

Public Document Pack



To: Councillor McRae, Chairperson; and Councillors Alphonse (for reviews one and two), Copland, Macdonald and van Sweeden.

Town House,
ABERDEEN 12 May 2025

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet remotely on **MONDAY, 19 MAY 2025 at 11.00 am.**

ALAN THOMSON
INTERIM CHIEF OFFICER – GOVERNANCE

Members of the Public can observe the meeting via Microsoft Teams [here](#).

B U S I N E S S

1.1 Procedure Notice (Pages 5 - 10)

COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING

Link to the [Local Development Plan](#)

PLANNING ADVISER - LUCY GREENE

REVIEW ONE

2.1 Non Determination of Application for change of use and reconstruction of existing commercial garages to form triple domestic garage with upper floor store and external stair access - 36 Albyn Place Aberdeen

Members, please note that all plans and supporting documents relevant to the review can be viewed online [here](#) and by entering the application reference number 241416.

2.2 Delegated Report, Original Application Form and Letters of Representation (Pages 11 - 48)

2.3 Planning Policies Referred to in Documents Submitted (Pages 49 - 50)

2.4 Notice of Review with Supporting Information Submitted by Applicant / Agent (Pages 51 - 96)

2.5 Determination - Reasons for Decision

Members, please note that reasons should be based against Development Plan policies and any other material considerations.

2.6 Consideration of Conditions to be Attached to the Application - if Members are Minded to Over-Turn the Decision of the Case Officer

REVIEW TWO

3.1 Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people - Attic Floor Flat, 320 Great Western Road Aberdeen

Members, please note that all plans and supporting documents relevant to the review can be viewed online [here](#) and by entering the application reference number 240651.

3.2 Delegated Report, Original Application Form, Decision Notice and Letters of Representation (Pages 97 - 122)

3.3 Planning Policies Referred to in Documents Submitted (Pages 123 - 124)

3.4 Notice of Review with Supporting Information Submitted by Applicant / Agent (Pages 125 - 178)

3.5 Determination - Reasons for Decision

Members, please note that reasons should be based against Development Plan policies and any other material considerations.

3.6 Consideration of Conditions to be Attached to the Application - if Members are Minded to Over-Turn the Decision of the Case Officer

REVIEW THREE

- 4.1 Change of use of amenity land to domestic garden ground and erection of fence, gate and steps (retrospective) - 43 Middleton Circle Aberdeen
Members, please note that all plans and supporting documents relevant to the review can be viewed online [here](#) and by entering the application reference number 241224.
- 4.2 Delegated Report, Original Application Form, Decision Notice and Letter of Representation (Pages 179 - 202)
- 4.3 Planning Policies Referred to in Documents Submitted (Pages 203 - 204)
- 4.4 Notice of Review with Supporting Information Submitted by Applicant / Agent (Pages 205 - 230)
- 4.5 Determination - Reasons for Decision
Members, please note that reasons should be based against Development Plan policies and any other material considerations.
- 4.6 Consideration of Conditions to be Attached to the Application - if Members are Minded to Over-Turn the Decision of the Case Officer

Website Address: aberdeencity.gov.uk

Should you require any further information about this agenda, please contact Lynsey McBain on lymcbain@aberdeencity.gov.uk / tel 01224 067344

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LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

PROCEDURE NOTE

GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. Local members are not permitted to sit on cases that fall within their ward.
3. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
4. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
5. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.
Any representations:
 - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
 - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
6. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
7. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
 - (a) written submissions;
 - (b) the holding of one or more hearing sessions;

- (c) an inspection of the site.
- 8. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
- 9. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

DETERMINATION OF REVIEW

- 10. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
- 11. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-
 - “where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
- 12. In coming to a decision on the review before them, the LRB will require:-
 - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
 - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
 - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
- 13. In determining the review, the LRB will:-
 - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
 - (b) overturn the appointed officer's decision and approve the application **with or without appropriate conditions.**
- 14. The LRB will give clear reasons for its decision.

