply, it is pertinent to assess whether there is sufficient employment land across the city, and to consider what impact the loss of the existing office building would have on that supply.

As set out in the supporting Planning, Design and Access Statement, the building was vacated in early 2020 by its previous occupier (Helix Energy) and the property has been marketed from June 2019 to find a new tenant for the building for continued Class 4 office use, to no avail. The building was purchased by the applicant in early 2020 and although further marketing was undertaken there was no significant interest in leasing the building for office use. Commercial surveyors and letting agents advised in relation to the previous application for the site (200833/DPP) that, in 2020, the 1970’s building, constituted Grade ‘C’ office space for which there was little demand in Aberdeen at the time. Photographs of the interior of the building provided by the applicant demonstrate that in the intervening period, the building has become more derelict. Whilst lack of demand for the occupation of the building for its current (or most recent) use is not directly a material planning consideration, it is considered to be indirectly relevant as it demonstrates the wider situation in respect of the oversupply of offices in Aberdeen, predominantly due to the downturn in the oil & gas industry in recent years, combined with the rise in home working post-Covid 19 pandemic. The readily available supply of newer grade ‘A’ office space in a range of locations across the city and particularly within the City Centre has exacerbated the situation in that locations such as Alba Gate are not attractive to tenants.

- Employment land supply

The Aberdeen City and Shire Employment Land Audit (ELA) is prepared annually, with the aim of providing up-to-date and accurate information on the supply and availability of employment land in the region. The most recently prepared audit (with a base date of 1st April 2023) was published in February 2024. The 2023 ELA identifies an established employment land supply of 254ha in Aberdeen City, of which 192ha is identified as marketable and 42 ha immediately available. Furthermore, paragraph 3.14 of the ALDP highlights the healthy position in relation to the supply of employment land, which meant that no new employment land allocations were included in the 2023 ALDP.

The application site covers just 0.7ha. This indicates that the redevelopment of the site for some alternative, Class 3 uses, whilst also incorporating some Class 4 floorspace, would not result in a shortage of available employment land.

- Context and location of the site within the business and industrial area

Although the site is located within a Business and Industrial area, it is important to note that the site lies on the periphery of the Stoneywood Park Industrial Estate, at the southern entrance to the estate and adjacent to Stoneywood Road. As such, the site is not surrounded by industrial uses that would potentially be incompatible with the two Class 3 uses that would serve a wider catchment area (including customers arriving via sustainable modes of transport), as could be the case further into the estate along Stoneywood Park. The site is bound to the south by two residential properties and beyond by a wider residential area, with existing mature landscaping running along both the eastern and western edges of the site and the well-landscaped BP office headquarters to the north. It is therefore appropriate to acknowledge that the context of the site differs from that of a more typical industrial estate environment and any conflict between differing uses would be reduced as a result.

Consequently, the proposed Class 3 units would neither compromise other businesses' ability to operate in the manner to which they are accustomed, nor would they have any significant bearing upon the overall integrity of the industrial estate. Rather the proposed Class 3 units could see an underutilised area of brownfield land suitably repurposed within its context.

Therefore it is considered that, due to the high level of supply and the wider low level of demand for such business & industrial sites generally, in combination with the individual circumstances of the site and the proposal, the proposed Class 3 uses would be acceptable on balance (in relation to the land use zoning) as part of a larger mixed-use development, despite the tension with some elements of Policy B1 of the ALDP. The proposed Class 3 uses would not significantly undermine either the function or character of the land use zoning, in general accordance with the aims of Policy 26 of NPF4.

Residential amenity

A detailed assessment of the impact of the proposed development on residential amenity is set out later in the evaluation but to summarise in relation to the requirements of Policies 26 and B1, the proposed development would not adversely affect the amenity of the neighbouring residential properties to the south to any significant degree.

Landscaping

Policy B1 of the ALDP states a presumption in favour of retaining green, open and landscaped spaces. A detailed assessment of the impact of the proposed development on the existing green spaces within the site is set out further below in the evaluation but to summarise, the level of development proposed is considered to be acceptable, with the majority of existing green space and landscaping to be retained and supplemented with some additional green space, landscaping and tree planting. That aspect of the proposed development is therefore generally compliant with the aims of Policy B1.

Policy 26 of NPF and Policy B1 of the ALDP - Summary

To summarise, the proposed Class 4 starter units are fully compliant with the aims of Policies 26 and B1, whilst the EV charging hub is considered to be compatible with the business and industrial land use zoning. The two Class 3 uses (one of which would also have a drive-through) would serve a wider catchment area than just the employees of the surrounding business and industrial uses, therefore they would not be fully compatible with the requirements of Policy B1. However, there is an oversupply of business and industrial land in the city, therefore the loss of the existing office building is acceptable, and alternative uses on the application site would not have any significant impact, if any, on the supply and availability of business land in the city. Furthermore, the location

of the site within the business and industrial area is considered to be generally appropriate for Class 3 uses, which could also serve employees, thereby enhancing the attractiveness of the surrounding business and industrial area. The proposed Class 3 uses (without the drive through element, that is considered in detail below) are therefore considered to be acceptable, on balance, despite not being fully compliant with the aims of Policy B1. The proposed development would be appropriately landscaped, both retaining a significant amount of existing landscaping and supplementing it with new tree planting and landscaping, whilst also preserving residential amenity. As such, the proposed development is considered to be generally acceptable in accordance with the aims of Policies 26 and B1, despite some tension with the proposed Class 3 uses.

Drive-through café / restaurant (sui-generis / Class 3)

Café / restaurant unit no. 2 (southernmost) is proposed to incorporate a 'U'-shaped drive-through lane that would surround the building's northern, southern and western elevations. The occupier of the proposed unit is not known at this stage, but the drive-through lane would allow for food and/or drink (potentially including hot food), to be ordered by, and served to, customers in vehicles, who would not be required to leave their cars or to enter the unit to sit in the café or purchase takeaway goods.

Criterion d) of Policy 27 (City, Town, Local and Commercial Centres) of NPF4 states:

d) Drive-through developments will only be supported where they are specifically supported in the LDP.

The ALDP does not have any policies specific to drive-through developments, nor is there any reference made in the document to such developments, or any land allocated for such uses on the Proposals Map. As such, the proposed café / restaurant drive-through at Unit 2 is contrary to Policy 27(d) of NPF4.

Whilst there is no reasoning given in NPF4 for the presumption against drive-through developments set out Policy 27(d), the text in relation to Local Development Plans associated with Policy 27 states that LDPs should consider and, if appropriate, identify areas where drive-through facilities may be acceptable, where they would not negatively impact on the principles of local living or sustainable travel. Further, the 'Policy Intent' of Policy 27 is: *'To encourage, promote and facilitate development in our city and town centres, recognising they are a national asset. This will be achieved by applying the Town Centre First approach to help centres adapt positively to long-term economic, environmental and societal changes, and by encouraging town centre living.'*

The [Chief Planner's letter of February 2023](#) seeks to provide further clarity on the matter, stating that Policy 27(d) of NPF4 is not a 'ban' on drive-throughs, but rather requires planning authorities to give careful consideration to where they may or may not be acceptable. The letter states:

'In applying policy 27(d) and whether such developments are supported, planning authorities may regard wider uses that are compatible with the drive through function to be included, as there is no single class of development that this relates to and may sometimes be considered as sui generis. Suitable locations may include for example those allocated for Class 1 shops or Class 3 Food and drink, depending on the nature of the proposal involved in each case. In looking at the potential impact of the development as a whole, as always, decisions will depend on the facts and circumstances of each individual case and regard should be given to wider policies within NPF4, including those relating to reducing emissions that contribute to climate change and to wider policies that aim to improve town centres and support local living.'

Whilst the Class 3 units would, for the reasons set out in the Transport and Accessibility section of the evaluation below, be accessible by sustainable and active modes of transport, and would be located within a 20 minute walk or cycle of a significant number of residential properties in Dyce and Stoneywood, thus complying with the aims of Policy 15 (Local living and 20 minute neighbourhoods) of NPF4, the proposed incorporation of a drive-through lane for one of the units demonstrates that the intention would be for a potentially significant number of customers to access the site by car.

Whilst it is likely that a portion of customers for the proposed Class 3 uses may already be passing the site, thus not generating any new vehicular trips, it is reasonable to assume that the Class 3 uses would also attract customers who would access the site by car, as a destination in itself. Additionally, whilst some customers of the two Class 3 units may access the site by electric vehicle, and purchase food & drink whilst waiting for their car to charge, it is clear that such customers would neither need, nor be likely, to use the drive-through lane given their car would be charging for a period of between approximately 20 and 40 minutes. Therefore, it is anticipated that the vast majority of cars using the drive-through lane would likely be either petrol or diesel powered.

The provision of a drive-through lane would encourage people to access the site by car, contrary to the aims of Policy 13 (Sustainable Transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP. Furthermore, the increase in private vehicle trip generation associated to the drive-through, combined with the likelihood of cars idling when queued at peak times, would not minimise lifecycle greenhouse gas emissions or encourage development that addresses the global climate emergency and nature crises, contrary to the aims of Policies 1 (Tackling the climate and nature crises) and 2 (Climate mitigation and adaptation) of NPF4. It is also considered that the proposed Class 3 units could operate (and support the useability and viability of the proposed EV charging hub) without requiring a drive-through lane.

Therefore, the proposed drive-through lane is not compliant with the aforementioned policies and there are no material considerations that would otherwise warrant the approval of the drive-through aspect of the proposals, which is contrary to Policy 27(d) of NPF4.

Impact on the City Centre and Dyce District Centre

The application site does not lie within any defined commercial centre, being 7km from the city centre and approximately 800m to the south of the Dyce District Centre on Victoria Street. The relatively small scale of the development is such that the Class 3 units would not serve a regional catchment area, therefore they are not required to be sequentially located in the city centre, and their operation would not detract from the vitality or viability of the city centre. Additionally, the Class 4 units and EV charging hub are acceptable and compatible with the business and industrial land use zoning and would not be expected to be located in a commercial centre. However, the two Class 3 units would be of a scale that would serve the surrounding Dyce and Stoneywood areas and their impact on the Dyce District Centre, and consideration as to whether they could be located in that centre, requires to be assessed.

In this regard, Policy 27 (City, Town, Local and Commercial Centres) of NPF4 promotes a Town Centre First approach to help commercial centres to adapt positively to long-term economic, environmental and societal changes. It states:

b) Development proposals will be consistent with the town centre first approach. Proposals for uses which will generate significant footfall, including commercial, leisure, offices, community, sport and cultural facilities, public buildings such as libraries, education and healthcare facilities, and public spaces:

- i. will be supported in existing city, town and local centres, and*
- ii. will not be supported outwith those centres unless a town centre first assessment demonstrates that:*
 - all centre and edge of centre options have been sequentially assessed and discounted as unsuitable or unavailable;*
 - the scale of development cannot reasonably be altered or reduced in scale to allow it to be accommodated in a centre; and*
 - the impacts on existing centres have been thoroughly assessed and there will be no significant adverse effect on the vitality and viability of the centres.*

Policy VC9 (Out of Centre Proposals) of the ALDP takes a similar approach to Policy 27 of NPF4, noting that 'all significant footfall generating development appropriate to designated centres, when proposed on a site that is out-of-centre, will be refused planning permission if it does not satisfy all of the following requirements:

- 1. no other suitable site is available or likely to become available in a reasonable time in a location that is acceptable in terms of the sequential approach;*
- 2. there will be no significant adverse effect on the vitality or viability of any existing centres in the network of centres;*
- 3. there is in qualitative or quantitative terms, a proven deficiency in provision of the kind of development that is proposed;*
- 4. it would be easily and safely accessible by active travel and regular, frequent and convenient public transport services which link with the catchment population and would not be heavily dependent solely on access by private car;*
- 5. it would have no significantly adverse effect on travel patterns and air pollution; and*
- 6. there would be no adverse environmental concerns due to the proposal.*

The proposed Class 3 uses are assessed against each of the criteria set out in Policies 27(b) and VC9 as follows:

All centre and edge of centre options have been sequentially assessed and discounted as unsuitable or unavailable

In accordance with the requirements of Policy 27, the applicant has submitted a Town Centre First Assessment undertaken by a local chartered surveyor. The assessment advises that other locations closer to the centre of Dyce were explored but ultimately no suitable opportunities were identified, with various sites discounted for several reasons, including insufficient site size, being currently occupied, and not being as accessible or visible to passing traffic.

The Planning Authority acknowledges that the majority of commercial units in the Dyce District Centre are both occupied at present and would nevertheless be too small to host the intended Class 3 uses in any case (largely comprising very small units on the ground floor levels of buildings of a domestic scale). However, the Planning Authority is aware of a vacant former bank (Class 1A) unit at 99 Victoria Street which would appear to be capable, with conversion, of hosting a Class 3 use of the approximate size (248sqm) proposed for the application site.

The scale of development cannot reasonably be altered or reduced in scale to allow it to be accommodated in a centre

As above, the Planning Authority is aware of a vacant former bank premises at 99 Victoria Street, which is of a similar footprint to the Class 3 units proposed and would appear to be capable of conversion to such a use. The vacant unit at 99 Victoria Street also has a private off-street car

parking area to the rear where an EV charging hub could potentially be sited, providing charging facilities for a reasonable number (c. 10 to 15) of electric vehicles. A charging hub in this location, at the heart of the commercial centre, would also allow for potential spin-off passing trade to other commercial uses in the area.

It is acknowledged, however, that even with appropriate conversion to Class 3 use, 99 Victoria Street would neither be able to host an EV charging hub with as many spaces as the application site (24), nor would it be able to host two Class 3 units of the size proposed for the application site. It would not be possible to incorporate a drive-through lane at 99 Victoria Street, given the constrained nature of the site, but since the drive-through aspect of the proposals is not considered to be acceptable it is not necessary to ensure that it could be provided within the Dyce District Centre.

The impacts on existing centres have been thoroughly assessed and there will be no significant adverse effect on the vitality and viability of the centres.

Although, as noted above, the Planning Service considers that there is one vacant unit in the Dyce District Centre which would appear to be capable of hosting one of the two Class 3 units proposed for the application site, with some reasonable alterations, it is also pertinent to assess what impact the proposed development would have on the Dyce District Centre, if approved. In this regard, it is noted that there is just one existing food & drink use (or hot-food takeaway) situated within the Dyce District Centre, as defined in the ALDP Proposals Map: the Dunavon House Hotel – which has a licenced bar and restaurant. The vast majority of commercial uses are in Class 1A (including Tesco, Premier, Aberdein Considine, Costcutter and Dickies Pharmacy).

It is considered that although the tenants have not yet been confirmed for the two proposed Class 3 units on the application site, it is likely that given the nature of the units, they would provide a different food & drink offering to that of the Dunavon House Hotel, and would thus not be likely to result in any significant reduction in custom for the hotel's restaurant. Given the absence of any other food & drink uses or hot-food takeaways in the Dyce District Centre, the Planning Authority is satisfied that the harm caused to the vitality and viability of the centre, were the application to be approved, would be minimal.

Whilst there is a Greggs (Class 1A and 3) and a Dominos (hot-food takeaway) situated in a converted former bank building on Burnside Road, those premises are not within the Dyce District Centre.

No other suitable site is available or likely to become available in a reasonable time in a location that is acceptable in terms of the sequential approach

As above.

There will be no significant adverse effect on the vitality or viability of any existing centres in the network of centres

As above.

There is in qualitative or quantitative terms, a proven deficiency in provision of the kind of development that is proposed

As above, there are no food & drink uses in the Dyce District Centre other than the Dunavon House Hotel restaurant, which would likely provide a different offering to the two Class 3 units proposed. Although there is a Greggs and Dominos nearby on Burnside Road, they do not lie within the defined

centre and those uses (Dominos in particular) are also likely to provide a different type of food & drink offering to the proposed units. There is a general lack of Class 3 uses in both the Dyce District Centre and the surrounding area.

It would be easily and safely accessible by active travel and regular, frequent and convenient public transport services which link with the catchment population and would not be heavily dependent solely on access by private car

The proposed development would be easily and safely accessible by active travel and by frequent bus services along Stoneywood Road. The development would not be heavily dependent solely on access by private car, although the drive-through lane would encourage car use as per the foregoing section of the evaluation.

It would have no significantly adverse effect on travel patterns and air pollution

The proposed development would not be likely to have any significant adverse effects on travel patterns although as noted above, the drive-through lane aspect of the proposals would encourage car use, which would not minimise greenhouse gas emissions.

There would be no adverse environmental concerns due to the proposal.

The application site is a brownfield site and its proposed redevelopment does not raise any adverse environmental concerns (in relation to trees, protected species and natural heritage). As such, the proposals do not conflict with Policy VC9 of the ALDP.

Summary of impacts on Dyce District Centre

Although the applicant has submitted a Town Centre First Assessment, in accordance with Policy 27 of NPF, and its findings are generally accepted by the Planning Service, it is considered that there is one vacant unit in the Dyce District Centre that could potentially be converted to host one of the two Class 3 units proposed for the application site. However, it is acknowledged that even with the repurposing of that site, it would not be capable of hosting an EV charging hub of the scale proposed, nor the two Class 3 units proposed, which the applicant advises are necessary to make the EV charging hub viable. As such, and combined with the general absence of existing food & drink uses within the centre that could otherwise be adversely affected by the proposed development, it is considered that the proposed Class 3 units would not adversely affect the vitality and viability of the Dyce District Centre to any significant degree, in general compliance with the aims of Policy 27 of NPF4 and Policy VC9 of the ALDP. The development would also provide new food & drink options for a significant number of potential customers (residents and businesses) within a 20-minute walk of the application site, which is consistent with the aims of Policy 15 of NPF4 in relation to local living and 20-minute neighbourhoods.

Re-use of brownfield land and empty buildings

Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4 is supportive of the sustainable reuse of brownfield land, including vacant and derelict buildings, with demolition regraded as the least preferred option, given the need to conserve embodied energy. Policy 12 (Zero Waste) of NPF4 notes that development proposals will be supported where they reuse existing buildings and infrastructure, minimise demolition and salvage materials for reuse.

The proposed development would include the demolition of the existing modern (c. mid-to-late 20th century) office building, which has lain vacant for several years and as a result, the building has

deteriorated over time and is no longer fit for use unless it were to be fully refurbished and modernised at substantial cost. However, even if the building were to be retained and refurbished to allow its previous Class 4 office use to resume, as mentioned above, there is very little demand in Aberdeen for office space at present and the costly refurbishment of the building for office use would thus come with significant risk to the owner.

As such, the owner of the site has explored various different options for the redevelopment of the site, including the retention and conversion of the existing building for residential-led mixed use, for which planning permission was granted in 2021 – but market conditions have meant that permission has not been implemented. Taking into consideration the lack of viable new uses for the existing building, even if refurbished to a modern standard, combined with the ability of the owner to demolish the building utilising permitted development rights, it is considered that whilst not the preferred and sustainable approach as set out in Policy 9 of NPF4, the requirement to demolish the existing building has been appropriately justified.

