

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 13 January 2025. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor , Convener; Councillor , Vice-Convener; and Councillors McRae, Boulton, Cooke and Copland.

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

5 WESTFIELD TERRACE - CHANGE OF USE OF LOWER GROUND FLOOR TO SHORT TERM LET ACCOMMODATION (SUI GENERIS) WITH MAXIMUM OCCUPANCY OF 4 PEOPLE

1. The Local Review Body (LRB) of Aberdeen City Council met on this day to consider a review of the decision taken by an appointed officer under the Council's Scheme of Delegation for the refusal of the application for the change of use of lower ground floor to short term let accommodation (sui generis) with maximum occupancy of 4 people at 5 Westfield Terrace, Aberdeen.

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

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

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

In relation to the application, the LRB had before it (1) a draft delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 29 September 2023; (3) the Decision Notice dated 4 September 2024; (4) links to the plans showing the proposal and planning policies referred to in the draft delegated report; (5) the Notice of Review submitted by the applicant/agent; and (6) consultee correspondence from the Council's Waste and Roads Development Management Teams; and two letters of representation which were not before the case officer when a decision on the application was made.

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

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

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

- The proposed change of use of the lower ground floor to short term let accommodation would adversely affect the residential amenity afforded to the upper floor residential dwelling on the basis that it would adversely affect the sense of security and privacy afforded to the occupants of that dwelling. The proposal therefore conflicts with Policies 30 (Tourism and Culture) and 14 (Design, Quality and Place) of National Planning Framework 4 and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023.
- Whilst the applicant is currently the owner and resident of the upper storey dwelling and would intend to be the owner and operator of the proposed short term let accommodation at lower ground floor level, the conflicts between uses would arise if the owner were to no longer reside the upper storey dwelling or if the short term let accommodation were to be operated independently of the resident of that dwelling. A competent legal agreement or planning condition to restrict the occupation or ownership of the two uses to overcome this conflict with the Development Plan cannot be identified because such a condition would be unreasonable and could place a significant burden on both the property and subsequently the owner. There is thus no option but to refuse planning permission.

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

- That the property would remain one house with the existing staircase giving access between;
- No material impact on character of the Conservation Area;
- Queried the relevance of the section of Policy 14 design, relating to women's safety and improving mental and physical health, safe and welcoming routes e.g. through passive surveillance;
- Queried whether there would be perceived impact on safety and security;
- Queried that there would be disturbance from noise transfer as upper floor resident was applicant. Unnecessary to block up door;
- Stated that neighbours at no.3, 7 and 7A undisturbed and supportive;
- Airbnb required to help applicant pay for care home;
- That if property was sold, it would be as one dwelling;
- There were no tensions with Policy VC2 (Tourism & Culture); and
- Five year permission should be granted.

In terms of Consultation response, Ms Greene advised that the Waste and Roads Teams had no objection. That there was no comments from Queens Cross and Harlaw Community Council and there were no representations submitted prior to the case officer determining the application.

She indicated that the applicant had stated that they had not submitted any new matters that were not before the case officer, however, they had submitted two supporting letters

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

from parties that did not make representations on the application and these were included within the agenda pack.

In terms of the consideration of new matters, the Chairperson and Councillors Boulton and Copland all indicated in turn and unanimously agreed that the applicant did not demonstrate:-

- (1) that the matter could not have been raised before that time, or
- (2) that it not being raised before that time was a consequence of exceptional circumstances.

Therefore the two letters of representation were not to be considered as part of the proceedings.

In terms of procedure by which the review would be conducted, Ms Greene advised that the applicant had expressed the view that there should be a hearing and a site visit would be welcome.

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

In terms of relevant policy considerations, Ms Greene referred to the National Planning Framework 4 and the Aberdeen Local Development Plan 2023. She also made reference to the Scottish Government's publication on 'Short Term Lets: Business and Regulatory Impact Assessment' from November 2021.

Ms Greene responded to a question from a member relating to the property previously being operating as an AirBnB.

Members each advised in turn and unanimously agreed to reverse the appointed officers decision and therefore approve planning application conditionally for a period of five years.

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

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

That the approval of the application would allow the continued use of the lower ground floor as short term let accommodation and this is acceptable as it is considered that the proposal would not result in a significant impact on residential amenity for the occupants of nearby residential accommodation. The attachment of a condition restricting the short term let to a temporary period of five years would allow for re-assessment of the use at that time. It is therefore considered that the application complies with Policy H1: Residential Areas, Policy D2: Amenity, Policy

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

14: Design and Policy VC2: Tourism and Culture in the Aberdeen Local Development Plan 2023 and Policy 30: Tourism in the National Planning Framework 4.