Planning Development Management Committee and Local Review Body Site Visit Protocol

1. Introduction

- 1.1 The Planning Development Management Committee (PDMC) or the Local Review Body sometimes decides to inspect a site to gain a greater understanding of its location, physical characteristics and relationship to neighbouring properties or land uses. These can help Members reach an informed decision on a planning application.
- 1.2 This protocol sets out the procedure to be followed for the conduct of such formal site visits by Members. To ensure fairness, this guidance should be observed during these visits.
- 1.3 Site visits should only be necessary where:
 - the application can't be assessed fully without a site visit (eg. the proposal raises issues that need to be experienced eg. noisy or smelly processes near the site),
 - where the required information hasn't been provided by way of the plans, images or any supporting information, or
 - where the proposal is particularly contentious and where the benefit of a site visit is clear and substantial.

2. Interested Parties and Neighbouring Properties

- 2.1 There may also be a possibility that Members will visit neighbouring properties as part of the site visit. The Committee Clerk will contact all interested parties who submitted a timely representation in regards to an application ("interested parties") to let them know the application is on the agenda and, in the case of PDMC, advising that they may make a verbal representation at the Committee. Any interested parties who are neighbouring proprietors to the site, may request that their properties are visited as part of any site visit that may take place. To do so, they will be obliged to respond in writing to the Committee Clerk by the deadline of 12pm on the Tuesday before PDMC requesting that the committee visit their property during any site visit. In relation to the Local Review Body, any interested parties who are neighbouring proprietors to the site should indicate their wish for the Local Review Body to visit their property should a site visit be undertaken. Indication should be given in response to the notification given to the interested party advising them that the notice of review has been received.
- 2.2 If the PDMC or Local Review Body determine that a site visit is required for a particular application then the Committee or Local Review Body will also, at the same meeting, decide by agreement (or by way of a Procedural Motion if no agreement can be reached) whether they wish to visit the properties of any interested parties who have requested that they do so, as above. The decision of the PDMC or Local Review Body is final as to whether a site visit is conducted.
- 2.3 The applicants and/or their agent, as well as any interested parties whom PDMC or the Local Review Body have decided to visit their property as part of the site visit, as above, will also be advised of the site visit.
- 2.4 A copy of this protocol will be provided to the applicants and/or their agents and any interested parties whom PDMC or the Local Review Body have decided to visit their property as part of the site visit, as above. It will also form part of the agenda for the relevant site visit meeting.

- 2.5 It is important to emphasise that permission to enter any land will require to be given by the landowner. Landowners are legally entitled to refuse entry to their land.

3. Conduct of Site Visits

- 3.1 The Councillors' Code of Conduct applies to site visits; therefore interests should be declared. Members should not attend the site visit or take part in the determination of the application if, having considered the objective test in the Code of Conduct, they consider that they have a prejudicial interest.
- 3.2 Site visits are a fact finding exercise and not part of the formal consideration of the application and, therefore, Members require to remain impartial. Members must not appear to favour one or other party and must avoid reaching a final decision until all views have been presented at the Committee or Local Review Body meeting to take place following the site visit.