Although the applicant proposes to demolish the building, they have advised that they are committed to salvaging and either reusing or recycling as much of the materials in the existing building as possible and they have evidenced this in a Pre-Deconstruction Audit. The audit concludes that approximately 8% of the building's materials could be reused or recycled, which is considered appropriate given the makeup of the building, which largely consists of the concrete foundations and floor slabs. The intention to reuse and recycle downtaken materials is welcomed, in accordance with the aims of Policy 12 of NPF4.

Tackling the climate and nature crises, and climate mitigation & adaptation

Policy 1 (Tackling the Climate and Nature Crises) and Policy 2 (Climate Mitigation and Adaptation) of NPF4 require significant weight to be given to the global climate and nature crises when considering all development proposals and require development proposals to be sited and designed to minimise lifecycle greenhouse gas emissions.

The proposed demolition of the existing derelict office building and the erection of new buildings on the site, whilst not the preferred approach in relation to addressing climate change, is nevertheless considered to be acceptable, on balance, for the reasons set out in the above section of the evaluation on "Re-use of brownfield land and empty buildings". Although the embodied carbon in the existing building would be lost and new carbon emitted in the construction of the new buildings, the new buildings would at least be constructed to meet the current, more stringent, building regulations and, including the incorporation of low & zero carbon technology (if approved), the new buildings could suitably minimise lifecycle greenhouse gas emissions in relation to heating and cooling.

However, as set out above, it is considered that the proposed incorporation of a drive-through lane for one of the Class 3 units would not sufficiently reduce and minimise traffic generated – particularly unsustainable private vehicle trips in predominantly fossil-fuel powered cars – contrary to the aims of Policies 13 of NPF4 and T2 of the ALDP. It is reasonable to expect that the drive-through lane would result in an increase in private vehicle trips to the Class 3 use to which it would be associated, when the site is otherwise accessible via sustainable and active modes of transport. Such an increase in private vehicle trips (and vehicles idling while queued) would increase carbon emissions and would not minimise lifecycle greenhouse gas emissions as required by Policy 2 of NPF4. The increase in emissions during the operation of the proposed use (which could function without a drive-through lane) would thus also be contrary to Policy 1 of NPF4, the policy intent of which is: *'To encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.'*

Community wealth building

Policy 25 (Community Wealth Building) of NPF4 is supportive of development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities. This can include increasing spending in communities and local job creation.

The proposed development would redevelop the existing vacant office site to form four new Class 4 business units and two new Class 3 food & drink units, all of which would create or sustain jobs in both the demolition/construction process and the operational phase. The proximity of the site to local businesses and housing would also likely result in increased spending within the Dyce and Stoneywood communities and the proposals are therefore compliant with the aims of Policy 25 of NPF4.

Impacts on amenity

In addition to the aforementioned requirements of Policies 26 and B1 in relation to the protection of residential amenity from new uses in business and industrial areas, Policy 23 (Health and Safety) of NPF4 and Policy WB3 (Noise) of the ALDP both state a presumption against noise generating developments where they would cause significant harm to the amenity of noise sensitive uses such as housing.

In relation to noise, the applicant has submitted a Noise Impact Assessment (NIA) which assesses the impacts of the various types of noise emissions that would arise during the operational phase of the proposed development, which could impact upon the amenity of the two residential dwellings which lie immediately to the south of the application site. The NIA highlights that noise emissions from mechanical plant for the new buildings, from customers of the Class 3 / drive-through units, and from the customer order intercom for the drive-through could cause disturbance to residential amenity and thus require to be mitigated. The NIA does note, however, that the application site lies within an area that already experiences a relatively high level of ambient background noise, particularly due to passing road traffic on Stoneywood Road, and passing air traffic both taking off and landing at Aberdeen International Airport (the site lies within the noise contours for the airport). It is also anticipated that there would not be any significant noise emissions resulting from the operations of the four Class 4 units. Whilst the occupiers of those proposed units are not known, Class 4 uses are, by definition, uses *'which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.'*

The Council's Environmental Health Service have reviewed the NIA and accept its findings, subject to the implementation of the mitigation measures recommended within it. The Environmental Health Service also note that due to no end-users of the Class 3 / drive-through units having been identified at this stage, a condition would be necessary to ensure that the noise emissions of the mechanical plant equipment for those units would not exceed the octave band levels detailed in sections 6.2.1 and 6.2.2 of the NIA. Such measures would ensure protection of residential amenity from any new plant equipment.

The Environmental Health Service also request that, in the event that the application is approved, a condition is attached which restricts the operation of the Class 3 / drive-through units to between 6am and 11pm Monday to Saturday and 7am and 11pm on Sunday, with the Class 4 units restricted to between 6am and 6pm, seven days a week.

In relation to external lighting, no details have been submitted by the applicant. However, it is

considered that, were the application to be approved, a condition could be attached to any permission which would require the submission of external floodlighting details for the development. It is also considered likely that, subject to details, an appropriate scheme for the artificial lighting of the development during hours of darkness could be achieved, without detriment to the amenity of the two neighbouring residential properties to the south. In this regard it is noted that there are existing floodlighting columns positioned along the mutual boundary and that the retention of existing southern boundary landscaping, complemented with some new tree planting, would provide some additional screening between the properties.

The Planning Service is not supportive of the application for the aforementioned conflicts with other relevant policies, therefore no conditions are required, but it is considered that if the application were to be approved, relevant conditions could be attached to any permission in relation to the application of the various mitigation measures set out in the NIA, details of the plant equipment, lighting and the opening hours of the new uses.

Other impacts on amenity

Aside from noise emissions, the proposed development would not have any other significant impacts on residential amenity, with all of the new buildings proposed to be single storey in height and would be set a reasonable distance (at least c. 15m) away from the mutual southern boundary which is shared with the curtilages of two residential dwellings. All existing trees adjacent to the southern boundary would be retained and supplemented with additional trees and shrubs to be planted in an enlarged green buffer space between the southern boundary and the proposed car parking area. As such, the proposed development would result in a net betterment compared to the existing situation, in terms of the proximity and scale of buildings and the provision of boundary soft landscaping and visual screening.

In relation to cooking odours from the two food & drink units, the Environmental Health Service have advised that odour assessments will be required for each of the units once tenants have been confirmed, in order to demonstrate that the cooking odours could be adequately filtered and dispersed without detriment to residential amenity. As with the noise mitigation measures, were the application to be approved then appropriately worded conditions could be attached requiring the submission of such assessments prior to operation.

The Environmental Health Service have also requested conditions in relation to dust management and control during the demolition and construction phases of the development. Again, such conditions could be attached to any permission, if granted.

Therefore, were the application to be approved, it is considered that the proposed development would not have any significant adverse impacts on the amenity currently enjoyed by the two neighbouring residential properties to the south, subject to the application of conditions in respect of noise and odour mitigation, opening hours and dust management. The proposals are thus acceptable in accordance with Policies 23 and 26 of NPF4 and B1 and WB3 of the ALDP.

Design and placemaking

Policies 14 (Design, Quality and Place) of NPF4 and D1 (Quality Placemaking) of the ALDP both seek to ensure that all new development is of a high quality design, appropriate for its context, and requires development to comply with the six qualities of successful places (Healthy, pleasant, connected, distinctive, sustainable and adaptable).

The existing building on the site is not of any particular architectural merit and it does not contribute

positively to the streetscape or the visual amenity of the surrounding area. Its removal and replacement with three new smaller, single-storey buildings, albeit of a largely utilitarian design (particularly the Class 4 units), would have a relatively negligible impact on the character and visual amenity of the surrounding area and could result in a net betterment. The retention of the majority of the existing established trees and soft landscaping along the western boundary to Stoneywood Road, combined with additional new tree planting and soft landscaping elsewhere in the site, would also ensure that the site would maintain a healthy and pleasant outward appearance. The proposed development is generally compliant with the majority of the six qualities of successful places, although it would not particularly promote active travel and reduce car dependency, as required by the 'connected' quality. Furthermore, the drive-through lane would surround the Unit 2 Class 3 building with tarmac (and vehicles, when in use) on three sides. The drive-through lane would take up space within the site that could otherwise be used to create a more welcoming, attractive and less car-dominated layout (i.e. for outdoor seating, additional pavement space and/or areas of soft landscaping). Nevertheless, on balance the proposed development is considered to be generally compliant with the aims of Policies 14 of NPF4 and D1 of the ALDP, despite some tension in relation to the drive-through lane aspect of the proposals.

Transport and accessibility

Policy 13 (Sustainable Transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP are both supportive of developments that would be accessible via sustainable and active modes of transport, whilst Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 is supportive of development proposals that would contribute to local living, creating connected and compact neighbourhoods where people can meet the majority of their daily needs within reasonable distance of their home, preferably by sustainable and active modes of travel. Policy 13 of NPF4 and Policy T3 (Parking) of the ALDP are also supportive, in principle, of proposals for electric vehicle charging infrastructure.

The site lies in a sustainable and accessible location, at the northern edge of Stoneywood and within relatively easy walking and cycling distance of the majority of Dyce. The site also lies immediately adjacent to Stoneywood Road, which is served by frequent public transport (bus) services, with the nearest bus stops within 100m of the site. The site is also well connected in terms of pedestrian infrastructure, with the adopted footpath network running alongside Stoneywood Road, connecting the site with significant amounts of housing to both the north and south, along with business and industrial uses to the east on Stoneywood Park.

The proposed development would therefore be capable of being accessed sustainably, including by a significant number of local residents in the Dyce and Stoneywood areas, which is compliant with the aims of Policies 15 of NPF4 and T2 of the ALDP. The proposed formation of an EV charging hub, which the applicant advises would be fuelled by renewable energy, is also fully compliant with the aims and requirements of Policies 13 of NPF4 and T3 of the ALDP.

However, the proposed development would, in addition to the EV charging hub, incorporate a reasonable amount of car parking, as well as a drive-through lane for one of the Class 3 units. For the aforementioned reasons set out above, the incorporation of the drive-through lane would encourage customers of the Class 3 / drive-through unit to access the site by car and would not sufficiently minimise the amount of traffic generated, thus the proposed drive-through is contrary to the aims and requirements of Policies 13 of NPF4 and T2 of the ALDP.

Aside from the drive-through, the Council's Roads Development Management (RDM) team have reviewed the proposals and are satisfied that sufficient car parking would be provided, and also that, following revisions by the applicant including the removal of the drive-through lane for

Café/restaurant unit 1, the internal roads layout would be satisfactory in terms of roads and pedestrian safety. The applicant's Transport Assessment notes that the proposed development would result in some increase in traffic during the AM and PM peak hours compared with the existing, authorised use for the site, however the increase would be relatively minor, with an estimated additional vehicle using the site access every 77 seconds. As such the development would not have any significant net detriment on the existing road network in terms of traffic at peak times. The RDM team have requested that, should the application be approved, conditions are attached requiring the incorporation of tactile paving at all pedestrian crossings within the site, to safeguard visually impaired pedestrians, and requiring the submission and approval of a Travel Plan, to encourage staff members to access the site sustainably.

Drainage

Policy 22 (Flood Risk and Water Management) of NPF4 and Policy NE4 (Our Water Environment) of the ALDP both require new developments to not be at any significant risk of flooding, and to ensure that they would be appropriately drained, thus not increasing the risk of flooding to adjacent properties.

The site is located approximately 450m to the west of the River Don, on higher ground, and SEPA's flood maps demonstrate that the application site is not at any significant risk of flooding (river, coastal or surface). The applicant has submitted a Drainage Impact Assessment (DIA) which notes that the new roads, footpaths and roof areas would be drained via private surface water drains and gullies to attenuation storage systems comprising of on-site underground geocellular crates.

The foul drainage associated to the Class 3 and Class 4 buildings would be connected into the existing Scottish Water foul sewer in the southern portion of the site. Scottish Water have confirmed there is sufficient capacity in the existing foul water sewer system to accommodate the development.

The Council's Roads Development Management team have reviewed, and accept the findings of, the applicant's DIA. As such, the development would neither be at any significant risk of flooding, nor would it increase the risk of flooding to any neighbouring properties, in accordance with the requirements of Policies 22 of NPF4 and NE4 of the ALDP.

The applicant has also taken care to ensure that there is no built construction either directly above, or in close proximity to, existing Scottish Water infrastructure that runs on an east-west axis through the southern portion of the site.

Historic Environment

Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland and Policy D6 (Historic Environment) of the ALDP all require new development to either preserve or enhance the historic environment, including archaeological remains. Whilst the application site is neither situated within a conservation area, nor contains any listed buildings, the route of the former Aberdeenshire Canal runs immediately adjacent to the eastern boundary of the site. However, the Council's Archaeology Service have advised that, taking into consideration the results of trial trenching undertaken in 2013 on the canal remains, no further archaeological works are required in relation to the proposed development. The proposals are therefore acceptable in accordance with Policies 7 and D6, as well as HEPS.

Trees and soft landscaping

Policy 6 (Forestry, Woodland and Trees) of NPF4 and Policy NE5 (Trees and Woodland) of the

ALDP both seek to protect existing forests, woodland and trees, with the impacts of development on existing trees required to be avoided where possible and mitigated where adverse impacts are unavoidable. Policy D5 (Landscape Design) of the ALDP requires developments to be designed with an effective, functional and attractive landscape framework.

The proposed development has predominantly been designed and sited with due consideration for the presence of existing trees such that the majority of trees on the site at present would be retained and their long-term health not significantly affected by incursions into their root protection areas. Although some established trees are proposed for removal, a significant amount of replacement planting is proposed, along with other soft landscaping, including the formation of new areas of grass and shrubs where are present there is hard-landscaped car parking. On balance, whilst there would be some trees removed, the majority of the established trees which contribute towards the character and visual amenity of the area would be retained, and the proposals are thus considered to be compliant, on balance, with the aims of Policies 6 of NPF4 and NE5 of the ALDP. The new areas of tree planting and soft landscaping are also generally acceptable in accordance with the aims of Policy D5 of the ALDP and whilst care would need to be taken to ensure that any new planting would be of an appropriate species to avoid attracting birds, which could harm the safe operations of the nearby airport, such details could be conditioned, were the application to be approved.

Biodiversity

Policy 3 (Biodiversity) of NPF4 requires development proposals to minimise impacts on existing biodiversity, nature networks and the natural environment through careful planning and design, and requires proposals for local development to conserve, restore and enhance biodiversity, with measures taken to be proportionate to the nature and scale of development.

Although some new tree planting and other soft landscaping is proposed, this would largely be to mitigate against the removal of existing, established trees on the site. In order to ensure that there would be a net gain (enhancement) of localised biodiversity on the site, further proposals incorporating benefits for nature should be provided as part of a detailed landscaping schedule and maintenance plan but these could be secured by condition, if the application were to be approved. As such, the proposals are considered to be generally compliant with the aims of Policy 3 of NPF4.

Natural heritage

Policy 4 (Natural Places) of NPF4 and Policy NE3 (Our Natural Heritage) of the ALDP both see to ensure that any impacts on protected species resulting from new development would be minimised and mitigated wherever possible. Due to the proposals to demolish the existing building and to fell several existing established trees, the applicant has submitted a Preliminary Bat Roost Assessment, in order to ascertain whether there are any bats or bat roosts present on the site that may be affected by the proposed development.

The Bat Roost Assessment found no evidence of bats in either the existing building or the trees proposed for removal, with both considered to have negligible bat roost potential. The assessment has been reviewed and its findings accepted by the Council's Environmental Policy team. No other protected species are known to be present on the site. As such, the proposals would not adversely affect any protected species, in accordance with Policies 4 of NPF4 and NE3 of the ALDP.

Waste Management

Policy 12 (Zero Waste) of NPF4 and Policy R5 (Waste Management Requirements for New Developments) of the ALDP both require suitable provision in new developments for the appropriate

storage and collection of many waste and recyclables generated by the development.

Designated bin stores are proposed within the site for the Class 4 business units and the two Class 3 restaurant / hot-food takeaway units. The internal road layout is considered to be acceptable to the Roads Development Management team and they are satisfied that any bins stored on the site would be capable of collection by private business waste contractors. As such, the proposals are compliant with the requirements of Policies 12 of NPF4 and R5 of the ALDP.

Health and safety – major hazards

Policy 23 (Health and Safety) of NPF4 states:

- i) Any advice from Health and Safety Executive, the Office of Nuclear Regulation or the Scottish Environment Protection Agency that planning permission or hazardous substances consent should be refused, or conditions to be attached to a grant of consent, should not be overridden by the decision maker without the most careful consideration.'*

Policy B6 (Pipelines, Major Hazards and Explosive Storage Sites) of the ALDP states:

'Where certain types of new development are proposed within the consultation zones of pipelines, major hazards and explosive storage sites, or within 1 kilometre of an operational quarry, the Council will consult the Health and Safety Executive (HSE) to determine the potential risk to public safety. The Council will take full account of the advice from the HSE in determining planning applications.'

The majority of the application site lies within the 'outer' HSE consultation zone for the Calor Gas site situated approximately 200m to the west, on Wellheads Place, with the westernmost portion of the application site lying within the 'middle' consultation zone.

Following consultation with the Health and Safety Executive via their online planning advice web app, HSE do not advise against the granting of planning permission for the proposed development. The proposals are therefore acceptable in accordance with the requirements of Policies 23 of NPF4 and B6 of the ALDP.

Aberdeen International Airport

The application site lies approximately 400m to the east of the eastern boundary of Aberdeen International Airport, and 600m to the east of the main runway. Policy B3 (Aberdeen International Airport and Perwinnes Radar) of the ALDP requires consultation with the airport for any development within safeguarded areas identified on the airport safeguarding map or the Perwinnes Radar safeguarding map.

Whilst the proposed development would be sufficiently small-scale in terms of height to ensure that the new buildings would not affect aircraft safety or radar operations, the airport were consulted due to the potential for new soft landscaping to attract birds to the site, which could pose an increased risk of bird strikes to aircraft. The airport does not object to the application but has requested that no more than 5% of the total number of new shrubs and trees to be planted would be of a species listed on a prescribed list produced by the Civil Aviation Authority (CAA) – in order to minimise the risk of bird strikes. The proposed landscaping scheme has been reviewed and is found to be acceptable in accordance with the CAA guidance, therefore the proposals would not affect the safe operations of the airport and are acceptable in accordance with Policy B3 of the ALDP.

Contaminated Land

Policy 9 (Brownfield, vacant and derelict land and empty buildings) of NPF4 and Policy R2 (Degraded and Contaminated Land) of the ALDP both require land known or suspected of being contaminated to be appropriately remediated and made safe and suitable for any new use. The Council's Contaminated Land team advise that the site was undeveloped until the erection of the existing office building and associated car park in the mid-to-late 20th century. As such, the current use is commercial rather than industrial, which is unlikely to have resulted in any significant contamination of the land. The proposed use of the site following redevelopment would also be commercial, rather than residential, therefore it would be less sensitive to the presence of any contamination. No conditions are considered to be necessary in this instance, although were the application to be approved then the Contaminated Land team have requested an advisory note for the applicant to be aware of, requesting that the developer contact the Planning Authority as soon as possible should any ground contamination be discovered during the development. As no significant contamination is anticipated, the proposals are acceptable in accordance with Policy 9 of NPF4 and R2 of the ALDP.

