

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

ABERDEEN, 24 February 2025. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Greig, Chairperson; and Councillors Blake, Clark, Copland and Thomson.

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

### **42 ELMFIELD AVENUE ABERDEEN - 241060**

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 Detailed Planning Permission for the change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people at 42 Elmfield Avenue Aberdeen, planning reference number 241060.

Councillor Greig 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, Mrs Lynsey McBain 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 Mrs McBain, 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 10 September 2024; (3) the Decision Notice dated 21 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 advised that the application site comprised a ground-floor flat in a two-storey semi-detached tenement building, sharing a boundary with two flats to the north.

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The site was shared with one other flat on the first floor, which includes a rear garden to the east. Each property had its own access; the application property was accessed via the front door from Elmfield Avenue and the neighbouring property was accessed via a staircase to the side of the building. The rear garden was accessed via a rear door from the application property as well as via a shared path to the side of the building. The property comprised a two-bedroom flat with a separate lounge, kitchen and bathroom. The site was located within House of Multiple Occupation (HMO) data zone 02 (Froghall, Powis and Sunnybank), an area of high concentration, with 12.6% of the total number of residential properties in the data zone licensed for HMO use.

In terms of the proposal Ms Greene indicated that Detailed Planning Permission was sought for the change of use of the property from a residential flat to Short Term Let (STL) accommodation (both sui generis). The applicant advised that the maximum occupancy for the two-bedroom STL would be four persons at any one time, with a minimum stay duration of two nights. The property would be operated as an STL on a permanent basis. There was unrestricted parking on Elmfield Avenue and it was also close to areas of controlled on-street parking (permit holders only).

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

1. The use of the property as a short term let (STL) would contribute to the loss of residential character in an area where there was an existing level of harm from an overprovision of House of Multiple Occupation (HMO) properties. The STL use would exacerbate the adverse impacts on the residential character of the surrounding area, and the deficiency in community cohesion as a result of the loss of residential accommodation for use by frequently changing transient visitors/occupiers. The proposal would therefore be in conflict with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP) and Policy 30 (Tourism), paragraph (e) part i) and ii) of National Planning Framework 4 (NPF4) which sought to avoid adverse impacts to the character and residential amenity of the area;
2. The presence of four unknown guests within the shared rear garden and property would also adversely impact the privacy and enjoyment of the otherwise private external amenity area for the neighbouring residents in the first floor flat, due to the nature of it, only being shared with one other property. The proposed use was therefore contrary to Policy H1 (Residential Areas) of the ALDP, impacting the amenity and enjoyment of the existing residential amenity.

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

- There were no objections from neighbouring properties;
- There were no other Short Term Let properties in the street;
- They highlighted the local benefits of Short Term Lets in supporting local businesses and the economy;

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- The title deeds stated that guests could only access the private areas exclusive to number 42;
- No shared communal access, the flat had its own door with no disruption to other properties;
- Regarding concerns about noise and parties, the applicant felt this was no different to having a permanent resident, and the owner of the STL would be more responsive to any complaints.

In terms of Consultation response, Ms Greene advised that the Waste and Roads Teams had no objection but suggested conditions be attached to any approval. Roads Development Management had no objection and no response was received from the local Community Council.

In terms of procedure by which the review would be conducted, Ms Greene advised that the applicant had expressed the view that no further procedure was required before determination.

The Chairperson and Councillors Blake, Copland, Clark, and Thomson 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 various questions from Members.

**Members each advised in turn and by majority of four votes to one, agreed to uphold the officers earlier decision. Planning permission was therefore refused. The Chairperson and Councillors Clark, Copland and Thomson voted to refuse the application and Councillor Blake opted to approve the application.**

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

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

1. The use of the property as a short term let (STL) would contribute to the loss of residential character in an area where there was an existing level of harm from an overprovision of House of Multiple Occupation (HMO) properties. The STL use would exacerbate the adverse impacts on the residential character of the surrounding area, and the deficiency in community cohesion as a result of the loss of residential accommodation for use by frequently changing transient

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2. The presence of four unknown guests within the shared rear garden and property would also adversely impact the privacy and enjoyment of the otherwise private external amenity area for the neighbouring residents in the first floor flat, due to the nature of it, only being shared with one other property. The proposed use was therefore contrary to Policy H1 (Residential Areas) of the ALDP, impacting the amenity and enjoyment of the existing residential amenity.
- **COUNCILLOR MARTIN GREIG, Chairperson**