4. Procedure on Site

- 4.1 The Planning Development Management Committee or Local Review Body Convenor will call the site visit to order, ask the Committee Clerk to outline the site visit protocol, and invite the Planning Officer to summarise:
1. the application;
 2. any relevant site history;
 3. the features of the site;
 4. any other matters the Planning Officer considers should be pointed out.
- 4.2 The Planning Officer will then show Members around the site, showing relevant plans, describing the development proposed and pointing out significant features, and will also advise whether interested parties have requested that the PDMC Committee or Local Review Body view the site from other locations and how that is to be dealt with. Members may ask the Planning Officer factual questions (eg. distances to adjoining or interested parties' properties or the location of the planned development) but must not otherwise discuss the application. All questions should be objective, relevant and material. Members are not permitted to hear or express opinions on the merits of the application during the site visit. Members should not address anybody other than each other, the Planning Officer, other Council Officers and the Committee Clerk. Any questions from Members to the applicant, agents and interested parties should be directed through the Convenor. The applicant, agent and local ward members, community council representatives may join the site visit group but only to observe and listen and will not be permitted to address Members other than specifically when requested by the Convenor or the Planning Officer to confirm factual information such as the location of physical features and access points. Members of the public may attend and listen to the proceedings where these are conducted in public areas, but they have no right to enter private land or buildings. If the site visit gives rise to excessive lobbying or demonstrations, Members may cancel the visit and arrange another in private.
- 4.3 Hospitality will not be accepted during the site visit by Members from applicants or other parties given that this could be seen to show favour.
- 4.4 In order to assist in ensuring that all Members receive the same information to inform the decision making process, they should keep together in one group with the

Convenor and the Planning Officer during the entirety of the accompanied site visit. They should not break-off to discuss the proposal separately in small groups with other members, with residents or with the applicant.

5 What happens after a Site Visit

- 5.1 After a site visit has taken place, the PDMC will then reconvene and determine the application in the usual manner. Local Review Body meetings are held remotely and therefore following the site visit, Members will reconvene remotely. Any Member wishing to vote on an application or review following a Site Visit must have been in attendance at the Site Visit.

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	Strategic Place Planning
	Report of Handling by Development Management Manager

Site Address:	36 Albyn Place, Aberdeen, AB10 1YF
Application Description:	Change of use and reconstruction of existing commercial garages to form triple domestic garage with upper floor store and external stair access
Application Ref:	241416/DPP
Application Type:	Detailed Planning Permission
Application Date:	5 December 2024
Applicant:	Mr P Webb
Ward:	Hazlehead/Queen's Cross/Countesswells
Community Council:	Queen's Cross and Harlaw

RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application site lies on the north side of Albyn Lane, at a distance of some 130m east of its junction with St Swithin Street and within the Albyn Place and Rubislaw Conservation Area. The site comprises two commercial garage buildings and an area of ground extending to some 20 square metres lying directly to the north of the garages. One of the garage buildings lies within the historic, but not current feu of No 36 Albyn, a Category C listed, semi-detached property which is now in residential use and the second within the historic, but again not current feu of No 35, the adjoining commercial property, also Category C listed.

The two adjoining garage buildings form part of the historic southern boundaries of the aforementioned feus, with access from the garages directly onto Albyn Lane. The southern boundaries include separate accesses off the lane serving two commercial car parks which lie to the north of the garage buildings. Beyond the car parking and to the rear of the dwellinghouse at No 36 Albyn Place lies an area of enclosed garden ground which forms the residential curtilage associated with that property, and to its east is an area of garden ground associated with the commercial property at No 35.

The rear feu walls to No's 35 and 36 Albyn Place, which are of traditional granite rubble construction, extend along and delineate the outer boundaries of the aforementioned feus. A traditional granite rubble wall with brick coping also serves to separate the two feus and is seen to continue between the two garage buildings, beyond their northern (rear) elevations to form part of their internal walls.

The westernmost garage building which lies to the south of No 36 Albyn Place has a blue grey faced granite frontage and metal lintel framing the metal garage door entrance with red brick walls rendered in grey wet dash to the side and rear, grey rendered concrete blockwork forming the gable ends (north and south) and a corrugated metal roof.

The easternmost garage building which lies to the south of No 35 Albyn Place has been partially demolished following its identification as a dangerous building and a notice having been served in December 2022 under the Building (Scotland) Act 2003. This resulted in the demolition of the hipped slate pitched roof and the steel beam and front walls of the garage building, with these works having had to commence by 19 December 2022 and be completed by 31st January 2023.