Low and zero carbon buildings & water efficiency

Policy R6 (Low and Zero Carbon Buildings and Water Efficiency) of the ALDP requires that all new buildings must meet a proportion of the carbon emissions reduction standard applicable at the time of the application through the installation of low and zero carbon generating technology, and that water saving technologies are introduced to reduce the pressure on water abstraction from the River Dee. Information evidencing compliance with Policy R6 for the new buildings could be conditioned were the application to be approved, therefore it is considered that the proposals are compliant with Policy R6 of the ALDP.

Air Quality

Policy 23(d) (Health and Safety) of NPF4 states that development proposals that are likely to have significant adverse effects on air quality will not be supported, whilst Policy WB2 (Air Quality) of the ALDP states that development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are proposed and agreed with the Planning Authority.

The proposed development would be accessible by car, and would have 42 parking spaces, in addition to 24 EV charging bays, as well as the drive-through lane associated to Unit 2. As set out in the applicant's Transport Assessment, there would be an increase in the number of vehicular trips associated to the development compared with the authorised office use of the site, particularly in the early afternoon periods (based on café use). However, whilst there would be an increase in vehicular trips (and idling of cars whilst queued for the drive-through), with associated exhaust emissions which could be harmful to air quality, the following factors are relevant in this instance:

- The application site does not lie within, or in close proximity to, an air quality management area and would thus not exacerbate existing localised air quality issues; and
- The EV charging bays would all be used by electric vehicles, which would not produce exhaust emissions linked to air quality issues as is the case for petrol and diesel vehicles.

Therefore, although the proposed development would likely result in some increase in vehicular emissions compared with the existing situation, it is considered that any such increase would not be sufficient to result in any significant impact upon localised air quality, particularly given the site and surrounding area do not currently experience any significant air quality issues at present. The proposed development is thus generally compliant with the requirements of Policies 23(d) of NPF4

and WB2 of the ALDP.

Community Council comments

The Dyce and Stoneywood Community Council are supportive of the application and consider it to be compliant with Policies B1, D1, NE5, VC8, T2 and C11 of the ALDP. They did request that the southern boundary of the site is suitably screened to minimise any negative impacts on residential amenity and this has been secured, via the retention of existing trees and the incorporation of new tree planting and other landscaping to the southern boundary in amended plans. The Community Council also requested that as many of the EV charging bays as possible are accessible for disabled drivers. Two purpose-built disabled bays would be provided out of the 24 in total, which is considered by the Roads Development Management team to be acceptable.

Matters raised in representations

The comments made in representations received in support of the application (1 to 8) are noted and addressed in the foregoing evaluation.

In relation to the concerns raised in comments 9 to 25, these are addressed as follows:

- 9. The development would increase congestion, air pollution and noise for residents and walking/cycling commuters*

Response: These matters are addressed in the foregoing sections of the evaluation.

- 10. Despite the need for EV charging operators to have access to ancillary services such as drive-throughs, without commercial agreements in place with tenants, those buildings could remain unfinished and become an eyesore/magnet for increased anti-social behaviour;*

Response: The potential for the new buildings to be constructed and then sit vacant, to the detriment of the area and with potential ramifications for increased anti-social behaviour, is not a material planning consideration. Nevertheless, it is unlikely that the buildings (particularly the Class 3 units) would be constructed without any end-users lined up.

- 11. Greater consideration should be given to the inevitable light pollution resulting from a 24 hour operation of this size and no details of lighting have been submitted;*

Response: Whilst no details of artificial external lighting have been submitted, were the application to be approved then such details could be required by condition and it is considered likely that any external lighting could be designed and sited to ensure no significant adverse impact to residential amenity. Similarly, were the application to be approved, then a condition would also be attached restricting the hours of operation of the development (to no later than 11pm on any given day).

- 12. The application cites a lack of EV charging in the local area and a growing demand for such facilities but no evidence has been provided to support this (and there is a public EV point nearby at BP on Wellheads Road. There is a concern that the EV charging facility could sit unused, subject to a lack of maintenance and repair.*

Response: The provision of EV charging facilities is acceptable, in principle, in accordance with multiple policies of NPF4 and the ALDP as set out in the foregoing evaluation, and the EV charging hub is considered to be generally acceptable in accordance with the character

of the B1 land use zoning of the ALDP. There is no policy requirement in relation to overprovision of EV charging facilities or assessing existing provision nearby. Reference to the charging hubs sitting unused, with subsequent maintenance and repair issues, is not a material consideration.

13. *Policy 27 of NPF4 only supports drive-throughs where they are specifically supported in the local development plan. This discord has not been addressed by the applicant;*

Response: This is addressed in the above evaluation.

14. *Why is the drive-through element necessary if the aim is to support the adjacent new business starter units?;*

Response: The drive-through lane is proposed to be associated to one of the Class 3 (food & drink) units, and would not have any relationship with the proposed Class 4 business units.

15. *Why are business units proposed when the applicant states there is no interest in the continued business use of the existing building? Conditions are needed to ensure that the business units are in use before the drive-throughs are built, otherwise there is no guarantee they will ever be developed.*

Response: There is no interest in the continued or resumed business use of the existing office building for a multitude of reasons, not least the age, condition and scale of the building and the current low level of demand for office accommodation in the city. The proposed Class 4 units would be much smaller and would target a different scale and type of business use – particularly small independent businesses and start-ups, most likely for non-office use. In relation to the need for conditions to require the business units to be constructed prior to the Class 3 units, there is no planning reason or necessity for the business units to be delivered prior to the Class 3 units (or indeed at all), therefore such a condition would not meet the requirements of the six tests for planning conditions and would not be competent.

16. *Similar planning applications were viewed as departures from the local development plan strategy, specifically 210015/DPP, which noted food & drink uses as not being in line with Policy B1.*

Response: The proposed Class 3 uses, as with the proposed Class 3 / drive-through uses approved in planning permission 210015/DPP, would constitute a departure from the site's B1 zoning in the ALDP, if approved.

17. *The applicant hasn't justified the out-of-centre location, contrary to the town centre first approach advocated in NPF4. Have other 'in-centre' sites been considered?*

Response: This is addressed in the foregoing evaluation.

18. *Hot-food takeaways with frying food would not be ok adjacent to the neighbouring houses*

Response: The end-users of the proposed Class 3 units are not known at the time of writing. However, as per the Council's Environmental Health Service's comments, were the application to be approved then Odour Impact Assessments would be required for each unit, in order to ensure that any cooking activities would not harm the amenity of nearby residents

in terms of malodours. Given the separation distance between the properties it is considered likely that sufficient odour mitigation measures could be secured by condition.

19. *The developers should limit the EV charging bays to cars only (not larger e-vehicles)*

Response: Any use of the EV charging bays by larger vehicles would be a matter for the applicant / operator to address and not a specific planning matter but nevertheless, the design and layout of the EV charging hub should ensure that it would be unlikely to be used by larger vehicles.

20. *All, or at least some, of the EV charging bays should conform to PAS 1899 guidance on accessibility for those with disabilities*

Response: Three of the EV charging bays have been designed for use by those with disabilities, which is acceptable to the Roads Development Management Team. Any further statutory requirements for disabled EV charging bays (if applicable) would be addressed through the building warrant process.

21. *The demand for drive-through restaurants is queried, with empty drive-through units available at the Haudagain retail site*

Response: There is no policy requirement for existing provision, or overprovision, of drive-throughs in the surrounding area to be assessed.

22. *Is there any precedent or regulation of such a large-scale EV charging hub in close proximity to a residential area? The safety aspect is a concern.*

Response: The potential safety aspects of EV charging hubs are covered by separate legislation and are not a material planning consideration.

23. *There would be significantly more noise from vehicular and pedestrian traffic than experienced at present, to the detriment of residential amenity, and operating times and refuse collection are a concern.*

Response: Whilst it is appreciated that there would likely be an increase in noise generated by vehicles and customers compared to the existing situation, with a long-term vacant office building, the nature of the proposed uses is such that the Planning Service is satisfied that noise emissions would not be a significant issue, particularly given no Class 5 or 6 uses are proposed. It is also noted that with the proximity to Aberdeen International Airport, Stonewood Road and the nearby railway line, there is already a high level of background noise in the area, such that any new noise generated by the new development would not significantly alter the existing character of the area in relation to noise. The opening hours could be restricted, to avoid conflict with the more sensitive late evening and early morning periods, were the application to be approved.

24. *The application would be more favourable if established dense evergreen planting tall enough to provide year-round screening to the neighbouring houses to the south were proposed;*

Response: Following amendments to the proposed site layout and landscaping, the existing soft landscaping along the southern boundary is largely proposed to be retained and supplemented with some new tree and shrub planting, which would enhance the existing

level of natural screening along the mutual boundary shared with the neighbouring dwellings.

25. *There is a conflict between various drawings submitted in relation to which existing trees are to be retained and removed.*

Response: There were discrepancies between the drawings initially submitted in relation to which existing trees are proposed to be retained and removed. These matters were addressed, however, via the subsequent submission of amended plans.

Conclusion

The demolition of the existing building, whilst not the preferred approach in terms of sustainability, is considered to be acceptable, on balance, and the erection of a new building to accommodate several Class 4 (Business) units is compliant with the business and industrial land use zoning, as per Policies 26 (Business and Industry) of NPF4 and B1 (Business and Industrial Land) of the ALDP. The proposed EV charging hub is also generally compatible with the business and industrial land use zoning, and is considered appropriate in this location, adjacent to the A947 transport corridor.

The two Class 3 (food & drink) units proposed are not compatible with the requirements of Policy B1 and their approval would thus constitute a departure from the Local Development Plan. However, taking into consideration the oversupply of business and industrial land in the City and Shire as a result of significantly reduced demand for office space in recent years, the context of the site and the scale and form of development proposed, the Planning Service is satisfied that the Class 3 uses (without drive-throughs) could be supported, on balance, as a departure.

It is also considered, again on balance, that the proposed development would not have any significant impact on the vitality and viability of either the City Centre or the Dyce District Centre (being the nearest local commercial centre to the site).

However, the incorporation of a drive-through lane for one of the proposed Class 3 units is contrary to criterion (d) of Policy 27 (City, town, local and commercial centres) of NPF4 which states that drive-through developments will only be supported where they are specifically supported in the Local Development Plan. The Aberdeen Local Development Plan 2023 (ALDP), adopted more recently than NPF4, does not incorporate any policies, land zoning or other guidance in relation to drive-through developments. As such, the drive-through aspect of the proposed development is contrary to Policy 27 of NPF4. In addition to non-compliance with Policy 27 of NPF4, the drive-through would also encourage customers to travel to the site by private car, most likely fossil-fuel powered, and that aspect of the proposed development would thus also not sufficiently minimise travel to the site by private car and would therefore also not minimise greenhouse gas emissions, contrary to the aims and requirements of Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation) and 13 (Sustainable transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP.

The applicant states that the Class 3 units are required in order to support the viability of the adjacent EV charging hub (by providing facilities that could be used by customers whilst their cars charge). However, whilst that may be the case, the Planning Service questions that justification in relation to the drive-through aspect of the proposals, given that customers of the EV charging hub would clearly not be able to, nor need to, utilise the drive-through lane whilst their cars are charging. The Planning Service thus considers that the proposed development would be able to successfully function without the inclusion of the drive-through lane, which is contrary to the aforementioned policies.

Therefore, whilst the majority of the proposed development is considered to be generally acceptable in accordance with the relevant policies or, in the case of Policy B1 of the ALDP, on balance despite constituting a departure, the proposed drive-through Class 3 unit is contrary to Policy 27 of NPF4, and it would not minimise private vehicle trips and greenhouse gas emissions, nor encourage sustainable and active travel. The development would be able to function without the drive-through aspect and there are no material considerations that would otherwise warrant a departure from Policies 1, 2, 13 and 27 of NPF4, and Policy T2 of the ALDP. The application is therefore recommended for refusal.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

The proposed development would incorporate a drive-through lane associated to one of the Class 3 units. Policy 27 (City, town, local and commercial centres), criterion (d) of National Planning Framework 4 (NPF4) states that drive-through developments will only be supported where they are specifically supported in the Local Development Plan. The Aberdeen Local Development Plan 2023 (ALDP) has no provision for drive-through developments, therefore the proposed drive-through aspect of the proposed development is contrary to Policy 27 of NPF4.

Furthermore, the proposed drive-through would encourage customers to travel to the site by car, rather than by more sustainable and active modes of transport. Whilst there would likely be a proportion of custom arising from passing trade captured by the drive-through, it is reasonable to expect that the new food & drink drive-through use would also generate new vehicular trips in itself. As such, and given customers of the adjacent EV charging hub would be unlikely to utilise the drive-through lane (instead entering the premises on foot whilst their cars charge), it is considered that the drive-through lane would not be necessary to support the viability of the EV charging hub, would not sufficiently minimise travel to the site by private car and would therefore also not minimise greenhouse gas emissions, contrary to the aims and requirements of Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation) and 13 (Sustainable transport) of NPF4 and Policy T2 (Sustainable Transport) of the Aberdeen Local Development Plan 2023.

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ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management Committee
DATE	15 May 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Planning Enforcement Activity Report – April 2023 to March 2024
REPORT NUMBER	CR&E/2/4/148
EXECUTIVE DIRECTOR	Gale Beattie
CHIEF OFFICER	David Dunne
REPORT AUTHOR	Dineke Brasier
TERMS OF REFERENCE	3

1. PURPOSE OF REPORT

- 1.1 To inform Members of the Planning Development Management Committee of the planning enforcement work that has been undertaken by the Planning Service from 1st April 2023 to 31st March 2024.

2. RECOMMENDATION(S)

- 2.1 That Members note the contents of this report.

3. CURRENT SITUATION

- 3.1 This report provides an annual update for the Planning Development Management Committee regarding the enforcement work that has been pursued by the Development Management Team in Strategic Place Planning.
- 3.2 Appendix 1 to this report identifies all planning enforcement cases which have been investigated with a view to determining whether a breach of planning control has taken place and whether it is expedient to take enforcement action. It details those cases that have been resolved; and identifies those that have resulted in formal enforcement action. The Appendix provides a summary of the complaint / alleged breach, an update of the current status as of 1st April 2024 and any related action.
- 3.3 The information indicates that the majority of cases have been resolved through negotiation and discussion, without recourse to use formal enforcement action. In most circumstances, particularly where householder related matters are concerned, the breaches tend to be relatively minor and may have taken place because the parties were unaware of the requirement of the need for first obtaining planning permission. In many cases, the submission of a planning application and eventual grant of planning permission has resolved the breach.
- 3.4 A total of 231 new cases have been investigated since 1st April 2023. This is a slight increase from 226 in the previous reporting year. The majority of these

(140) have been resolved without recourse for formal action. Resolution of these cases fell into one of the following categories: -

- By the submission and approval of a retrospective planning application.
- By informal negotiation resulting in the breach being rectified by the offending party.
- Where the breach is minor, and it would not be reasonable or economical to progress to formal action.
- No breach of planning control had occurred.

- 3.5 The remaining 91 cases are still under investigation and may require formal enforcement action if negotiation proves unsuccessful and if there is found to be a breach of planning control which has resulted in significant loss of amenity or threat to public safety.
- 3.6 Of the historic enforcement cases previously investigated (prior to 1st April 2023), 35 are still unresolved and may require formal action to ensure a satisfactory outcome.

21 formal enforcement related notices have been served during the current reporting period. This figure covers new and historic cases.

- 3.7 It is a continuing trend that a significant proportion of complaints received are of a relatively minor nature; these are mostly householder cases. As these cases often do not relate to the priorities identified for action in the Council's Enforcement Charter (which are Union Street, properties in conservation areas, involving protected trees or raising issues of public amenity or public safety), they are likely to be of lower priority in terms of consideration of enforcement action, notwithstanding the statutory duty to investigate all enforcement complaints. However, these cases can give rise to very strong feelings amongst those affected, often taking up a significant proportion of officers' time in investigating/resolving a dispute, disproportionate to the scale of the breach.
- 3.8 The previous annual enforcement report raised significant issues faced by the Enforcement Team relating to the ability to proceed with direct action following the issue of Enforcement Notices due to the financial implications associated with direct action. This matter was progressed, and at the Full Council meeting in March 2024 it was agreed that funds be made available as part of the 2024/25 budget to progress direct action in respect of cases within the City Centre.
- 3.9 In the reporting period the Planning Enforcement progressed a programme of contacting building owners to achieve 'quick wins' through requiring the removal of vegetation on upper floors and repairs to drainage and windows and other built fabric. These were sought to improve the overall appearance of the buildings on Union Street and the wider city centre streetscape.
- 3.10 The following table provides a summary of the enforcement caseload since 1st April 2023, and divides the cases into new and those within the previous reporting period. Figures stated are as of 31st March 2024.

New Cases – 1st April 2023 to 31st March 2024	Cases resolved & no further action required.	140
New Cases - 1st April 2023 to 31st March 2024	Under investigation, being negotiated, or application decisions pending.	91
Outstanding cases registered prior to 1 st April 2023 (historic cases)		35
Enforcement Related Notices served		21

3.11 The Council has a statutory requirement set out in the Planning etc. (Scotland) Act 2006 to prepare an Enforcement Charter. There is a further requirement to review this document every two years. The current version dates from July 2022. The Enforcement Charter has recently been reviewed in line with this statutory requirement, with a draft version of the updated document appended at Appendix 2 for agreement. The Charter helps to explain the role of the planning enforcement team to the public, as well as setting priorities in terms of delivery of the planning enforcement service.

4. FINANCIAL IMPLICATIONS

4.1 There are no specific implications for revenue or capital budgets, property-based budgeting, or state aid arising from consideration of this report. Some costs may be incurred in pursuing direct action to secure compliance with an enforcement notice if necessary. Other costs include title searches relating to the serving of Enforcement Notices, which can generally be accommodated within existing budgets. Actions outwith budget parameters will trigger a specific report being submitted to Committee to seek authorisation or other instructions.

5. LEGAL IMPLICATIONS

5.1 There are no legal implications arising from this report.

6. ENVIRONMENTAL IMPLICATIONS

6.1 There are no environmental implications arising from this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)	*Does Target Risk Level Match Appetite Set?
Strategic Risk	N/A			N/A
Compliance	N/A			N/A
Operational	N/A			N/A

Financial	Financial costs may be incurred should Enforcement Notices not be complied with and Direct Action is required and pursued	The risk can be mitigated by ensuring there is funding available from the appropriate budget for direct action to be taken. In the event that direct action is required we will seek to recover all the costs of the required action from the landowner in accordance with the relevant legislation.	L	Yes
Reputational	There may be a negative impact if the Council do not decide to proceed with enforcement action, particularly in the city centre.	Proceed with appropriate enforcement action where required.	L	Yes
Environment / Climate	Not undertaking enforcement action could result in adverse impacts on the built and natural environment	Proceed with appropriate enforcement action where required.	L	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
Aberdeen City Council Policy Statement Working in Partnership for Aberdeen	The proposals in this report have no impact on the Council Delivery Plan.
<u>Aberdeen City Local Outcome Improvement Plan (2016-2026)</u>	
Prosperous Economy Stretch Outcomes	The Council aims to support improvement in the local economy to ensure a high quality of life for all people in Aberdeen. This report monitors indicators which reflect current economic activity within the city and actions taken by the Council to support such activity.
Prosperous People Stretch Outcomes	The Council is committed to improving the key life outcomes of all people in Aberdeen. This report monitors key indicators impacting on the lives of all

	citizens of Aberdeen. Thus, the Planning Service will need to measure the effectiveness of measures already implemented, as well as allowing an evaluation of future actions which may be required to ensure an improvement in such outcomes.
Prosperous Place Stretch Outcomes	The Council is committed to ensuring that Aberdeen is a welcoming place to invest, live and visit, operating to the highest environmental standards. This report provides essential information in relation to enforcement related issues to measure the impact of any current action.
Regional and City Strategies	N/A

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	It is confirmed by Chief Officer – Strategic Place Planning that no Integrated Impact Assessment is required.
Data Protection Impact Assessment	Not required.