CONDITIONS

This permission is granted subject to the following conditions.

(01) DURATION OF PERMISSION

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

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

(02) TIME LIMIT FOR SHORT TERM LET USE

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

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

24 PICARDY COURT, ROSE STREET - CHANGE OF USE OF FLAT TO SHORT TERM LET ACCOMMODATION (SUI GENERIS) WITH MAXIMUM OCCUPANCY OF 2 PEOPLE

2. The LRB then considered the second request to review the decision taken by an appointed officer under the Council's Scheme of Delegation for the refusal of the application for the change of use of flat to a Short Term Let accommodation (sui generis) with maximum occupancy of 2 people at 24 Picardy Court, Rose Street, Aberdeen.

The Chairperson advised that Ms Lucy Greene would again be acting as the Planning Adviser to the Body in the following case under consideration this day and reiterated that although the Planning Adviser was employed by the planning authority, she had not been involved in any way with the consideration or determination of the application under

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

review and was present to provide factual information and guidance to the Body only. He emphasised that the officer would not be asked to express any view on the proposed application.

In relation to the application, the LRB had before it (1) a draft delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 20 August 2024; (3) the Decision Notice dated 15 October 2024; (4) links to the plans showing the proposal and planning policies referred to in the draft delegated report; (5) the Notice of Review submitted by the applicant/agent; and (6) consultee correspondence from the Council's Waste and Roads Development Management Teams; and four letters of representation, one of which was not before the case officer when a decision on the application was made.

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

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

- The proposal would introduce a second short term let (STL) in a block of three flats. This would result in a harmful cumulative amenity impact for the remaining property in mainstream residential use from the loss of residential character of the internal communal area and a cumulative level of activity from comings and goings of multiple STLs as well as a high concentration of unknown guests within the block. The proposed use is therefore contrary to Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP) and Policy 30 (Tourism), paragraph (e) part i) of National Planning Framework 4 (NPF4).

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

- Flat was on the ground floor which would minimise disturbance and noise;
- Nature of the STL with max 2 guests, targeted at performing arts, therefore parties were less likely;
- Applicant committed to measures in place to minimise disturbance;
- Less disturbance compared to students or family, as guests out in day;
- Security – would meet guests and lockbox number would be changed regularly;
- Owner lived ten minutes away and would be responsible for maintenance and condition; and
- Referred to top floor resident letter (new matter).

In terms of consultation responses, Ms Greene advised that the Waste and Roads Teams had no objection. That there was no comments from the Community Council and there were three letters of representation.

She indicated that a supporting letter from a party that did not make representation on the application had been submitted and this was included within the agenda pack as a new matter.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

In terms of the consideration of new matters, the Chairperson and Councillors Boulton, Cooke and Copland all indicated in turn and unanimously agreed that the party did not demonstrate:-

- (1) that the matter could not have been raised before that time, or
- (2) that it not being raised before that time was a consequence of exceptional circumstances.

Therefore the letter of representation referred to above was not to be considered as part of the proceedings.

In terms of procedure by which the review would be conducted, Ms Greene advised that the applicant had expressed the view that has expressed the view that the review may proceed on the basis of the information submitted.

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

In terms of relevant policy considerations, Ms Greene referred to the National Planning Framework 4 and the Aberdeen Local Development Plan 2023. She also made reference to the Scottish Government's publication on 'Short Term Lets: Business and Regulatory Impact Assessment' from November 2021.

Ms Greene responded to a question from a member relating to the property being previously operating as an AirBnB.

Members each advised in turn and unanimously agreed to reverse the appointed officers decision and therefore approve planning application for a period of two years.

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

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

That short term lets provide self-catering accommodation for a range of budgets and this flat is located close to the city centre and its facilities; such accommodation is not particularly prevalent. Although the granting of planning permission would result in two out of the three flats in the block being short term lets, and there is some concern about the impact on the amenity of the occupant(s) of the mainstream residential flat, this is mitigated by the fact that the flat in question is on the ground floor. The proposal would also result in the loss of a mainstream flat, therefore, it is considered acceptable only on the basis of a

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

temporary time limited permission so that impact on the housing market and local economy may be re-assessed in two years time.