This garage has mixed colour rubble granite walls, with the retained easternmost wall incorporating a door opening, the northern (rear) wall a previously infilled window opening and with a degree of damage and deterioration to the upper sections of both these walls that has become more apparent since the demolition works were carried out, now more than two years ago.

Relevant Planning History

220733/DPP - Change of Use from class 2 (financial, professional and other services) to class 9 (house). Approved unconditionally on 14 July 2022.

221457/LBC - Erection of fence (rear); installation of railings & gate (front); replacement of rainwater goods to front and rear; associated internal works including removal of existing and installation of new partitions. Approved conditionally on 17 May 2023.

221476/LBC – Installation of replacement windows, doors & rooflights. Approved unconditionally on 24 May 2023.

221477/DPP – Erection of fence to rear; installation of railings and gate to front; replacement rainwater goods to front & rear; window, door & rooflight replacement and associated works. Approved conditionally on 16 May 2023.

221498/LBC - Installation of gas meter box to front. Approved unconditionally on 10 March 2023.

230652/DPP - Erection of balcony with external stairs and formation of door from an existing window opening to rear. Approved conditionally by LRB on 13 October 2023.

230653/LBC - Erection of balcony with external stairs and formation of door from an existing window opening to rear. Approved conditionally on Appeal by The Scottish Government Planning and Environmental Appeals Division on 13 October 2023.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for a change of use of the two aforementioned commercial garages and the ground lying immediately to their north and reconstruction to form a single triple domestic garage with storage space within the upper floor of the garage building, accessed via external stairs.

With the exception of the external stairs, which would be located to the rear (north) of the garage building, providing independent access to its upper floor, the proposed garage development would retain the overall footprint of the existing two garage buildings, with a total length of 11.1 metres and width of 7.8 metres, whilst introducing a maximum roof height of 6.2 metres compared to the existing 5.6 metres. The proposed single garage would therefore have a footprint of 86.5 square metres, with accommodation providing some 72 square metres of internal floor space at ground level and

incorporating an internal ceiling height of 2.8 metres. The upper floor of the garage would provide an additional floor space of some 40 square metres for storage purposes and incorporate an internal ceiling height of 2.4 metres. The external stairs proposed to the rear (north) of the garage building would provide independent access to this upper floor.

The proposal seeks to retain the existing brickwork and granite walls to form the rear and side walls of the reconstructed garage, with a new wet dash render finish. The proposal would incorporate a new frontage to the garage, incorporating two gable ends to the lane with a central roof section sloping back to meet with the ridge level of the gables, thus forming a centrally positioned flat roof. The front (south) elevation of the garage would incorporate three garage door openings and be finished in reclaimed granite stone. On the rear roof slope of the garage a flat roofed dormer clad in timber linings would be formed to accommodate a door opening serving the external stairs. The sloping sections of roof would be slated and incorporate a total of five rooflights.

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=SNYUMQBZM1Q00>

- Design Statement

CONSULTATIONS

ACC - Roads Development Management Team – No objection raised.

Queen's Cross and Harlaw Community Council – No comments received.

REPRESENTATIONS

None

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 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

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 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 7 (Historic Assets and Places)
- Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings)
- Policy 13 (Sustainable Transport)
- Policy 14 (Design, Quality and Place)

Aberdeen Local Development Plan 2023

- Policy D1 (Quality Placemaking)
- Policy D6 (Historic Environment)
- Policy D7 (Our Granite Heritage)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy VC6 (West End Area)

Aberdeen Planning Guidance

- Development Along Lanes
- Householder Development Guide
- Transport and Accessibility

Other National Policy and Guidance

- Historic Environment Policy for Scotland (HEPS)
- Historic Environment Scotland's Managing Change in the Historic Environment Guidance (MCHE): Boundaries & Demolition