10. BACKGROUND PAPERS

10.1 None

11. APPENDICES

11.1 Appendix 1 – Enforcement Cases – April 2023 to March 2024

11.2 Appendix 2 – Draft Enforcement Charter – May 2024

12. REPORT AUTHOR CONTACT DETAILS

Name	Dineke Brasier
Title	Senior Planner
Email Address	dbrasier@aberdeencity.gov.uk

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Planning Enforcement Charter (Draft Update May 2024)

a guide to enforcing planning controls

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10. Appendix 1: Useful Links
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Introduction

In Scotland, you need planning permission for most development, except for some minor works (known as permitted development). Sometimes however, someone may carry out work without planning permission, or they don't follow the permission they have been given. The credibility of the planning system depends on effective enforcement action.

This charter explains the purpose of the Council's planning enforcement service, the process for handling enquiries, and sets out the standards of service we seek to achieve. It also explains where planning enforcement has no remit. Like all Councils in Scotland, Aberdeen City Council has legal powers to enforce planning controls. We do this where we believe that it is in the public interest to do so. We also monitor development that has been given permission, to make sure that it is in line with the approved plans and any conditions that may apply.

Enforcement is one of the most complex parts of the planning system, but it is something that concerns many people and may be their first experience of the planning process. We therefore encourage you to play a role by letting us know if you think planning controls may have been broken.

The Council has statutory powers to investigate breaches of planning control and breaches of planning conditions. Formal action can be taken where a satisfactory outcome cannot be achieved by negotiation. A planning authority is not necessarily required to act in respect of a breach of planning control and any action that is taken must be reasonable and proportionate to the breach.

It is important to remember that a breach of planning control is not a criminal offence unless an enforcement notice has been issued and not complied with. The aim of

planning enforcement is to resolve breaches rather than punish those who carried out the work. This may be achieved through a retrospective planning application, for example.

This charter sets out the planning enforcement powers currently available to the Council and explains how we intend to use them.

Enforcement powers

Planning Enforcement powers are set out in Part VI of the Town and Country Planning (Scotland) Act 1997, in part VII, regulations 24 to 26A of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Government policy on planning enforcement is set out in Circular 10/2009: Planning Enforcement.

Identifying and reporting possible breaches of planning control

Reporting a breach of planning control

Members of the public have a vital role to play in the enforcement system by reporting breaches of planning control. If you are concerned that someone is carrying out work without permission, or that the works are not in line with a related planning permission, please contact the Enforcement Team of our Development Management Team within Strategic Place Planning. The preferred method is through filling in the online webform, which is available on our website: [insert link]. This will ensure that all necessary information is submitted. Alternatively, you can phone or email us to discuss any potential breaches of planning control.

The following information is important to us when you report a suspected breach in planning control.

- The address or location of the property or land concerned;
- Details of the suspected breach of planning control (for example, the nature of the building work or activities being carried out and information on who may be responsible for it);
- Photographs of the potential breach of planning control; and
- Dates and times of when the activity is carried out, where appropriate.

Be aware that we cannot investigate anonymous complaints. Only in exceptional circumstances will anonymous complaints be taken into consideration, for example if it results in significant harm to public amenity or public safety.

You can request that your correspondence be treated as confidential. However, whilst we will do our best to honour such requests, this is subject to the requirements of the Freedom of Information (Scotland) Act 2002 and the Environmental Information

(Scotland) Regulations 2004. Any requests for complete confidentiality may limit our ability to take formal action and we cannot guarantee this if the case leads to court proceedings.

What is a breach of planning control?

Possible breaches of planning control, and what the Enforcement Team will investigate, include:

- The erection of buildings and structures without planning permission, or development not in accordance with approved drawings;
- Works to listed buildings without listed building consent and/or planning permission;
- The change of use of land or buildings without planning permission;
- Carrying out of engineering works without planning permission (for example engineering works would include infill or excavation greater than 0.5m);
- Non-compliance with planning conditions;
- Display of advertisements without advertisement consent;
- Works to or felling of protected trees which are the subject of a Tree Protection Order (TPO) or are located in a conservation area without consent;
- Neglect to land or buildings which causes significant harm to public amenity.

The following does not constitute a breach of planning control, and will not be investigated by the Enforcement Team:

- Disputes over landownership, title deeds, rights of access and/or maintenance;
- Devaluation of property;
- Loss of view;
- Competition between or overprovision of businesses;
- On-street parking, allocation of parking spaces or road closures;
- Unsafe buildings and structures;
- Site working practices, including hours of construction;
- Noise complaints and hours of operation (unless specified in a planning condition); and
- Light pollution.

Some of the above matters would be civil/legal matters, and others would fall under different legislative regimes. Where appropriate, the Enforcement Team will pass enquiries onto other relevant Council Services to investigate.

Time-Limited Procedures

Where a breach of planning control has occurred, time limits apply to pursuing enforcement action. This means that where a breach has been in place for a specified period, and no enforcement action has started, the Enforcement Team cannot take any further action. The following time limits apply:

- A four year limit: This applies to a change of use to a single dwelling house and for 'unauthorised operational development'. This is the carrying out of building, engineering, mining or other operations in, on, over, or under land. This could include development such as replacement windows, extensions and the erection of outbuildings. After four years following the initial breach of planning control, no enforcement action can be taken.
- A ten year limit: This applies to all other development, including change of use (other than to a single dwelling house) and breaches of condition. After ten years following the initial breach of planning control, no enforcement action can be taken.

Listed Buildings

Any works related to the demolition of a listed building, its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest requires listed building consent.

There is no time limit in relation to unauthorised works to a listed building, and these do not become immune from enforcement action. In taking a view on works that are relatively old, the Council will have regard to the nature of the works and whether they have previously given rise to complaints.

It is also important to note that if works to a listed building constitute development, separate planning permission may also be required. Where unauthorised works constitute a breach of both planning and listed building control, the Council can act in respect of either or both breaches.

Advertisements

Enforcement also covers the unauthorised physical display of advertisements such as hoardings, banners, billboards and fascia signs. The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. A wide range of signs and advertisements can be displayed without having to apply for advertisement consent if they meet certain criteria and conditions, and if the landowner has given permission for the advertisement to be displayed on their property. This is known as deemed consent. Advertisements which are displayed without authorization or deemed consent constitute a breach of advertisement control. Adverts which are attached to and affect the character of a listed building will also require listed building consent.

It is important to note that the actual content of an advertisement is not covered by planning control. any complaints about this should be made directly to the Advertising Standards Authority. [add in weblink]

It is important to note that a breach of planning control is not a criminal offence. However, a breach of listed building control or advertisement control is a criminal offence.

Trees

Works to or felling of protected trees which are the subject of a Tree Protection Order (TPO) or are located in a conservation area without consent also constitute a breach of planning control. In the first instance, the Council's Environmental Policy Team will deal with complaints relating to tree works. However, these can be reported through the same methods as any other breaches of planning control.

Engineering works

The point where an engineering operation constitutes development is not specifically defined in legislation. However, as a rule of thumb, the Council considers works raising or lowering ground by 0.5m or more to constitute development, and this would require planning permission.

Reporting

The Council does not actively monitor the implementation of consents or search for breaches of planning control and relies on members of the public to report potential breaches. Before reporting a possible breach, you should use the Council's [online planning](#) portal to check if the works have the appropriate consents. If you still believe there is a breach, you should submit an enforcement enquiry through the online webform [add in weblink] or via email to pi@aberdeencity.gov.uk providing as much information as possible.

Planning Enforcement: Our Processes

Our Approach to Enforcement

The Planning Authority has statutory powers to investigate alleged breaches of planning control and to take enforcement action where it is expedient to do so, having regard to the development plan and to any other material planning considerations.

It is important to understand that planning enforcement is a discretionary power, and it is for the Council to take a view on whether to exercise that power.

Even if there is a breach of planning control, the Council must consider if it is in the public interest to take enforcement action. In doing so, the Council will consider the level of material 'harm' that the breach is causing, or is likely to cause. Although not exhaustive, 'harm' in planning terms can include:

- Impact on the character and appearance of the built and natural environment
- Loss of protected trees

- Loss or damage to a listed building and demolition of buildings in a conservation area
- Impact on amenity including privacy, daylight, overshadowing, noise.

It may be that these matters require to be properly considered through a planning application.

Council-Owned Land

Sometimes breaches of planning control occur on land which is under the ownership and control of the Council. In these circumstances it is not expedient to take formal planning enforcement action. The Enforcement Team will work with other relevant Council services to try and secure an appropriate resolution.

Receipt of breach of planning control

Any information that we receive is checked to ensure that the matter raised involves a possible breach of control and includes all the detail we need for a possible investigation. After these preliminary checks, the complaint will be registered. We will then send a written or e-mail acknowledgement to the person who made the complaint.

A member of the Planning Service will then establish if a breach has occurred, and if so, to what extent. The main concern when investigating any breach is whether the development or activity requires planning permission or breaches a valid planning permission or planning condition or has a harmful effect on the area. In some cases, additional investigation, or consultation with external bodies (such as Historic Environment Scotland) or other Council services may be needed.

Throughout this investigative process, we will provide regular updates to the complainant on the progress of the case or the outcome. Example outcomes may include the submission of a retrospective planning application, or confirmation that an operation or development may be exempt from planning control.

If it is decided that an unacceptable breach has occurred, there are three main courses that we may take:

1. Negotiate a Solution: We will encourage the person responsible for the breach to solve the problem through discussion and negotiation. They may either choose to stop the activity and/or carry out work to correct the problem. The time given to either of these actions will depend on the severity of the breach and its impact.

2. Retrospective Application: A retrospective planning application is an application for development that is submitted after the work has started or has been completed. It should be noted that an owner or developer should never carry out work with the expectation of getting retrospective permission for the work. To do so is taking a

considerable risk and may lead to formal enforcement action. There is no guarantee that a retrospective application will be approved.

3. Formal Enforcement Action: Where a breach in planning control is considered to have caused unacceptable harm to the area, and where negotiations have failed to deal with the problem successfully, we will pursue formal enforcement action. When considering taking formal enforcement action, we will take the following into account:

- The Development Plan;
- The severity of the breach and its impact on the surrounding area, including:
 - the visual impact,
 - the environmental impact
 - the effect on residential amenity; and
 - the effect on road safety.

The length of time required to resolve a case or act can be affected by several factors. Progress can be delayed to gather further evidence, to allow negotiations to take place or to conclude formal procedures. Similarly, an application to regularise the breach of control or an appeal against a decision of the planning authority can also delay the resolution of the case.

The Council recognises that delays can cause considerable frustration to those people who have submitted information, particularly if they consider their amenity is affected. Throughout this investigative process, we will provide regular updates to the complainant on the progress of the case or the outcome.

Formal Enforcement Action

In some cases, action may not be appropriate, even though planning controls have been breached. As stated previously, the purpose of planning enforcement is to resolve problems, not to punish mistakes. The Council must consider each case on its merits and decide on the best solution. We are unlikely to take formal action, for example, over developments which we consider to be acceptable in planning terms. It may be more appropriate in such cases for us to ask for a retrospective planning application to be submitted.

Only a relatively small number of cases require formal enforcement action. This begins with either an enforcement notice or a breach of condition notice being served on those involved in the development. All notices include the following information:

- A description of the breach of control that has taken place;
- The steps that should be taken to remedy the breach;
- The timescale for taking these steps;
- The consequences of failure to comply with the notice; and

- Where appropriate, any rights of appeal the recipient has and how to lodge an appeal.

Appeals against enforcement notices are considered by Scottish Ministers and dealt with, in most cases, by Reporters from the Planning and Environmental Appeals Division. There is no right of appeal against a breach of condition notice.

If someone does not comply with a notice, we may take further action. This can include a range of options including:

- Referring the case to the Procurator Fiscal for possible prosecution;
- Carrying out work and charging the person for the costs involved;
- Seeking a Court interdict to stop or prevent a breach of planning controls.

Details of enforcement notices, breach of condition notices, amenity notices and stop notices are entered into an Enforcement Register. You can inspect these documents [online](#).

The Council has powers to enter any land to:

- Establish if there has been a breach of planning control;
- Check if there has been compliance with a formal notice; and
- Check if a breach has been satisfactorily resolved.

Types of Notice

Enforcement Notice - This notice is generally used to deal with unauthorised development and/or change of use. An Enforcement Notice will specify a time period to take effect (usually a minimum of 28 days); and will specify what steps must be taken to remedy the breach and the period by which these steps must be completed. There is a right of appeal against an Enforcement Notice, and the terms of the notice are suspended until a decision is reached on the appeal to the Scottish Ministers. Failure to comply with the terms of an Enforcement Notice within the time specified is an offence and may lead to the imposition of a fine in the Sheriff Court.

Listed Building Enforcement Notice - Used when unauthorised works have been undertaken to a listed building. This must be served on the current owner, lessee, occupier and on anyone else with an interest in the property. The procedures involved are like those outlined above. The notice must specify the steps to be taken to remedy the breach and specify a final date for compliance. If the current owner fails to meet the terms of the notice by the date specified, they are guilty of an offence. There is a right of appeal to Scottish Ministers against the notice. Breaches of listed building controls are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter or extend a listed building, and this could, in certain circumstances, lead to either an unlimited fine or imprisonment.

Advertisement Enforcement Notice – Used when an unauthorised advertisement is displayed. This must be served on the current owner, lessee, occupier and anyone else with an interest in the property. The procedures involved are like those outlined for an Enforcement Notice. The notice must specify the steps to be taken to remedy the breach. The notice should specify the time period for compliance. This is normally set at 28 days. However this period can be reduced to seven days if the Council believes there is an urgent need for the advertisement to be removed or altered in the interests of public safety, or if the advertisement can be removed without any other work being required.

An enforcement notice can also require that a particular piece of land should not be used to display advertisements. This remains in force even if the original advertisement is removed. Any subsequent advertising on this site without permission would be considered as a breach of the notice.

There is a right of appeal to Scottish Ministers against the notice. Similar to a breach of listed building control, a breach of advertisement control is a criminal offence and the Courts can impose a fine.

Breach of Condition Notice - Makes provision for enforcing the conditions to which any planning permission is subject. It is effective on the date of service. It may be used as an alternative to an enforcement notice and is served on any person carrying out the development and/or any person having control of the land. There is no right of appeal against this notice. Those receiving the notice may make representations to the planning authority if they believe the notice to be unreasonable. Summary prosecution in Court is available for contravening a breach of condition notice.

Fixed Penalty Notices - Where an Enforcement Notice (or Breach of Condition Notice) has been served and has not been complied with, the Council can serve a Fixed Penalty Notice on the recipient of the notice. The fine is £2000 for a Fixed Penalty Notice relating to a Planning Enforcement Notice and £300 in respect of failure to comply with a Breach of Condition Notice. There is no right of appeal against these notices, although timeous payment prevents the council from reporting the non-compliance with the original notice to the Procurator Fiscal.

Stop Notice - This is only used in particularly urgent or serious cases where unauthorised activity must be stopped. This is usually where there are implications for public safety or a significant impact on public amenity. A Stop Notice is served with an Enforcement Notice. A Stop Notice cannot prohibit the use of a building as a dwellinghouse or prohibit the carrying out of any activity if the activity has been carried out for a period of more than four years. If a Stop Notice is served without due cause, or a subsequent appeal against a parallel Enforcement Notice is sustained, the Council may be open to claims for compensation. The use of Stop Notices therefore needs to be carefully assessed by the Council. There is no right of appeal against a Stop Notice, and failure to comply with its terms is an offence.

Temporary Stop Notice – In certain cases where a breach of planning control is considered to have a severe impact on amenity, a Temporary Stop Notice can be served. These do not require to be accompanied by an Enforcement Notice and last for a maximum of 28 days.

Notice Requiring Application for Planning Permission for Development Already Carried out – Where the planning authority considers that a development which does not have planning permission may be acceptable (i.e., they consider that it might be granted planning permission) they may issue a notice requiring the landowner or developer to submit a retrospective planning application. This application will be considered on its planning merits and handled in the same way as any other planning application.

Other Powers

Planning Contravention Notice – Used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier of the land in question; on a person with any other interest in the land; or on a person who is using or carrying out operations on the land. Those who receive a Planning Contravention Notice are required to provide specific information about development or operations being carried out on the land or relating to conditions or limitations which apply to any planning permission granted in respect of the land. Supplementary information or representations on the matters raised in the notice may also be requested. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in the Courts.

Amenity Notice – Section 179 (of the 1997 Planning Act) allows planning authorities to serve a notice on the owner, lessee or occupier of land which is adversely affecting the amenity of an area. It sets out the action that needs to be taken to resolve the problem within a specified period.

Interdict and Interim Interdict – an interdict is imposed by the courts and is used to stop or prevent a breach of planning control. Court proceedings can prove costly, and Councils normally only seek interdicts in serious cases or where enforcement notices have been ignored in the past. However, a Council can seek an interdict in relation to any breach without having to use other powers first. Breaching an interdict is treated as a contempt of court and carries heavy penalties.

Power to Enter Land – The Council has powers to enter land to find out if there has been a breach of planning control, to check whether there has been compliance with a formal notice, or to check whether a breach has been satisfactorily resolved. This power applies to any land and may involve officials entering land owned by neighbours adjacent to the site of the breach or alleged breach.

Direct Action – failure to comply with the terms of an enforcement notice within the time specified can result in the Council carrying out the specified work. The Council may recover any costs it incurs from the landowner.

Removal and Obliteration of Placards and Posters – The Council has powers to remove or obliterate placards and posters that do not have express or deemed advertisement consent. If the person who put up the poster can be identified, they have to be given at least two days' notice that the Council intends to take the poster down. If they cannot be readily identified, then the advert can be removed immediately.

Council officials can enter unoccupied land, if necessary, to remove an advertisement. However, they have no powers to remove advertisements displayed within a building to which there is no public access.

Planning legislation is complex and therefore if you are in receipt of any formal notice from the Council you are advised to seek legal or independent professional advice.

Monitoring Major Developments

The Planning (Scotland) Act 2019 introduces provision for Planning Authorities to set out how they monitor and record compliance with planning permission for major developments.