With the attachment of such a condition it is considered that the proposal is acceptable and complies with policies H1: Residential Areas and VC2: Tourism and Culture of the Aberdeen Local Development Plan 2023 and policy 30: Tourism from National Planning Framework 4 (NPF4)

CONDITIONS

This permission is granted subject to the following conditions:-

(01) DURATION OF PERMISSION

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

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

(02) TIME LIMIT FOR SHORT TERM LET USE

The use of the flat for short term let accommodation as hereby approved, shall expire 2 years following the date of the grant of permission as stated on this notice, unless a further planning permission has been granted for continued use of the property as serviced apartment accommodation in the meantime. Should no further planning permission be granted then the property shall revert to a flat in residential use after the aforementioned 2-year period.

Reason - In order to allow reassessment of the local housing need and demand situation and the local economic benefits derived from the use of the property as short term let accommodation to be reassessed in 2 years' time, to ensure that the loss of the property as residential accommodation would remain compliant with Policy 30 of NPF4.

FLAT 5 17 NORTHFIELD PLACE - CHANGE OF USE OF FLAT TO SHORT TERM LET ACCOMMODATION (SUI GENERIS) WITH MAXIMUM OCCUPANCY OF 6 PEOPLE

3. The LRB then considered the third request to review the decision taken by an appointed officer under the Council's Scheme of Delegation for the refusal of the application for the change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 6 people at flat 5, 17 Northfield Place, Aberdeen.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

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

In relation to the application, the LRB had before it (1) a draft delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 10 September 2024; (3) the Decision Notice dated 14 November 2024; (4) links to the plans showing the proposal and planning policies referred to in the draft delegated report; (5) the Notice of Review submitted by the applicant/agent; and (6) consultee correspondence from the Council's Waste and Roads Development Management Teams.

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

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

- The comings and goings from the use of the property as a short-term let (STL) by up to six frequently changing transient adults, alongside those from the cleaners after each visit, would unacceptably intensify the use of the property over and above what would be expected from its use as a permanent residence, to the detriment of the amenity of the other properties in the building with respect to noise transmission, movement within the building, the use of the garden and their sense of security. The size of the three-bedroom flat compared to the remaining one bedroom flats within the block would result in the proposed STL use impacting on the quiet residential character of the block and worsening the amenity impacts on the neighbouring flats. The proposal therefore does not comply with Policy 30 (Tourism) of National Planning Framework 4 (NPF4) and Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023.

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

- To address concerns about disturbance, wish would be to reduce to three guests;
- Mainstream use could result in more people;
- Concerns about noise and disturbance could be addressed by strict guest policies, including quiet hours and limits on visitors;
- Applicant committed to measures in place to minimise disturbance;
- Contributed to diversity of accommodation to support local economy; and
- High quality accommodation in central area and flat was empty before purchase and refurbishment.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

In terms of consultation responses, Ms Greene advised that the Waste and Roads Teams had no objection. That there was no comments from the Community Council and there were no letters of representation.

She indicated that the applicant had submitted a new check list which should be considered as a new matter.

In terms of the consideration of new matters, the Chairperson and Councillors Boulton, Cooke and Copland all indicated in turn and unanimously agreed that the party did not demonstrate:-

- (1) that the matter could not have been raised before that time, or
- (2) that it not being raised before that time was a consequence of exceptional circumstances.

Therefore the new check list referred to above was not to be considered as part of the proceedings.

In terms of procedure by which the review would be conducted, Ms Greene advised that the applicant had expressed the view that has expressed the view that the review may proceed on the basis of the information submitted.

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

In terms of relevant policy considerations, Ms Greene referred to the National Planning Framework 4 and the Aberdeen Local Development Plan 2023. She also made reference to the Scottish Government's publication on 'Short Term Lets: Business and Regulatory Impact Assessment' from November 2021.

Members each advised in turn and unanimously agreed to uphold the appointed officers decision and refuse the planning application.

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

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

The comings and goings from the use of the property as a short-term let (STL) by up to six frequently changing transient adults, alongside those from the cleaners after each visit, would unacceptably intensify the use of the property over and above what would be expected from its use as a permanent residence, to the detriment of the amenity of the other properties in the building with respect to noise transmission, movement within the building, the use of the garden and their sense of security. The size of the three-bedroom flat compared to the remaining one

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

13 January 2025

bedroom flats within the block would result in the proposed STL use impacting on the quiet residential character of the block and worsening the amenity impacts on the neighbouring flats. The proposal therefore does not comply with Policy 30 (Tourism) of National Planning Framework 4 (NPF4) and Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023.

COUNCILLOR CIARAN MCRAE, Chairperson