Other Material Considerations

- Albyn Place and Rubislaw Conservation Area Character Appraisal

EVALUATION

Key Determining Issues

Taking into account all legislative requirements, policy considerations and bearing in mind the context of the application site, the fundamental determining factors set out in the evaluation below

are the intended use of the ancillary building, its reconstruction and the resulting impact on its historic fabric, the scale/form/design of the proposed development and its impact on the historic character of the area. The assessment detailed below of these matters against the relevant NPF4 and ALDP policies, national guidance on the historic environment and the statutory duty on planning authorities to seek to preserve or enhance the character and appearance of conservation areas demonstrates and explains why the proposal is not acceptable.

Principle of Development

The application site lies within the West End Office Area, zoned under Policy VC6 in the Aberdeen Local Development Plan 2023 (ALDP) and characterised by a mix of uses including residential, business, food and drink and other commercial uses. In this area, the principle of a change of use from office to residential will be supported. Policy VC6 (West End Office Area) states that applications for all development must take into account existing uses and avoid undue conflict with the adjacent land uses and amenity. Policy VC6 also requires all development proposals to respect the special historic and architectural character of the West End.

In this instance the proposed change of use and reconstruction of two existing commercial garages for domestic use, resulting in an ancillary building which would incorporate a triple garage and storage at 1st floor level. The proposed triple garage building would be located outwith and remote from any existing residential curtilage, with commercial car parking separating the application site and the residential property at No 36 Albyn Place which the garage is proposed to serve.

The Aberdeen Planning Guidance on Householder Development includes specific guidance on outbuildings/ancillary buildings. It states that these are '*detached buildings within a dwelling's curtilage that are used in association with the enjoyment of the residential use of the property*'. The same guidance identifies these outbuildings/ancillary buildings, to include garages, sheds and greenhouses. Whilst the applicant's stated intention is for the proposed development to provide a triple garage and storage facilities associated with the residential use of the property at No 36 Albyn Place, it is apparent that the resulting building would be located remotely from and function independently of that dwelling's curtilage, with its intended use having no formally recognised link with the residential use of the property.

Taking the above into account the principle of the proposed development does raise a degree of conflict with the expectations of Policy VC6 of the ALDP, given the intended domestic use of the garage which would lie outwith and independent of any residential curtilage.

The potential impact of the proposed development on the historic and architectural character of the West End Office Area is considered as part of the detailed evaluation outlined below.

Design, Scale and Impact of the Proposed Development, including on the Historic Environment

Under Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4), high quality design is sought for development proposals with a view to improving the overall quality of an area and this aligns with Policy D1 (Quality Placemaking) of the Aberdeen Local Development Plan 2023 (ALDP) which seeks to ensure high standards of design for development proposals, with a strong and distinctive sense of place as a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials. Whilst accepting that not all development will be of a scale that makes a significant placemaking impact Policy D1 recognises that good design and detail adds to the attractiveness of the built environment.

Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4 is of relevance in the consideration of this proposal on the basis that it seeks to support development proposals which result in the sustainable reuse of vacant buildings, whether permanent or temporary. Subsection (d) notably states that *'Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option'*. Taking into account that the development, as proposed, is for the reconstruction and re-use of the vacant garage buildings, then it is considered that in principle, such a proposal would suitably address the intention of Policy 9.

Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland (HEPS) and Policy D6 (Historic Environment) of the ALDP all require works to listed buildings to either preserve or enhance the special character of the listed building and works in conservation areas to either preserve or enhance the character and appearance of the conservation area. Under subsection (c) of Policy 7 it is stated that *'Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest'*. Subsection 9 (d) of Policy 7 states that *'Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the: architectural and historic character of the area; existing density, built form and layout; and context and siting, quality of design and suitable materials'*. Subsection (e) meanwhile states that *'Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.'*

Policy D7 (Our Granite Heritage) of the ALDP seeks the retention and appropriate re-use, conversion and adaptation of all historic granite buildings, structures and features. It states that *'Proposals to demolish any granite building, structure or feature, partially or completely, will not normally be granted planning permission or listed building consent.'* The Policy continues by outlining that in order to support such demolition, a number of tests should be met, notably that:

- Evidence provided to demonstrate that every effort has been made to retain it, and
- It is no longer of special interest or cultural significance; or
- It is incapable of meaningful repair; or
- It can be demonstrated the demolition is essential to delivering significant benefits to economic growth or the wider community; or
- Its repair and reuse is not economically viable and that it has been marketed in an open and transparent manner.