It is primarily the responsibility of the developer to ensure they are following the terms of a permission. Where permission has been granted subject to conditions which prohibit the commencement of development on site, Officers undertake to ensure that these conditions are complied with. Information relating to the compliance with conditions is recorded in the application file and is available to view via the planning portal.

Aberdeen City Council monitor compliance with such planning permissions by actively engaging with developers and their agent. As part of the process on site reviews of relevant ongoing developments is undertaken. The findings of those monitoring activities are recorded and displayed to the public on the Council website, published quarterly.

Making a suggestion or complaint

Aberdeen City Council hopes the public will be satisfied with the Planning Enforcement Service. However, if you have any suggestions, concerns or difficulties, we want to hear from you. We are committed to improving our service and dealing promptly with any failures.

If you would like to make a complaint about how we have followed our procedures and/or failed to comply with the levels of service set out in this Charter, the following course of action is recommended:

1. Please contact the officer dealing with the enforcement to discuss your complaint in the first instance
2. If you need to find out who to contact, please use the contact details below, and your complaint will be directed to the appropriate person
3. If you are not satisfied with the response to the complaint, please contact the officer's line manager
4. If you are still not satisfied your complaint will be dealt with in accordance with the Council's Corporate Complaints Procedure. This is also available on paper at Marischal College.

How to contact us

T: 01224 053746

E: pi@aberdeencity.gov.uk

W: www.aberdeencity.gov.uk/planning-and-building-standards/

Our address:

Development Management

Strategic Place Planning

City Regeneration & Environment

Marischal College

Ground Floor North

Broad Street

Aberdeen

AB10 1AB

Development Management Manager: Daniel Lewis

Chief Officer – Strategic Place Planning: David Dunne

Appendix 1: Useful Links

Aberdeen City Council planning information:

<https://www.aberdeencity.gov.uk/services/planning-and-building-standards>

Aberdeen City Council Corporate Complaints procedure:

<https://www.aberdeencity.gov.uk/services/have-your-say/make-complaint>

Scottish Government Planning - for legislation:

www.gov.scot/policies/planning-architecture

Scottish Government Circular in relation to permitted development for residential properties:

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2021/04/householder-permitted-development-rights-guidance-updated-2021/documents/guidance-householder-permitted-development-rights-updated-2021/guidance-householder-permitted-development-rights-updated-2021/govscot:document/guidance-householder-permitted-development-rights-updated-2021.pdf?forceDownload=true>

Appendix 2: Service Standards

- By publishing our standards and targets, we aim to improve our enforcement service so that we can respond to the needs of the public. We will monitor the contents of this charter to ensure that we are meeting our standards and targets.
- The most significant breaches of planning control will be given top priority to ensure the most effective use of the staff resource available in the enforcement team to rectify breaches that affect long term public interest. such cases include:
 - significant negative effects on amenity;
 - breaches of condition for major development;
 - damage to listed buildings;
 - breaches on Union Street and City Centre; and
 - unauthorised felling of, or damage to, trees protected by tree preservation orders.
- If you provide us with information, you will receive a formal response within the timescales set out in the customer charter.
- Following our investigation, you will also be advised of any proposed action to be taken. This may include the need for additional investigation prior to deciding on a course of action. We will let you know if the matter does not involve a breach of planning control.
- Where a planning breach cannot be resolved and action is justified, a formal notice will be served in most cases. this will be either an enforcement notice or a breach of condition notice. The notice will explain what is required, the timescales involved and the available options to resolve the issue.
- Where the terms of any enforcement notice are not complied with, every effort will be made to resolve the case to the satisfaction of the council. these options include:
 - direct action by the council and/or
 - the matter being referred to the procurator fiscal for possible prosecution.
- This charter does not compromise an authoritative interpretation of the planning acts.

Registered Enforcement Cases - April 2023 - March 2024

ADDRESS	WARD	COMPLAINT	CURRENT STATUS
1 Auchinyell Road	11	Erection of shed forward of side elevation fronting a road	Deemed not expedient to enforce
1 Bayview Road	10	Unauthorised external alterations to the property	Pending consideration
1 Claremont Street	10	Installation of window without planning permission	No breach of planning control
1 Claremont Street	8	Display of unauthorised advertisement	Notice issued
1 Cromwell Road	10	Erection of outbuilding without the required planning permission	Pending consideration
1 Gaelic Lane	8	Unauthorised Change of Use to Public Car Park	Pending consideration
1 High Street	6	Erection of flag pole in conservation area	No breach of planning control
1 Persley Park Caravan Park	1	Caravan site in a state of disrepair	No breach of planning control
1 Rowett South Way	1	Undefined development within rear curtilage	Pending consideration
1 The Courtyard Upper Persley Road	1	Non compliance with approved plans, enlargement of site and failure to discharge suspensive conditions	Pending consideration
10 Newlands Avenue	11	Erection of outbuilding potentially exceeding PD rights	No breach of planning control
10 Queen's Terrace	10	Installation of generator	Breach rectified by offender

10 Scotstown Road	2	Erection of fence in excess of 1m forward of principal elevation without the required planning permission	Planning Permission granted
100 Union Street	8	Removal of vegetation	Breach rectified by offender
108 Cornhill Road	7	Change of use from Class 3 to mixed use Class 3 and Sui Generis hot food takeaway without planning permission	Pending consideration
11 Great Southern Road	12	Development potentially not in accordance with approved plans 220769/DPP	No breach of planning control
11 Holburn Street	12	Installation of ventilation system without planning permission	No breach of planning control
11 Union Bridge	8	Installation of illuminated signage	Deemed not expedient to enforce
110 Cornhill Road	7	Change of use from Class 3 to mixed use Class 3 and Sui Generis hot food takeaway without planning permission	Pending consideration
12 Devanha Gardens	12	Erection of flag pole within the curtilage of a listed building within a conservation area	Breach rectified by offender
12 Mastrick Drive	4	Erection of fence in excess of 1m fronting a road without the required planning permission	Breach rectified by offender
124 Duthie Terrace	11	Erection of extension to rear of the property potentially without the required planning permission	Permitted Development

127 Union Street	8	Unauthorised signage	Notice issued
129 Walker Road	12	Erection of an extension to rear of dwellinghouse potentially without the required planning permission and installation of decking	No breach of planning control
13 Colthill Crescent	9	Potential unauthorised engineering works and erection of outbuilding	Pending consideration
13 Glenhome Crescent	1	Erection of outbuilding potentially without the required planning permission	No breach of planning control
136 Provost Rust Drive	4	Erection of outbuilding to flatted property that exceeds PD rights without planning permission	Pending consideration
13A Powis Crescent	6	Erected fence to rear of flatted dwelling	No breach of planning control
14 Springfield Avenue	10	Erection of fence in excess of 1m fronting a road without the required planning permission	Planning Permission granted
143 Spital	8	Display of unauthorised advertisement	Pending consideration
147 Fairview Drive	1	Use of communal car park as a car sales, storage and recovery potentially without the benefit of planning permission	No breach of planning control
148 King Street	8	Change of use from Class 1 to Sui Generis hot food takeaway without planning permission	No breach of planning control

15 Craignook Road	1	Use of dwellinghouse/outbuilding as a dog grooming business without the benefit of planning permission	No breach of planning control
15 Dee Place	12	Erection of fencing and concrete steps within a conservation area	No breach of planning control
150 Auchmill Road	1	Erection of fencing potentially exceeding 2m in height	Pending consideration
153 Hilton Avenue	5	Erection of outbuilding potentially built over boundary into non-residential land and not covered by PD rights	No breach of planning control
15A Victoria Street	7	Installation of upvc windows without planning permission/ listed building consent	No breach of planning control
16 Gaitside Drive	11	Erection of fencing in excess of 1m forward of principal elevation	Breach rectified by offender
168 Bon-accord Street	12	Potential installation of replacement windows in conservation area without planning permission	No breach of planning control
18 Gaitside Drive	11	Erection of fencing in excess of 1m forward of principal elevation	No breach of planning control
187 Mugiesmoss Road	1	Erection of outbuilding to the rear of the dwellinghouse	Breach rectified by offender
19 South Avenue	9	Breach of condition regarding planning permission 141049 - detailed scheme of site boundary enclosures	Notice issued

19 Spital	8	Installation of signage. (St.Martha's House)	Planning Permission granted
193 Morrison Drive	11	Erection of boundary which may potentially exceed PD rights	No breach of planning control
2 Dee Place	12	Development potential not in accordance with plans 221547/DPP	Pending consideration
2 The Courtyard Upper Persley Road	1	Increase in size of residential curtilage/ non compliance of plans 171067/DPP	Pending consideration
202 - 204 Market Street	12	Potential change of use without the required planning permission	Pending consideration
21 Cairngorm Drive	13	Erection of outbuildings to flatted property without planning permission	Deemed not expedient to enforce
21 Invercauld Gardens	4	Erection of outbuilding to the rear of the dwellinghouse	No breach of planning control
21 Waterton Lawn	1	Use of outbuilding as a music studio for lessons without the benefit of planning permission	Planning Permission granted
21-25 Dee Street	12	Installation of city fibre box and trunking	Deemed not expedient to enforce
22 Upperkirkgate	8	Display of unauthorised advertisement	Pending consideration
23 Forvie Path	2	Erection of fence in excess of 1m forward of principal elevation without the required planning permission	Pending consideration
23 Gladstone Place	5	Formation of driveway to flatted property	No breach of planning control
23 Kingshill Road	7	Erection of raised decking without the required planning permission	Planning Permission granted

235 Rosemount Place	7	Change of use from Class 1 to Class 3 without planning permission	No breach of planning control
24 Mearns Street	8	Potential change of use of commercial premises to residential without the required planning permission	Pending consideration
24 Wallacebrae Crescent	1	Erection of outbuilding which potentially exceeds PD rights	Deemed not expedient to enforce
24 Woodburn Crescent	10	Unknown development to side elevation of property	Permitted Development
25 Charleston Way	13	Erection of outbuildings potentially exceeding PD rights	No breach of planning control
25 Corthan Drive	13	Alternations and extension to dwellinghouse	Permitted Development
25 Hopetoun Court	1	Potential unauthorised use of domestic garage as residential dwelling	No breach of planning control
250A North Deeside Road	9	Installation of signage without the required consent	Breach rectified by offender
256 Mugiemooss Road	1	Enclosing in amenity land without the required planning permission	Pending consideration
259 Union Street	12	Removal of vegetation	Pending consideration
26 Tanfield Walk	5	Erection of outbuilding and ground floor extension	No breach of planning control
27 Birkhall Place	4	Breach of condition regarding planning permission 201317/DPP - Screening and landscaping	Breach rectified by offender
271 Midstocket Road	7	Erection of garage potentially not in	Planning Permission granted

		accordance with application 950650	
273 Clifton Road	5	Use of outbuilding as separate planning unit	Pending consideration
28 Holburn Street	10	Unauthorised signage and breach of condition 1 (no cooking etc)	Pending consideration
28 King Street	8	Unauthorised advertisements	Pending consideration
29 Rosehill Avenue	5	Erection of outbuilding to flatted property that exceeds PD rights without planning permission	Planning Permission granted
3 Elmfield Place	8	Extension to building without planning permission	Breach rectified by offender
3 Perwinnes Rise	2	Operation of hair saloon from outbuilding potentially without the required planning permission.	Pending consideration
3 The Courtyard Upper Persley Road	1	Increase in size of residential curtilage	Pending consideration
30 Station Road	1	Erection of fence in excess of 1m fronting a road without the required planning permission	Planning Permission granted
31 Ashgrove Road West	7	Erection of fence potentially exceeding permitted development rights	Pending consideration
31 St Andrew Street	8	Development not in accordance with approved planning permission 211263/DPP	Planning Permission granted
32 Lochside Drive	2	Erection of outbuilding to rear including installation of flue	Pending consideration

32 Parkhill Circle	1	Running of beauty business in garage	Pending consideration
33 Holburn Street	12	Installation of extension and fire door without planning permission	Pending consideration
33 Holburn Street	12	Unauthorised signage	Pending consideration
33-35 Carnie Drive	7	Potential enclosing area of public space/amentiy land	No breach of planning control
34 Devonshire Road	10	Installation of netting/ bamboo fencing and placement of board forward of the principal elevation	No breach of planning control
34 Ruthrieston Crescent	11	Erection of fencing potentially without the benefit of planning permission	No breach of planning control
34 Valley Crescent	13	Use of dwelling as nail salon potentially without the benefit of planning permission	No breach of planning control
345 Union Street	12	Display of unauthorised advertisement	Notice issued
347 Union Street	12	Display of unauthorised advertisement	Notice issued
35 Grove Crescent	7	Engineering ground works and erection of garage potentially without the required planning permission	Planning Permission granted
37 Ythan Road	4	Installation of fencing to rear of dwellinghouse at a height exceeding 2m	Breach rectified by offender
38 Watson Lane	7	Use of outbuilding for operation of car detailing business potentially without the benefit of planning permission	Pending consideration

39 Coronation Road	9	Erection of fence potentially exceeding permitted development rights	Breach rectified by offender
4 Craigielea Mews	11	Hardstanding in front garden area	No breach of planning control
4 Kingshill Road	7	Engineering works within the front curtilage potentially without the required planning permission	Planning Permission granted
4 The Courtyard Upper Persley Road	1	Increase in size of residential curtilage	Pending consideration
4 Upper Denburn	7	Unauthorised Change of Use to Public Car Park	Pending consideration
40 Kirk Brae	9	Installation of two outbuildings and BBQ area with roof coverage potentially without the required planning permission	Pending consideration
42 Albyn Place	10	Installation of railings without the benefit of planning permission	Planning Permission granted
42-48 Great Western Road	10	Unauthorised Change of Use to Public Car Park and unauthorised signage	Breach rectified by offender
44 Morningside Avenue	11	Development not in accordance with approved plans 1805174/DPP	Planning Permission granted
45 Rosemount Place	7	Erection of fencing in excess of 1m forward of the principal elevation	Deemed not expedient to enforce
45 Stockethill Way	5	Development potentially not in accordance with approved plans 221055/DPP	Pending consideration
47 Belmont Street	8	Unauthorised signage	Notice issued

47 Caperstown Crescent	4	Erection of outbuilding to the side elevation of the property	No breach of planning control
48 King's Crescent	8	Installation of broadband antennae to principal elevation of flatted dwelling without the benefit of planning permission	Deemed not expedient to enforce
48 Queen's Road	10	Formation of hardstanding within conservation area without planning permission	Pending consideration
5 Castle Street	8	Removal of vegetation	Breach rectified by offender
5 Wellside Place	3	Installation of outbuilding to the rear of the dwellinghouse without planning permission	Deemed not expedient to enforce
50 Falkland Avenue	13	Erection of fencing to rear potentially exceeding 2m in height without the benefit of planning permission	Breach rectified by offender
50 Valentine Drive	2	Installation of 2m fence nearer the road	Breach rectified by offender
50 Valentine Drive	2	Formation of platform to front and side of property	Deemed not expedient to enforce
51 Kirk Terrace	9	Material change in roof tiles without the required planning permission	Deemed not expedient to enforce
531 Great Western Road	11	Change of use of ground floor from class 4 (business) to form 4 residential flats (sui generis) and installation of internal pipes	No breach of planning control
578 King Street	6	Unauthorised change of use of dwellinghouse to guest house	Breach rectified by offender

6 Cairnfold Road	2	Material change in roof tiles without the required planning permission	Pending consideration
6 Fairview Place	1	Installation of flue in excess of permitted development rights	Deemed not expedient to enforce
6 Union Row	7	Potential non compliance with noise impact assessment of 220649/S42	Case Closed (Duplicate)
6 Union Row	7	Noise mitigation measures not installed in accordance with approved drawings/condition 3 of P220649/S42	No breach of planning control
61-63 Clifton Lane	5	Use of lockup as car repair business without the required planning permission	No breach of planning control
62 Union Street	8	Removal of vegetation	Deemed not expedient to enforce
622 Holburn Street	11	Installation of two outbuildings and erection of fence potentially without the required of planning permission	Planning Permission granted
63 Airyhall Crescent	11	Development potentially not in accordance with approved plans 130503 and 190693/DPP	No breach of planning control
63 Brighton Place	10	Erection of single story ground floor extension without planning permission	Planning Permission granted
63 Gray Street	11	Development to garage in conservation without planning permission and not in accordance with 180041/DPP	Deemed not expedient to enforce

64 Cove Gardens	13	Extension as constructed exceeds height of approved drawings	Deemed not expedient to enforce
65 Bonnymuir Place	7	Installation of raised platform at flatted property without planning permission	Deemed not expedient to enforce
65 Danestone Terrace	2	Erection of fence in excess of 1m fronting a road without the required planning permission	Pending consideration
65 Gladstone Place	5	Use of property for operation of taxi business potentially without the benefit of planning permission	Pending consideration
662 Holburn Street	11	Concrete Fence placed across 'right of way' access at rear of property without consent.	Pending consideration
68 Shapinsay Court	3	Erection of aerial that protrudes more than the permitted 1m from the roof plane without the required planning permission	Breach rectified by offender
693 George Street	8	Change of use from Class 1 to Sui Generis hot food takeaway without planning permission	Pending consideration
70 Countesswells Road	10	Breach of planning conditions in respect of 171336/DPP	Pending consideration
74 Craigiebuckler Avenue	10	Erection of outbuilding potentially exceeding permitted development rights	No breach of planning control
74 Osborne Place	10	Installation of external gas pipes	Pending consideration

7A Ferryhill Place	12	Replacement windows in listed building/conservation area without consent	Notice issued
8 Brimmondside	1	Development potentially exceeding PD rights	No breach of planning control
8 Macaulay Grange	10	Height of front boundary walls potentially exceed approved height (211802/DPP)	No breach of planning control
8 Ruby Lane	7	Unauthorised Change of Use to Public Car Park	Pending consideration
8 Whitestripes Close	2	Erection of rear fence which potentially may exceed PD rights	No breach of planning control
86 Summerhill Crescent	3	Development potentially not in accordance with approved plans 211751/DPP	Pending consideration
88 Springhill Road	3	Potential erection of 8ft high fence without planning permission	Deemed not expedient to enforce
89 King Street	8	Painting of shop front without LBC and installation of cityfibre box	Pending consideration
9 School Road	6	Potential new signage and shop front without the required consent	No breach of planning control
9 Victoria Street	1	Installation of unauthorised advertisements	Planning Permission granted
91 Fountainhall Road	10	Non-compliance with plans - dormers constructed to ridge and garage too high	Pending consideration
91 High Street	6	Installation of unauthorised advertisements	Breach rectified by offender

91 High Street	6	Installation of unauthorised advertisements	Breach rectified by offender
97 Ivanhoe Road	11	Installation of three tall radio antenna/aerial without planning permission	Pending consideration
97 Whitehall Place	10	Erection of outbuilding within conservation area without the required planning permission	No breach of planning control
98 Lee Crescent	2	Demolition and alterations carried out to boundary mutual with No. 96 without planning consent	No breach of planning control
9A Belmont Street	8	Installation of unauthorised signage without advertisement consent	Breach rectified by offender
Aberdeen Grammar School Former Pupils Club 86 Queen's Road	10	Removal of wall forming part of building listing	Notice issued
Aberdeen Grammar School Former Pupils Club, 86 Queen's Road	10	Carrying out development without the required planning permission	Breach rectified by offender
Aberdeen Park Street Car Park	8	Unauthorised Change of Use to Public Car Park	Breach rectified by offender
Aldi Foodstore Ltd, Countesswells Road	10	Non compliance with 200659/DPP in that the northmost cycle stand has been removed	Breach rectified by offender
ASA Recruitment 60 Union Street	8	Removal of vegetation	Pending consideration
Birchwood House Upper Flat 1 South Avenue	9	Breach of condition regarding planning permission 221070/DPP - De-compacting	Breach rectified by offender

Birchwood House Upper Flat 1 South Avenue	9	Erection of outbuilding, formation of hardstanding and fence potentially exceeding 2m in height all without the benefit of planning permission	Pending consideration
Books And Beans 22 Belmont Street	8	Development not in accordance with 230509/DPP	Breach rectified by offender
Brentwood Villa Guest House 560 King Street	6	Operation of Bed and Breakfast	No breach of planning control
Britannia Hotel Malcolm Road	1	Potential unauthorised works	Planning Permission granted
Caskieben Caskieben Road	1	Change of use and splitting of agricultural building in commercial units	Notice issued
Colins M O T Sclattie Quarry Industrial Estate	1	Extension to building without planning permission	Pending consideration
Cormack Park	3	Floodlights at Cormack Park not turned off at 21:00	Breach rectified by offender
Cormack Park Skene Road	3	Removal of landscaping	Breach rectified by offender
Corner Of Hill Of Rubislaw And Queens Road	10	Signage without advertisement consent	Planning Permission granted
Elphinstone Halls 3 Elphinstone Road	6	Installation of unauthorised signage within a Conservation Area. (Elphinstone Halls)	Breach rectified by offender
Elphinstone Halls 3 Elphinstone Road	6	Display of unauthorised signage	Breach rectified by offender
Fencing Opposite Great Western Kingswells Pre- School Nursery Kingswells Avenue	3	Erection signage without the required advertisement consent	Deemed not expedient to enforce

Filing Station, Springfield Road	10	Display of two advertisement banners without consent	Breach rectified by offender
Flat 2 92 Queen's Road	10	Business at residential flat	Breach rectified by offender
Flat A 637 George Street	8	Use of flatted property for business purposes without the benefit of planning permission	No breach of planning control
Flat F, 47 Ashvale Place	10	Erection of outbuilding to flatted property that exceeds PD rights without planning permission	Pending consideration
Forestgait 22 King's Gate	10	Installation of lights to front elevation	Pending consideration
Former Cadet Centre Station Road	1	Excavation of site following demolition	No breach of planning control
Former Cults Railway Station Station Road	9	Use of former railway station as cafe without the required planning permission	Planning Permission granted
Former Oceaneering House Pitmedden Road	1	Erection of palisade security fencing	Planning Permission granted
Ground Floor Flat 46 Forest Road	10	Installation of fence and gate within conservation area without planning permission	Breach rectified by offender
Ground Floor 1 Claremont Street	10	Installation of storage container	Notice Issued
Hawthorn Bar, 143 - 145 Holburn Street	12	Signage not installed in accordance with approved details (221461/ADV)	Breach rectified by offender
Holmlea Cottage Skene Road	3	Storage of cars	No breach of planning control
Home Acres Borrowstone Road	1	Installation of two residential caravans	Case Closed (Duplicate)
Home Acres Borrowstone Road	1	Installation of mobile home	Pending consideration

Land Adjacent To 14 Craigden	10	Unauthorised land works on land adjacent to 14 Craigden	No breach of planning control
Land Adjacent To 14 Craigden	10	Unauthorised land works on land adjacent to 14 Craigden	Pending consideration
Land Adjacent To 500 King Street	6	Breach of condition 7 of 191814/DPP (landscaping scheme). Tree failed - needs replacement	Pending consideration
Land Adjacent To 595 King Street	6	Installation of upstand electrical outputs for recharging vehicles	Pending consideration
Land At Contlaw Road	9	Installation of signage without the required consent	Pending consideration
Land At Meikle Clinterty Business Park Meikle Clinterty Farm	1	Installation of log cabin	Deemed not expedient to enforce
Land East Of Falkland Avenue	13	Development relating to ground levels potentially not in accordance with planning application 200584/DPP	Planning Permission granted
Land North Of Sycamore Place	12	Installation of storage containers potentially without the required planning permission	Pending consideration
Land North Of The Esplanade	6	Erection of portacabin	Planning Permission granted
Land South Of Craibstone Estate Road And A96 Rowett South	1	Unauthorised hoarding and advertisements displayed without required planning permission or advertisement consent	Pending consideration
Land To Rear Of 7 And 8 Craigden Aberdeen AB15 6YW	10	Unauthorised change of use of the land from open space	Breach rectified by offender

Land To The South Of A944 Opposite Kingswells Causeway	3	Erection signage without the required advertisement consent	Deemed not expedient to enforce
Lower Birchwood South Avenue	9	Formation of hardstanding to flatted dwelling without the required planning permission	Pending consideration
Merchant Apartments 60 Union Street	8	Removal of vegetation	Pending consideration
MERKUR Casino 59 - 61 Summer Street	7	Installation of unauthorised advertisements	Planning Permission granted
Millbank House 139 Hardgate	12	Installation of privacy screens not in accordance with drawings approved as part of 211430/DPP	Pending consideration
Milltimber Farm Milltimber Brae	9	Potential unauthorised importation of large quantities of soil/earth and possible unauthorised use.	Pending consideration
Netherdale, 14 Marchbank Road	9	Erection of wall forward of principal elevation exceeding 1m in height	Deemed not expedient to enforce
Osborne House 27 - 30 Carden Place	10	Display of banners on railings	Notice issued
Osborne House, 27-30 Carden Place	10	Unauthorised signage to front	Notice served
Palm Court Hotel	11	Formation of outdoor seating without planning permission	Breach rectified by offender
Park Cottage 201 Victoria Street	1	Outbuilding to rear being used as gym/music practice	No breach of planning control
Park's Honda Aberdeen Whitemyres Place	3	Parking vehicles on grass verge	Breach rectified by offender
Peter Vardy MG Aberdeen Lang Stracht	3	Unauthorised advertisement and parking of vehicles on grass verge	Breach rectified by offender

Play Area In Phase 2C To The North Of River Don Park	1	Breach of condition 6 of pp180705/MSC (installation of play equipment)	Pending consideration
Playing Fields South Of Pitmedden Road	1	Breach of planning conditions in respect of 190549/DPP	Planning Permission granted
River House, South Esplanade East	12	Potential change of use and unauthorised advertisements	No breach of planning control
Royal Athenaeum Suites 15 Union Street	8	Removal of vegetation	Pending consideration
Scottish Water Former Culter Treatment Works Coronation Road	9	Use of site as builders yard	No breach of planning control
Signature Aviation ABZ - Aberdeen Airport	1	Installation of portacabin	Permitted Development
Site To North Of Culter House Road	9	Run off from construction site	Pending consideration
St. Nicholas Churchyard	8	Installation of lighting within the churchyard	Permitted Development
Stoneywood House	1	Installation of CCTV cameras and compliance with planning conditions	Pending consideration
The Arches 37 South College Street	12	Change of use from Class 4 to Class 10 without the required planning permission	Deemed not expedient to enforce
The Country Club Jesmond Drive	2	Erection of marquee and outdoor seating area within tennis courts	Deemed not expedient to enforce
The Foundry 41 - 43 Holburn Street	12	Erection of Roller Shutter door	Planning Permission granted
The Hub Banks Of River Don Mugiemoss Road	1	Unauthorised use of pump house and erection of playpark	Pending consideration
The James Hutton Institute	10	Formation of car park north of Macaulay Drive	Pending consideration

The Kindergarten 196 Westburn Road	7	Breach of condition on parking in private lane	No breach of planning control
The Mount The Bush	9	Potential change of use of amenity ground to private garden ground	Pending consideration
Unit 1 Burnside Road	1	Breach of condition 1 of P200598/S42 (Opening Hours) and installation of bin store not in compliance with approved drawings	Deemed not expedient to enforce
University of Aberdeen	6	Installation of various unauthorised signage throughout the campus	Breach rectified by offender
Vacant Site Adjacent To 291 Stoneywood Road	1	Erection of outbuilding within vacant site	Pending consideration
West Loch Wellington Road	13	Front porch not constructed in accordance with approved drawings	Deemed not expedient to enforce
Woodlands Park House	1	Breach of conditions (visibility splays and landscaping)	Breach rectified by offender
Woolard And Henry, Stoneywood Park	1	Non compliance with details approved by Conditions 1 and 2 of planning permission	Notice issued
Wynford Farm	3	Storage of cars	Pending consideration
Ye Olde Frigate Bar	8	Unauthorised change of use from pavement to temporary outdoor seating area for public house with decking, canopy and associated works following refusal of 231297/DPP	Breach rectified by offender

Current Ward Index

Ward Number	Ward Name
1	Dyce/Bucksburn/Danestone
2	Bridge of Don
3	Kingswells/Sheddocksley/Summerhill
4	Northfield/Mastrick North
5	Hilton/Woodside/Stockethill
6	Tillydrone/Seaton/Old Aberdeen
7	Midsocket/Rosemount
8	George Street/Harbour
9	Lower Deeside
10	Hazlehead/Ashley/Queens Cross
11	Airyhall/Broomhill/Garthdee
12	Torry/Ferryhill
13	Kincorth/Nigg/Cove

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ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management
DATE	15 May 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Aberdeen Planning Guidance: Short-term Lets
REPORT NUMBER	CR&E/24/143
DIRECTOR	Gale Beattie
CHIEF OFFICER	David Dunne
REPORT AUTHOR	Abigail Burrows / David Berry
TERMS OF REFERENCE	5

1. PURPOSE OF REPORT

- 1.1 This report updates Members on a recent period of public consultation on draft Aberdeen Planning Guidance covering the topic of Short-term Lets. It presents a summary of the comments received during the public consultation along with officer responses to the consultation comments and modifications that are proposed following the consultation. The report seek approval to adopt the final Aberdeen Planning Guidance: Short-term Lets as non-statutory planning advice to support the Local Development Plan 2023.

2. RECOMMENDATIONS

That the Committee:-

- 2.1 Note the comments received during the recent public consultation on the draft Aberdeen Planning Guidance on Short-term Lets and approve officers' responses to the consultation comments, as outlined in Appendix 1; and
- 2.2 Agree the final Aberdeen Planning Guidance: Short-term Lets, as set out in Appendix 2, and approve its adoption as non-statutory planning advice to support the Local Development Plan 2023.

3. CURRENT SITUATION

- 3.1 Members will recall that the new Local Development Plan 2023 was formally adopted in June 2023. The Local Development Plan focuses on the vision, spatial strategy and key policies and proposals for the future development of Aberdeen.
- 3.2 The Council can also adopt additional supporting guidance in connection with the Local Development Plan and this can be used to provide more detail on how its policies and proposals will be implemented. Appendix 4 of the Local Development Plan outlines the Aberdeen Planning Guidance that is expected to be produced. The majority of this guidance was adopted in late 2023 (see Council Report COM/23/303).

- 3.3 At this Committee on 18 January 2024, an additional draft Aberdeen Planning Guidance document covering the topic of Short-term Lets was approved for consultation (report PLA/24/013). The draft Aberdeen Planning Guidance aimed to provide clarification on the factors that the Council will consider when determining whether or not a proposed short-term let will require planning permission, as well as the issues that will be taken into account when determining any planning applications for short-term lets.
- 3.4 The public consultation on the draft Aberdeen Planning Guidance on Short-term Lets ran for a period of six weeks from Friday 26 January to Friday 8 March 2024. The consultation was publicised using the following methods:
- Publication of the draft document and consultation survey on the Council's online 'Consultation Hub'
<https://consultation.aberdeencity.gov.uk/planning/short-term-lets/>
 - A hard copy of the consultation document was made available for review at Marischal College Customer Service Centre during normal opening hours.
 - Social media posts on Facebook and X (formerly Twitter) from Aberdeen City Council and Local Development Plan social media accounts during the consultation process.
 - Notification by email to statutory consultees, Community Councils and other interested organisations.
 - Notification to individuals, organisations and businesses signed up to the Local Development Plan Newsletter.
- 3.5 A total of 19 responses were received to the public consultation. This level of response was in line with expectations given the specialist nature of the contents of the draft guidance. The responses were from a range of individuals, organisations and businesses. Responses reflected a mix of views, with some expressing a preference for stronger regulation of short-term lets and others preferring less regulation.
- 3.6 Appendix 1 presents a summary of the responses received. It also sets out officer responses to the consultation comments and, where necessary, outlines proposed changes to the draft Aberdeen Planning Guidance – a “you said, we did” approach to consultation feedback. One key amendment is proposed to the draft guidance following the public consultation. This involves adding additional text to identify that existing Houses in Multiple Occupation (HMOs) within the same building will be taken into account when assessing the cumulative impact of short-term let proposals within tenement buildings and blocks of flats. Minor technical changes have also been made to reflect the most recent planning legislation on short-term lets and the latest position with respect to waste management and collection.
- 3.7 The proposed final Short-term Lets Aberdeen Planning Guidance is attached at Appendix 2. The document is intended to help applicants, planning officers

and other stakeholders and to ensure a consistent approach to decision making on short-term lets.

- 3.8 Subject to Member approval, the final Aberdeen Planning Guidance document will be enhanced visually and published on the Council’s website. It will be formally adopted as non-statutory planning advice to support the Local Development Plan 2023, and it will thereafter become a material consideration in the determination of planning applications for short-term lets.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications associated with this report. The cost of preparing the Aberdeen Planning Guidance document has been met through existing budgets.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from this report. The proposed Aberdeen Planning Guidance will be a material consideration to inform decisions on future planning applications in Aberdeen. As a major landowner in the city, proposals for the development of land and assets owned by Aberdeen City Council will, where applicable, be subject to assessment in line with the principles and standards set out in the Aberdeen Planning Guidance.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 The draft Aberdeen Planning Guidance was subject to a Strategic Environmental Assessment (SEA) pre-screening process in accordance with relevant legislation. The SEA Gateway did not raise any concerns about the pre-screening process. As such, there is no requirement for a Strategic Environmental Assessment.

- 6.2 A Habitats Regulations Appraisal (HRA) is not required as the APG does not specifically recommend any actions or projects.

7. RISK

The assessment of risk contained within the table below is considered to be consistent with the Council’s Risk Appetite Statement.

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	Not delivering the aims of the City Centre Masterplan	Ensure that a final version of the guidance is adopted timeously.	L	Yes

	and Local Development Plan relating to the future of Aberdeen.			
Compliance	Ensuring compliance with National Planning Framework 4.	Ensure that a final version of the guidance is adopted timeously.	L	Yes
Operational	By not providing guidance officers could, over time, provide inconsistent advice.	The proposed guidance provides clarity, consistency and certainly in terms of assessment of planning applications.	L	Yes
Financial	Not having timeously published and adopted supporting guidance for the new Local Development Plan could lead to uncertainty at planning application stage and potentially lead to more staff time being spent processing applications.	The proposed guidance should reduce the number of queries and provide clarity, consistency and certainly in terms of assessment of planning applications.	L	Yes
Reputational	Not providing guidance opens the possibility of inconsistency in decision making and misinformation in the public domain.	The proposed guidance sets parameters for the assessment of planning applications for short-term lets.	L	Yes
Environment / Climate	Ensuring that planning	SEA Pre-Screening has been undertaken	L	Yes

	frameworks take into consideration the relevant environmental and climate change legislation at the point of their development and production.	in line with relevant legislation.		
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8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2022-2023</u>	
	Impact of Report
Aberdeen City Council Policy Statement <u>Working in Partnership for Aberdeen</u>	The proposals within this report support the delivery of the following aspects of the policy statement:- <ul style="list-style-type: none"> • A vibrant city - making our city a better place for people to live, work, raise a family and visit.
Prosperous Economy Stretch Outcomes	The Short-term Lets APG will help to support the achievement of stretch outcome 2, through supporting the local labour market.
Prosperous People Stretch Outcomes	The Short-term Lets APG will help to support the achievement of stretch outcome 14 by promoting short-term lets in locations that are accessible by sustainable modes of transport.
Regional and City Strategies	<u>City Strategies and Strategic Plans</u> The Short-term Lets APG will support the Aberdeen Local Development Plan 2023 through providing more information on the content of the Plan. It will ensure Aberdeen is an excellent place to live, visit and do business.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Stage 1 and 2 assessment has been completed and no medium or high negative impacts have been identified that would require mitigation.
Data Protection Impact Assessment	Not required.
Other	Not required.