In considering the scale/form and layout of the proposed triple garage it is noted that the resulting development would see the reconstruction of the two existing and currently separate but adjoining garage buildings to form a single building which would straddle the rear curtilages of No's 35 and 36 Albyn Place, giving rise to the loss of the established and historic feu boundaries. Historic Environment Scotland's Managing Change in the Historic Environment guidance on Boundaries outlines the importance of boundary treatment in defining the character of historic buildings and conservation areas. It notes how boundaries contribute substantially to the sense of place and historic understanding of an urban landscape. It acknowledges that whilst many boundaries are decorative, others are functional, providing a mark of property ownership or a structural support as a retaining wall.

In considering the proposed scale and design of the proposed development, it is relevant to note the expectations of both the Aberdeen Planning Guidance (APG) on Development Along Lanes and on Householder Development. The advice contained within the APG on Development Along Lanes is largely focussed on mews style buildings for residential use, however it does acknowledge that it may be appropriate for other uses. Of relevance in the consideration of this proposal is the design checklist contained with the APG, which includes an expectation that development along a lane *'looks to the historic context; respects the built environment context by incorporating existing original boundary walls where they exist and reinstating or reinterpreting them through new development where they have been lost; and that it is no more than two domestic stories in height and equal to or less than 5.6 metres to the ridge line of the roof from the ground floor level in order to maintain a traditional domestic height and scale.'*

The proposed garage would rise to a ridge height of 6.2 metres and incorporate internal ceiling heights of 2.8 metres at ground floor and 2.4 metres at 1st floor, thus exceeding on both levels the minimum internal ceiling height required for a dwelling. No justification has been provided, nor does there appear to be any obvious requirement for such a scale of development, in terms of the intended use of the proposed ancillary building as a domestic garage and for storage purposes.

In considering the proposed garage in terms of the criteria applicable for outbuildings contained within the APG on Householder Development it is noted that this guidance states that such buildings are *'traditionally single storey in height, with either a flat or pitched roof'*. Whilst the APG does outline that *'it may be possible to accommodate an additional storey within the roof space of a pitched-roof outbuilding'*, it also clearly states that *'the use of dormers will not be supported, as they increase the visual dominance of an outbuilding and give the impression of a two storey appearance.'*

The same APG specifies that two storey outbuildings will generally not be permitted and where a second storey is to be accommodated within a pitched roof space, that the impression of a single storey building should be retained, once again noting that dormers will not be permitted as a means of gaining additional headroom. The APG clearly states that access to an upper floor of an outbuilding should be situated internally and that such buildings should not have a negative impact on the character of the surrounding area, and in instances where they are highly visible and especially in conservation areas, it notes that detached garages should be of a scale and design that respects the prevalent context of the surrounding area. Taking all of this into account it is apparent that the proposed development would fail to address a number of the aforementioned criteria, with the resulting single garage building having a footprint of some 86.5 square metres, a total floor area of some 112 square metres and therefore of a scale which would be more akin to that of a detached house. It is considered likely that this garage would be of a combined scale and massing that would be in excess of any other existing garage on the surrounding lanes within the West End area and within the conservation area.