10. BACKGROUND PAPERS

- 10.1 [Aberdeen Local Development Plan 2023](#)
- 10.2 [Full Council Report COM/23/303: Aberdeen Local Development Plan 2023 – Proposed Aberdeen Planning Guidance and Supplementary Guidance \(as approved 03 November 2023\)](#)
- 10.3 [Planning Development Management Committee Council Report PLA/24/013 - Draft Aberdeen Planning Guidance: Short-term Lets \(as approved 18 January 2024\)](#)

11. APPENDICES

- 11.1 Appendix 1 – Summary of responses received and officer responses
- 11.2 Appendix 2 – Aberdeen Planning Guidance: Short-term Lets

12. REPORT AUTHOR CONTACT DETAILS

Name	Abigail Burrows / David Berry
Title	Planning Trainee / Senior Planner
Email Address	aburrows@aberdeencity.gov.uk dberry@aberdeencity.gov.uk
Tel	01224 045025 / 01224 045804

Appendix 1: Summary of Consultation Comments and Officer Responses

Frequently used acronyms in this appendix:

ALDP = Aberdeen Local Development Plan

APG = Aberdeen Planning Guidance

HMO = Houses in Multiple Ownership

STL = Short-term Let

Respondent Number	Respondent
1	Member of the public
2	Member of the public
3	Scottish Water
4	Member of the public
5	Member of the public
6	Member of the public
7	Marwood Property Consultancy Ltd
8	Member of the public
9	Member of the public
10	Member of the public
11	Member of the public
12	Member of the public
13	Member of the public
14	Member of the public
15	Member of the public
16	Member of the public
17	Old Aberdeen Heritage Society
18	Historic Environment Scotland
19	Member of the public

Respondent Number	Summary of Comments	Officer Response	Action/s as a Result of Comment
1	<p>There should be quiet time on STLs from 10 pm to 8 am and if guests do not adhere to this the landlord of the STL should be given a warning and then if it happens again the agreement for STL is removed.</p> <p>The landlord needs to keep the STL clean and arrange for any rubbish to be removed.</p> <p>Who should neighbours of the STL report any issues to and how will they be followed up?</p> <p>There should be a note on the STL premises advising neighbours it is an STL.</p>	<p>The potential behaviour of guests is not a material consideration in the determination of planning applications for STLs and is outwith the remit of planning. These issues are generally dealt with by Licensing, which is a separate regime. Issues regarding the operation of STLs including taking appropriate action to manage the behaviour of guests and provide guidance on waste disposal are outlined in Mandatory Licence Conditions for operators.</p> <p>Antisocial behaviour complaints should be directed to the Community Safety Team by phoning 0800 0510434 or by email to CST@aberdeencity.gov.uk.</p> <p>It would not be reasonable to require all STLs to have a note on the premises to advise neighbours of their operation as an STL. However, as part of the assessment of any planning application for an STL, neighbour notification will be undertaken in accordance with relevant legislation. Subject to meeting relevant criteria, neighbours of a proposed STL will be advised of the relevant planning application and given the opportunity to comment on it.</p>	No change required.
2	No comment.	Noted.	No change required.
3	Scottish Water supports the document and would add that in some circumstances we require to amend our categorisation of STL properties to non-domestic.	Comments noted. This issue is not directly relevant to the assessment of planning applications for STLs and it is therefore not	Investigate potential to add wording

	Where a property is made available for let 140 days of the year and is actually let for 70 days, we have a requirement to change its categorisation to non-domestic. In these circumstances, we would request that the customer is referred to set up a non-domestic account via a licenced provider. A list of such providers can be accessed at www.scotlandontap.gov.uk .	appropriate to add text on this requirement to the APG. However, the possibility of adding wording that conveys this information to the Council's webpage about Short-term Lets will be investigated.	highlighting this general requirement to the Council's webpages on STLs.
4	Short term lets in the city should be better managed and if planning permission is the best way to do this then so be it.	Support welcomed.	No change required.
5	<p>The Scottish Government already introduced Short Term Lets when they allowed all PRT's to be terminated with a 28 day notice period.</p> <p>If you are going to introduce legislation will you actually follow through with penalties for Operators who do not abide by it? At the moment the Scottish Government do not enforce Landlord Registration even when given proof of a Landlord not registering.</p>	<p>Private Residential Tenancies (PRTs) are outside the direct remit of the planning system. Irrespective of the method used for the letting of a property on a short-term basis, as there is no STL Control Area in Aberdeen, the planning service is required to consider any proposals for STLs on a case by case basis to determine if planning permission is required and, where necessary, to assess any planning applications for STLs.</p> <p>Monitoring and enforcement will be used where necessary to ensure that STLs are operating in compliance with planning requirements, such as if an STL is operating without planning permission (where required), or if an STL is operating without complying with conditions on its planning permission.</p>	No change required.
6	I live in an apartment block with a secure front door and opened with a fob key. I choose this option for security reasons. There is a short-term let in my building and people come and go often. I feel this compromises my safety and security.	Access to, and the general consideration of, shared amenities will be assessed prior to granting planning permission for STLs, as outlined in Section 2.2 of APG. This includes consideration of the cumulative impacts of multiple STLs within one building.	No change required.

	<p>In my experience, the short-term lets in my building tend to be noisy - several people being in the premises for this. Additional vehicles, (sometimes commercial vehicles that do not fit the spaces) are parked outside in visitor spaces, meaning that visitors to the apartments cannot get parked.</p> <p>Additionally, it was a condition of purchase, that we could not sublet our properties. I think any short-term let would have to take this into consideration.</p> <p>The APG should also provide guidance covering the following matters:</p> <ul style="list-style-type: none"> • The number of people entitled to be in the apartment • Parking spaces available and how to use them • Antisocial behaviour/noise/drunkenness etc • How to get access to a secure building without compromising the safety of residents 	<p>The potential behaviour of guests is not a material consideration in the determination of planning applications for STLs and is outwith the remit of planning. These issues are generally dealt with by Licensing, which is a separate regime. Issues regarding the operation of STLs including taking appropriate action to manage the behaviour of guests are outlined in Mandatory Licence Conditions for operators.</p> <p>Parking arrangements will be assessed before planning permission is granted to minimise disturbance to users of parking facilities in the surrounding area.</p> <p>Legal restrictions on the title deeds of properties are not material planning considerations and therefore cannot be taken into account during the assessment of planning applications. This includes conditions regarding the subletting of properties.</p> <p>When assessing an application for an STL, officers will give consideration to the proposed maximum number of guests that will be occupying the property at any one time, the proposed parking arrangements, and the details of any communal amenities that the property has access to. These considerations will ensure that the proposed STL will not have an unacceptable adverse impact on the amenity of the surrounding area. Details are outlined in Section 2.2 of the APG.</p>	
7	As Scotland now has no minimum period for a standard tenancy agreement (the old AST), there is no	Irrespective of the method used for the letting of a property on a short-term basis, as there is no	No change required.

	<p>real difference between a standard rental agreement and a short term let and I cannot see the basis for any requirement for planning permission for a change of use - it's all just letting of private property.</p> <p>The requirement for a licence is the only aspect I can see could have value to local government in ensuring, or at least monitoring, areas for saturation and the potential for that to have a negative impact on local residents in terms of peaceful dwelling.</p>	<p>STL Control Area in Aberdeen, the planning service is required to consider any proposals for STLs on a case by case basis to determine if planning permission is required and, where necessary, to assess any planning applications for STLs.</p> <p>The planning and licensing regimes operate separately and it is necessary for prospective STL operators to comply with the requirements of both regimes.</p>	
8	<p>I am glad to see that there is no intention to impose an STL control area in Aberdeen.</p> <p>It would be really helpful to provide a simpler process / approach to support property owners who are in transition to sell their property which is currently empty. Where the property sales market can be challenging, it is important to ensure that individuals are able to use the flexibility of the STL option to try and maintain a level of income for as long as the property is on the market. Realistically, I would suggest considering guidelines around waste disposal but due to the short term nature of this, enabling this to be managed on a residential rather than commercial level.</p>	<p>The support for not imposing an STL Control Area in Aberdeen is acknowledged.</p> <p>Empty properties which are in the process of being sold may be able to operate as an STL for a temporary period not exceeding 28 days in a single calendar year without the need for planning permission. However, beyond that period, the requirement to consider whether the use of the empty property as an STL would represent a material change of use (and therefore require planning permission) would apply as normal.</p> <p>Regarding waste disposal, STLs are categorised as a "commercial" use and therefore waste disposal must be treated accordingly.</p>	No change required.
9	<p>I am pleased that ACC is looking at STLs. I feel they really require 'policing' as they can have such a negative effect on the quality of life of their neighbours. In my apartment block my titles deeds can prevent me from putting washing on the balcony or restrict the number of pets yet I apparently have no control of a neighbouring flat being made into an Airbnb.</p>	<p>The support for the APG is welcomed.</p> <p>Legal restrictions on the title deeds of properties are not material planning considerations and therefore cannot be taken into account during the assessment of planning applications. This</p>	No change required.

	<p>I am concerned at the coming & going of Airbnb users in my apartment block. They all have codes to gain access to buildings & their 'secure' underground car parks. Workers using the Airbnb have frequently parked big lorries overnight outside - clearly not proper for a residential area. The cost of damage repair to the common hallways by luggage has to be shared by all the owners - most unfair.</p>	<p>includes conditions regarding the subletting of properties.</p> <p>When assessing an application for an STL, officers will give consideration to the proposed maximum number of guests that will be occupying the property at any one time, the proposed parking arrangements, and details of any communal amenities the property has access to. This includes the cumulative impacts of multiple STLs within one building. These considerations will ensure that the proposed STL will not have an unacceptable adverse impact on the amenity of the surrounding area. Details are outlined in Section 2.2 of the APG.</p>	
10	<p>In the Draft there is nothing mentioning the extra cost that the other flat owners will incur if a short-term let application is granted. e.g. communal area inside and outside.</p> <p>There is also no mention of arrival/departing times. What happens when 'guests' arrive early in morning or late at night? eg neighbours sleep being disturbed.</p> <p>The APG should also provide guidance covering the following matters:</p> <ul style="list-style-type: none"> • Costs that other flat owners may incur if license is granted. • What penalties will the Licensee incur if 'guests' don't abide by conditions and rules of the building? • Who do the flat owners contact if they have a complaint against a 'guest' or the Licensee? 	<p>Access to, and the general consideration of, shared amenities will be assessed prior to granting planning permission for STLs, as outlined in Section 2.2 of APG. Additionally, when assessing planning applications, the cumulative impacts of multiple STLs within one building will be considered.</p> <p>The potential behaviour of guests is not a material consideration in the determination of planning applications for STLs and is outwith the remit of planning. These issues are generally dealt with by Licensing, which is a separate regime. Issues regarding the operation of STLs including taking appropriate action to manage the behaviour of guests are outlined in Mandatory Licence Conditions for operators.</p> <p>Antisocial Behaviour complaints should be directed to the Community Safety Team by</p>	No change required.

		phoning 0800 0510434 or by email to CST@aberdeencity.gov.uk.	
11	<p>Where a property has been operating as a STL for say greater than 5 years and planning permission "declined", it should be allowed to continue for another two years to allow for transition to PRS or sale.</p> <p>Validity of planning permission should be 10 years, with similar rule as above on renewal, to allow certainly on investment.</p> <p>There should be at least two neighbour objections for operation as STL for this to be considered in the review.</p> <p>Observed PRS is effectively used as STL within a PRT, as more cost effective where stay is a few months, but avoids the STL guidance.</p> <p>The APG should also provide guidance covering the following matters:</p> <ul style="list-style-type: none"> • Previous occupancy type history • Alignment with guidance on planning for HMOs 	<p>In cases where planning permission is refused, the applicant has the right of appeal via either the Council's Local Review Body (LRB) or the Scottish Government's Division of Planning and Environmental Appeals (DPEA) (depending on whether the initial decision was taken by an Officer or the Planning Development Management Committee).</p> <p>The 5 year period which will be applied to limit the duration of any STL planning permissions will ensure alignment with the 5 yearly refresh of the Housing Need and Demand Assessment (HNDA). The HNDA process will provide an update on local housing market conditions and may influence the way applications for STLs are considered in the future. By limiting the duration of STL planning permissions to 5 years, this will help to ensure that any significant changes in housing need, demand, or supply in the city can be considered when a new planning permission is sought to extend the STL use. It would not be possible to achieve this important outcome if STL planning permissions were granted for a longer time period such as 10 years.</p> <p>The proposal that there should be at least two neighbour objections before an STL is subject to review appears to relate to the scheme of delegation for STL licence applications (which currently have to be considered by the Licensing Committee rather than determined by an Officer if any neighbour concerns / objections are raised</p>	No change required.

		<p>against the application). This is not a matter for this APG as licensing operates separately from the planning regime.</p> <p>Private Residential Tenancies (PRTs) are outside the direct remit of the planning system. Irrespective of the method used for the letting of a property on a short-term basis, the planning service is required to consider any proposals for STLs to determine if planning permission is required and, where necessary, to assess any planning applications for STLs.</p> <p>The previous use of a property is generally considered when determining planning applications. However, it is unclear what additional guidance APG could provide on this matter.</p> <p>Guidance on Houses in Multiple Occupation (HMOs) is set out in a separate APG. Whilst HMOs can raise similar planning issues to STLs (eg general impact on local amenity, car parking etc), they also raise a number of unique issues that do not normally apply to STLs (eg impact on neighbourhood character when large concentrations of HMOs are vacated by students outside of term time). It is therefore appropriate to provide guidance on STLs and HMOs in separate APGs and this does not raise any issues with policy alignment or inconsistency.</p>	
12	I think it is essential that there should be a presumption that any STL is a change of use and hence planning permission required, regardless of whether this is a	Planning case law directs that outside of an STL control area, whether the use of a dwelling as an STL represents a material change of use (and	No change required.

	<p>house or a flat. This gives the opportunity for those in the locality to make their views known in support of, or against such a change of use.</p> <p>I disagree with the indication that the decision for a flat may rest on the number of STLs in the block.</p> <p>I think the guidance should mention that dedicated parking (not street parking) should be available for any STL.</p>	<p>therefore requires planning permission) is a question of fact and degree and must be considered on a case-by-case basis, taking account of individual circumstances.</p> <p>Consideration of the cumulative impacts of multiple STLs in one building is necessary to minimise the impacts of STLs experienced by neighbouring properties.</p> <p>The APG highlights that parking arrangements will be considered when assessing planning applications for STLs. However, it would not be reasonable to require dedicated parking (rather than on-street parking) in every instance.</p>	
13	<p>Under the terms of the 1982 Act, the Council can grant a temporary exemption to the requirement to have a STL licence. Under the terms of the 1982 Act, temporary exemptions can be issued for a period or periods not exceeding 6 weeks in any period of 12 months. The 6 weeks available for exemption can be requested for one block of 6 weeks or can be for lesser periods of time.</p> <p>Several other councils have made use of this exemption. Consideration should be given by Aberdeen City Council to allowing a 6 week exemption period for properties which hold a HMO licence. Since the introduction of no fixed term tenancies, student properties now often lie empty over the summer placing a heavy financial strain on landlords with mortgages. Before the introduction of STL legislation, these properties were often let to holidaymakers / workmen for short periods.</p>	<p>The matters raised in this response relate to the licensing regime, which is separate to the planning process. The points it raises are therefore outwith the remit of planning and cannot be addressed in this APG.</p> <p>However, insofar as planning requirements are concerned, it is worth noting that an HMO property lying vacant outside of term time may be able to operate as an STL for a temporary period not exceeding 28 days in a single calendar year without the need for planning permission. Beyond that period, the requirement to consider whether the use of the vacant HMO as an STL would represent a material change of use (and therefore require planning permission) would apply as normal. Where planning permission is required for any STL use beyond the 28 day period, prospective applicants would need to apply for a mixed use (HMO and STL),</p>	No change required.

	<p>If not full exemption, then please consider a reduced fee for the licence. As the properties already hold a HMO licence, full safety checks have been carried out and the property has already been inspected. It is unreasonable to charge twice for the same service.</p> <p>Unless they are able to cover their costs by using the summer to provide short term accommodation to visitors (whilst at the same time generating much needed revenue for local businesses), it is likely in the long term, many student landlords will be unable to continue.</p>	which if approved would enable the property to be used for both purposes.	
14	<p>Provided there is compliance with current regulation & legislation, short term lets should be allowed due to the facts that current economic climate due to cost of living crisis have leaving north east families poorer now with many struggling. This "could" be seen as a means to temporarily support their income.</p>	Comment noted.	No change required.
15	<p>Do not agree there is any need for planning permission.</p>	<p>Planning case law directs that outside of an STL control area, whether the use of a dwelling as a STL represents a material change of use (and therefore requires planning permission) is a question of fact and degree and this must be considered by the planning service on a case-by-case basis, taking account of individual circumstances.</p>	No change required.
16	<p>It is very confusing and not very helpful when statements such as those in section 2.1 (about whether or not planning permission is required) are included in a document such as this. You either need, or don't need planning permission. In my opinion planning permission should be sought in all cases as there are so many Health and Safety issues which should be required as is mandatory for other rental</p>	<p>Planning case law directs that outside of an STL control area, whether the use of a dwelling as a STL represents a material change of use (and therefore requires planning permission) is a question of fact and degree and this must be considered by the planning service on a case-by-case basis, taking account of individual circumstances.</p>	No change required.

	<p>property, e.g. interlinked smoke alarm systems, Legionella Risk Assessments etc. Only by ensuring that all Short-term Lets adhere to the same obligations as other business based rentals can the sector be monitored.</p> <p>The APG should also cover the following matters:</p> <ul style="list-style-type: none"> • Areas that already have a high number of HMOs and student accommodation should be exempt from STL properties. • The requirement that the STL properties should be Licenced and adhere to the same safety, maintenance and repair regulations set in place for all other rental properties. 	<p>Health and safety implications associated with the operation of STLs are generally dealt with through the separate licensing regime. The APG already identifies that all STLs also require a licence and provides a weblink for more information on the licensing regime.</p> <p>Guidance on Houses in Multiple Occupation (HMOs) is set out in a separate APG. Whilst HMOs can raise similar planning issues to STLs (eg general impact on local amenity, car parking etc), they also raise a number of unique issues that do not normally apply to STLs (eg impact on neighbourhood character when large concentrations of HMOs are vacated by students outside of term time). It is therefore appropriate to provide guidance on STLs and HMOs in separate APGs and this does not raise any issues with policy alignment or inconsistency.</p>	
17	<p>We suggest that the period granted for each STL should be 3 years, rather than 5, to bring it into line with the 3 years granted for HMOs, given that many of the same issues obtain. In particular, it would allow the Council more flexibility in responding to changes in the Housing Need situation, or any unforeseen factors.</p> <p>We wish to suggest that, when an application is submitted for an STL in the Old Aberdeen area, consideration of the application should include an assessment of the number of HMOs and smaller student lets in the area, because in some parts of Old Aberdeen, the conversion of yet another house or flat (this time in the form of an STL), could further</p>	<p>The 5 year period which will be applied to limit the duration of any STL planning permissions is intended to ensure alignment with the 5 yearly refresh of the Housing Need and Demand Assessment (HNDA). The HNDA provides a key source of evidence on local housing market conditions and may influence the way applications for STLs are considered in the future. By limiting the duration of STL planning permissions to 5 years, this will help to ensure that any significant changes in housing need, demand, or supply in the city can be considered when a new planning permission is sought to extend the STL use.</p>	<p>Add text to the final paragraph in section 2.2 of the APG to clarify that, when assessing cumulative impacts for proposals relating to the use of a flat as an STL, the presence of existing HMOs</p>

	<p>undermine the established residential character of the area, as well as removing much needed permanent housing.</p> <p>In this connection, it should be noted that not only do students wish to live near to the University, but University staff and their families often do also, and their needs deserve at least as much consideration. A certain proportion of staff will, for one reason or another, have to live near their place of work, and it is increasingly difficult for a family home of this kind to be found, without its being bought up for leasing to students, which is, of course, financially, a very profitable enterprise.</p> <p>If the number of HMOs, and, if possible, the number of smaller student lets in an area were taken into consideration in determination of an application for an STL, it might be found that approval of the STL would, in an area with an existing high concentration of student flats, further reduce the number of family, or individual, homes available for those who wish to put down roots in Old Aberdeen.</p> <p>Just as pressing a consideration is the matter, in the Old Aberdeen area, of the increasing imbalance in the demographic of the local community. Aberdeen City Council has for many years promoted, as a core policy, the aim of achieving "Sustainable Communities", but if the number of homes converted to properties catering only for transient residents is allowed to increase, in the absence of strict assessment and oversight, the probable outcome is that the current imbalance in the community will increase. There are parts of Old Aberdeen where permanent residents, both individuals</p>	<p>Guidance on Houses in Multiple Occupation (HMOs) is set out in a separate APG. Whilst HMOs can raise similar planning issues to STLs (eg general impact on local amenity, car parking etc), they also raise a number of unique issues that do not normally apply to STLs (eg impact on neighbourhood character when large concentrations of HMOs are vacated by students outside of term time). It is therefore appropriate to provide guidance on STLs and HMOs in separate APGs and this does not raise any issues with policy alignment or inconsistency. Nevertheless, it is acknowledged that the presence of both HMOs and STLs within the same building may give rise to issues of cumulative impact within that building. A change is therefore proposed to ensure that account is also taken of any HMOs within the same building when assessing the cumulative impacts of STLs within a tenement building or block of flats.</p>	<p>within the building will be taken into account.</p>
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	<p>and families, are now very much in the minority, owing to landlords from near and far buying up and converting established homes in the pursuit of attractive investments.</p> <p>Such a situation is not sustainable. The resulting communities are not sustainable.</p> <p>Allowing new Short Term Lets in the most seriously affected areas can only further damage social cohesion. This is another reason why, we believe, no STL should be approved in an area in which there is already a high proportion of transient residents.</p> <p>We ask, therefore, that in all cases of applications for an STL in the Old Aberdeen area, a full assessment is made of all these factors.</p>		
18	Historic Environment Scotland can confirm that we have no comments to offer on the draft guidance on this occasion.	Noted.	No change required.
19	Planning permission for use of a building not currently an STL is only required if it represents a material change of use. This is a matter of fact and degree and, as far as non-flatted housing is concerned, the Use Classes Order. It is incorrect to suggest that all new STLs shall automatically require planning permission, given no STL Control Zones have been designated in Aberdeen.	The APG does not suggest that all STLs require planning permission. Section 2.1 acknowledges that outside of an STL control area, whether the use of a dwelling as an STL represents a material change of use (and therefore requires planning permission) is a question of fact and degree and must be considered by the planning service on a case-by-case basis, taking account of individual circumstances. The APG recognises that planning permission will not be required in all cases and provides examples of instances where planning permission is not likely to be necessary.	No change required.

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Aberdeen Planning Guidance: Short-term Lets

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1. Introduction

1.1 Status of Aberdeen Planning Guidance

This Aberdeen Planning Guidance (APG) supports the Aberdeen Local Development Plan 2023 and is a material consideration in the determination of planning applications. The Local Development Plan does not contain a specific planning policy relating to Short-term Lets (STLs), however it states that APG may be provided on the topic. In providing guidance on STLs, this APG primarily relates to applicable zoning policies for each site and the following Local Development Plan policies:

- VC2 – Tourism and Culture
- D1 – Quality Placemaking
- D2 – Amenity
- T2 – Sustainable Transport
- T3 – Parking
- R5 – Waste Management Requirements for New Developments

This APG also supports Policy 30 (Tourism) of National Planning Framework 4 (NPF4), which states that proposals to change the use of existing buildings to STLs will not be supported where they would result in “*an unacceptable impact on local amenity or the character of a neighbourhood or area*” or “*the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits*”. The APG provides guidance on how these criteria will be implemented in an Aberdeen context.

1.2 Introduction to Topic / Background

As a result of the Civic Government Scotland Act 1982 (Licensing of Short-term Lets) Order 2022, local authorities were required to establish a licensing scheme for STLs by 1 October 2022. The legislation was brought in to ensure STLs are safe, to address issues faced by neighbours, and to help local authorities understand what is happening in their area. A period between 1 October 2022 and 1 October 2023 was allowed to enable existing STL operators to apply for a licence and, if required, planning permission.

If a property meets the definition of an STL under licensing legislation, it will require a licence¹. However, it does not automatically require planning permission for use as an STL. As there are currently no STL control areas in Aberdeen (see more detail on STL control areas in section 2.1 below), it is for the planning authority to decide if the use of an existing property as an STL represents a 'material change of use'. If the proposal is considered to represent a material change of use, this constitutes 'development' that will require planning permission. This APG provides guidance on the factors that the Council will consider when determining whether the use of an existing property as an STL represents a material change of use such that it will require planning permission. It also provides guidance on the factors that the Council will take into account when assessing any planning applications for the change of use of an existing property to an STL.

1.3 Climate Change

The provision of STLs in locations which are accessible by a range of sustainable methods of transport can help to reduce carbon emissions related to transport and can therefore make a contribution to the built environment's transition towards net zero. The contents of this APG therefore relate to [UN Sustainable Development](#) Goal 11 (Sustainable Cities and Communities).

1.4 Health and Wellbeing

Where we live, where we work, and where we spend our time has an important influence on our health and wellbeing. How places are designed within their urban or natural environment is vital to the health of the people and communities within them. Maintaining a good mix of different housing types and tenures helps promote a sense of belonging and a sense of control.

This guidance can help to achieve the following Public Health Priorities for Scotland:

- Priority 1 – A Scotland where we live in vibrant, healthy and safe places and communities;
- Priority 3 – A Scotland where we have good mental wellbeing; and
- Priority 5 – A Scotland where we have a sustainable, inclusive economy with equality of outcomes for all.

¹ STL licensing is a separate process to the requirement for planning permission. The licensing of STLs in Aberdeen is administered by the Council's Private Sector Housing Unit. This APG does not provide guidance on STL licensing. More information on licensing requirements for STLs is available on the Private Sector Housing Unit's [webpage](#) and in their [Short-Term Lets Licensing Guidance Note](#).

This guidance is deemed to have minimal impact on the population health and wellbeing. This means that, whilst it is unlikely a Health Impact Assessment (HIA) screening report will be requested, this will depend on the detail and scope of the application. There may be elements of the proposals that relate to the health and wellbeing of the population that warrant consideration. If that is the case, then a screening HIA may be required.

2. Aberdeen Planning Guidance

2.1 Short-term Lets, Control Areas and the Need for Planning Permission

Short-term Lets (STLs) essentially involve the short-term provision of accommodation by a host in the course of business to a guest. Planning legislation covering the topic of STL control areas sets out a more detailed definition of an STL, and relevant extracts of this legislation are reproduced for information at Appendix 1.

Under Section 26B of the Town and Country Planning (Scotland) Act 1997 (as amended), Councils can choose to designate STL control areas. STL control areas allow authorities to consider STL proposals within specific geographically defined areas, to avoid concentrations of STLs and resulting detrimental impacts on amenity. An STL control area requires planning permission to be sought for any STLs within that area.

Outwith STL control areas, planning case law has confirmed that whether the use of a dwelling (houses or flats) for short-term letting amounts to a material change of use (and therefore constitutes 'development' that would require planning permission) is a question of fact and degree depending on the individual circumstances of the accommodation and its context.

No STL control areas have been designated to date by Aberdeen City Council. It is therefore for the Council to determine whether planning permission is required for any proposals to use an existing property as an STL based on the individual circumstances.

Where an existing building is not already in use as residential accommodation or tourist accommodation, planning permission will be required to change its use to an STL. New buildings for STL accommodation will also require planning permission.

Where an existing building is already in use as residential accommodation or tourist accommodation, planning permission may or may not be required to use it as an STL. In such cases the Council will consider on a case-by-case basis whether proposals would represent a 'material change of use' that would constitute development and therefore require planning permission. Key considerations will be the likely impacts on immediate neighbours, the wider local amenity and infrastructure of the proposed use in the proposed location. The likely extent of disturbance and impact on the sense of security of immediate neighbours from the use of the property as an STL by transient persons will also be a key consideration.

Relevant considerations that will generally assist the Council in determining whether an STL requires planning permission include (but are not limited to):

- Whether the property is to be used as an STL on a full-time or part-time basis;
- The number of people likely to be occupying the STL at any one time and the capacity of the property;
- The character of the property, whether a dwellinghouse or flat, including the number of bedrooms;
- Guest access to communal areas such as stairwells and gardens;
- Frequency and times of arrivals and departures for both guests and for cleaning / maintenance;
- The potential for noisy or otherwise antisocial activities; and,
- Potential impact on public services such as on-street parking and waste collection and whether the proposal is likely to result in undue pressure on those services.

Although to be assessed on a case-by-case basis, it is considered that in most circumstances the use of an existing house (not a flat) as an STL used on a single household basis is unlikely to represent a material change of use and is therefore unlikely to require planning permission. This will be subject to a general requirement that in all cases the proposed maximum occupancy level will appropriately reflect the size of the house and the context of the surrounding area.

Similarly, planning permission will not be required for letting rooms in a house (not a flat) where the letting is restricted to one bedroom in the house and it has fewer than four bedrooms in total, or where the letting is restricted to one or two bedrooms in the house and it has four or more bedrooms in total. The letting in these circumstances would be considered ancillary to the principal use as a dwellinghouse.

Planning permission is also not required for home sharing (apart from cases which would involve the creation of a new planning unit – e.g. an STL in an outbuilding).

However, the use of a flat in a traditional tenement or more modern block as an STL is more likely to represent a material change of use. This is due to the potential impact on neighbours and their residential amenity being generally greater through the introduction of an STL use into a tenement building or higher density accommodation due to the characteristics of shared access, parking and waste facilities, and the proximity of neighbouring flats and shared facilities. Flats are defined as Sui Generis (outwith a specific use class) within the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended). This is a different use category from a house, reflecting their different nature. The number of properties within the overall building will be taken into account when determining whether the use of a flat as an STL would represent a material change of use.

In cases where planning permission is required, this should be sought before applying for an STL licence through the Council's separate STL licensing process. Early engagement with the Council's Development Management team is therefore strongly recommended in order to determine whether planning permission will be required for any prospective STL developments. Details of the proposed STL can be emailed to pi@aberdeencity.gov.uk and the Development Management team will respond, by email, to confirm whether planning permission is required.

An appraisal of whether an application for planning permission for an STL is likely to be supported, and what information would be required to support a planning application, can also be obtained from the Development Management team by using the Council's [pre-application advice](#) service.

2.2 Assessment of Planning Applications

All planning applications for STLs will be treated on their own merits and will be assessed in line with relevant Development Plan policies and any other material considerations. A list of the main policies that are likely to be relevant to STL proposals is included in section 1.1. However, it should be noted that this list is not intended to be exhaustive and other policies may apply depending on the specific circumstances of individual developments.

In order to assess the likely impacts on amenity and character of the local area, and to ensure that these will be acceptable in accordance with relevant Development Plan policies, all planning applications for STLs will need to be accompanied by suitable supporting information covering the matters listed below. This information should be set out in an STL Planning Checklist. The matters that will be considered include:

- Whether the property is the only or principal home of the applicant;
- If the property is a flat, what floor of the building it is located on;

- The maximum number of occupants / guests that will use the STL at any one time;
- Whether the property is to be used as an STL on a full-time or part-time basis;
- Parking arrangements;
- Anticipated turnover of guests / length and frequency of stays;
- Arrangements for the storage and collection of waste from the property. It should be noted that STLs are classified as a commercial / business use. Applicants will therefore need to enter into a contract with the Council's Business Waste and Recycling team or another licensed waste contractor operating within the City to make appropriate arrangements for waste collection and disposal. A Waste Transfer Notice (WTN) must be obtained by STL operators. WTNs are issued by commercial waste contractors. Business waste should never be put into public or domestic bins (without a supporting WTN). Further information can be found on the Council's webpages on ['Dealing with your business waste'](#);
- How many other properties the STL shares an access and / or communal areas with;
- Details of any communal amenities and / or external amenity space that the property has access to; and,
- Character of the surrounding area, including existing uses.

A template STL Planning Checklist is available online (see link in Further Reading section below) and this should be used to ensure that the necessary supporting information is submitted with any planning application for an STL.

Where a proposal relates to the use of a flat as an STL, the Council will have particular regard to the presence of any existing STLs within the building and their total occupancy levels. This is because the presence of multiple STLs within a tenement or block of flats is likely to have a greater effect on the amenity of other residents through cumulative impacts. When assessing cumulative impacts for proposals relating to the use of a flat as an STL, account will also be taken of any existing Houses in Multiple Occupation (HMOs) within the building and their total occupancy levels. If it is considered that the introduction of a further STL into a building which contains an existing STL/HMO or STLs/HMOs would result in unacceptable cumulative impacts on the amenity of other residents, planning permission will be refused.

2.3 Use of Conditions to Limit the Duration of Planning Permissions for STLs

Policy 30 of National Planning Framework 4 (NPF4) states among other things that proposals to change the use of existing buildings to STLs will not be supported where they would result in *“the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits”*.

Given that STLs are generally expected to be used by tourists and / or business travellers, it is envisaged that businesses in the local tourism and hospitality sectors may experience some economic benefits as STL occupants are likely to use the services of these sectors. This is supported in general terms by the Scottish Government publication "[Research into the Impact of Short-Term Lets on Communities Across Scotland](#)" (October, 2019). However, there is currently limited evidence on the local economic benefits of STLs in Aberdeen and this makes it difficult to undertake a detailed assessment of STL proposals against NPF4 policy 30. More such evidence may emerge over time.

Although the most recent Housing Need and Demand Assessment (HNDA) has demonstrated a need for new open market housing in Aberdeen, and that there is also a significant need for more affordable housing, there is not currently understood to be any significant additional pressure placed on local housing need by the conversion of existing residential accommodation to STLs in the City. In this respect, the situation in Aberdeen is different from other areas of Scotland where the number of STLs has placed significant pressure on the availability and affordability of housing (for example in Edinburgh and parts of the Highlands and Islands). At present, the loss of residential accommodation resulting from changes of use to STLs is therefore considered unlikely to have any significant detrimental impact on local housing need within Aberdeen.

Nevertheless, it is recognised that housing need and demand can be subject to significant change over time, and HNDAs are updated regularly (normally every five years) to ensure that conditions and changes in the local housing market are appropriately identified and understood.

The grant of planning permission for existing residential properties to be used as STLs on a permanent basis would potentially result in the permanent loss of residential accommodation which would otherwise be available to long-term residents of Aberdeen. Although STLs are not currently understood to be placing significant pressure on local housing need in Aberdeen, such permanent loss of residential accommodation is unlikely to accord with policy 30 of NPF4, particularly since data on the local economic benefits of STLs in Aberdeen is currently limited. As such, planning permissions to change the use of existing residential accommodation to STLs will generally only be granted for a time-limited period. This will normally be for a period of five years and this will be controlled through the imposition of a condition on the planning permission.

The use of conditions to control the duration of planning permissions for individual STLs will help to ensure that:

- Existing residential properties can automatically return to long-term residential use upon expiry of the STL permission (unless a new permission is granted to extend the STL use in the meantime);
- Local housing need, demand and supply can be kept under review and any significant changes in circumstances can be considered if a new planning permission is sought to extend the STL use; and,
- Any new evidence on the local economic benefits of STLs can be taken into account in accordance with NPF4 policy 30 if a new planning permission is sought to extend the STL use.

2.4 Certificates of Lawfulness of Use or Development

A Certificate of Lawfulness of Use or Development (CLUD) is a mechanism whereby a person can apply to a planning authority for confirmation as to whether planning permission for a proposed or an existing use of a property is required or not. Anybody can seek a CLUD if they wish to ascertain whether an existing use such as an STL is lawful, either on the basis that it does not represent a material change of use or that it has been in existence for a continuous period of ten years.

2.5 Guesthouses and B&Bs

Relevant provisions of planning legislation regarding Guesthouses and B&Bs apply irrespective of this document.

Class 7 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) permits use as a hotel, boarding house, guest house, or hostel, providing it is not a licensed premises.

Class 9 (houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) permits use as a bed and breakfast establishment or guesthouse, where at any one time not more than two bedrooms are used for that purpose, or not more than one bedroom in the case of premises having fewer than four bedrooms as permitted development.

3. Further Reading

Short-term Lets Planning Checklist:

<https://www.aberdeencity.gov.uk/sites/default/files/2023-08/Short%20Term%20Let%20Accommodation%20Planning%20Supporting%20Information%20Checklist%20web.pdf>

Short-term Lets in Scotland – Planning Guidance for Hosts and Operators:

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2021/06/short-term-lets-scotland-planning-guidance-hosts-operators/documents/short-term-lets-scotland-planning-guidance-hosts-operators/short-term-lets-scotland-planning-guidance-hosts-operators/govscot%3Adocument/short-term-lets-scotland-planning-guidance-hosts-operators.pdf>

Appendix 1

Extracts from Town and Country Planning (Scotland) Act 1997 (As Amended) – Section 26B (Material Change of Use: Short-term Lets)

26B Material change of use: short-term lets

- (1) A planning authority may designate all or part of its area as a short-term let control area for the purposes of this section.
- (2) In a short-term let control area, the use of a dwellinghouse for the purpose of providing short-term lets is deemed to involve a material change of use of the dwellinghouse.
- (3) For the purposes of this section, the following tenancies do not constitute a short-term let—
 - (a) a private residential tenancy under section 1 of the Private Housing (Tenancies) (Scotland) Act 2016,
 - (b) a tenancy of a dwellinghouse (or part of it) where all or part of the dwellinghouse is the only or principal home of the landlord or occupier.

Extracts from Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 (As Amended) – Regulation 2 (Definition of a Short-term Let) and Schedule (Excluded Accommodation)

Short-term let

- 2.—(1) For the purposes of section 26B of the Act, and subject to section 26B(3) of the Act, a short-term let is provided where all of the following criteria are met—
- (a) sleeping accommodation is provided in the course of business to one or more persons for one or more nights for commercial consideration,
 - (b) no person to whom sleeping accommodation is provided is an immediate family member of the person by whom the accommodation is being provided,
 - (ba) the accommodation is not provided under an excluded tenancy,
 - (c) the accommodation is not provided for the principal purpose of facilitating the provision of work or services to the person by whom the accommodation is being provided or to another member of that person’s household,
 - (d) the accommodation is not provided by an employer to an employee in terms of a contract of employment or for the better performance of the employee’s duties, and

(e) the accommodation is not excluded accommodation.

(2) For the purposes of this regulation, a person (“A”) is an immediate family member of another person (“B”) if A is—

(a) in a qualifying relationship with B,

(b) a qualifying relative of B,

(c) a qualifying relative of a person who is in a qualifying relationship with B, or

(d) in a qualifying relationship with a qualifying relative of B.

(3) For the purposes of paragraph (2)—

(a) two people are in a qualifying relationship with one another if they are—

(i) married to each other,

(ii) in a civil partnership with each other, or

(iii) living together as though they were married,

(b) “a qualifying relative” means a parent, grandparent, child, grandchild or sibling,

(c) two people are to be regarded as siblings if they have at least one parent in common,

(d) a person’s stepchild is to be regarded as the person’s child,

(e) a person (“C”) is to be regarded as the child of another person (“D”), if C is being or has been treated by D as D’s child.

SCHEDULE

Excluded accommodation

1. Excluded accommodation means a dwellinghouse which is, or is part of—

(e) residential accommodation where personal care is provided to residents,

(f) a hospital or nursing home,

(g) a residential school, college or training centre,

(h) secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks),

(i) a refuge,

(j) student accommodation,

(l) premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of that Act

2. In this schedule—

"personal care" has the same meaning as in paragraph 20 of schedule 12 of the Public Services Reform (Scotland) Act 2010,

"refuge" means premises used wholly or mainly for providing accommodation to persons who have been subject to any incident or pattern of incidents, of—

- (a) controlling, coercive or threatening behaviour,
- (b) physical violence,
- (c) abuse of any other description (whether physical or mental in nature), or
- (d) threats of any such violence or abuse,

"student accommodation" means residential accommodation which has been built or converted predominantly for the purpose of being provided to students

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