The Design Statement submitted in support of the application does state that the proposed *'refurbishment sits well within the site as we are using the existing walls within the existing footprint'*. It is however noted that neither the existing granite rubble wall which currently splits the two garage buildings or the brick wall which forms the eastern elevation of the garage at No 36 form part of the proposed triple garage layout. The proposal makes no reference to the demolition of these walls. In this respect it is of relevance that Historic Environment Scotland's Managing Change in the Historic Environment guidance on Boundaries outlines the importance of boundary treatment in defining the character of historic buildings and conservation areas. It notes how boundaries contribute substantially to the sense of place and historic understanding of an urban landscape. It acknowledges that whilst many boundaries are decorative, others are functional, providing a mark of property ownership or a structural support as a retaining wall.

Taking the above into account, whilst noting that the detailed drawings submitted in support of the application include no specific reference to the retention of any of the existing garage walls, it would appear from the proposed sections and ground floor layout plan and from information provided within the Design Statement, that the intention is indeed for the external walls which currently form the side and rear walls of the existing garages to be retained to form the outer 'shell' of the new garage. Given the age, condition and construction type of the existing garage buildings, including the garage to the east at No 35 which has already been partially demolished, with the front wall and roof removed as a result of a Dangerous Building Notice served in December 2022, there are real concerns regarding the structural capability of the remaining garage walls to accommodate the scale and massing of the triple garage development as proposed.

Since completion of the demolition works to the garage building associated with No 35 Albyn Place in December 2022, and contrary to the terms of the aforementioned Notice which required the applicant to make good and watertight all exposed walls and surfaces, those garage walls which do remain have been left open to the elements, resulting in additional water damage and further deterioration. With this in mind and once again, given the scale of development being sought, it is considered likely that in order to meet modern day building standard requirements, the proposed garage development would result in more extensive demolition work than is currently being proposed as part of what has been described within the Design Statement as a 'refurbishment' of the existing garages.

Whilst there is some reference contained within the aforementioned Design Statement to the garage roof at No 35 and a section of its front wall having been removed as part of the Dangerous Building Notice served in December 2022, no detail has been provided or reference made on the plans submitted on the necessity for any further demolition works being required to deliver the proposed development, nor any justification provided for additional demolition works to be undertaken, notably the removal of the intervening wall that separates the two existing garages. So whilst the expectations of Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4 would likely be addressed on the basis of the proposal solely seeking the re-use of the existing buildings, compliance with Policy 9 would fail in the event of the proposed development involving demolition work and substantial rebuild.

In the event that the proposal does in fact require further demolition work to the existing garages, then Historic Environment Scotland's Managing Change in the Historic Environment guidance on Demolition would be of relevance as would Policy D7 (Our Granite Heritage) of the ALDP. Policy D7 clearly seeks the retention and appropriate re-use, conversion and adaptation of all historic granite buildings, structures and features. It specifically states that '*Proposals to demolish any granite building, structure or feature, partially or completely, will not normally be granted planning permission or listed building consent*'. In the event that demolition works are proposed as part of a proposal, then relevant supporting information is required for consideration, notably evidence demonstrating what effort has been made to retain the granite structure; that it is no longer of special interest; incapable of repair; that such work is essential to deliver significant benefits to economic growth or the wider community; or that repair and reuse is not economically viable.

So whilst the proposal does raise concerns in terms of the lack of clarity on the extent of demolition works that would likely be required to support the proposed reconstruction of the existing garage buildings, it is also worth noting that in the event that the existing garages are indeed being retained, no detail has been provided in support of the application as to how the existing walls would be repaired and stabilised and subsequently built up as part of their refurbishment.

In addition to the above concerns and the clear lack of general detail and supporting information relative to the proposal, it is considered that the building form and layout of the development as

proposed fails to suitably address and respect the historic character and context of the conservation area within which the existing garages lie, including a lack of recognition or definition of the existing feus relative to No's 35 and 36 Albyn Place and their associated boundaries which form an integral part of the listing. The introduction of a triple garage in this location, where it would straddle the feu boundary and therefore result in a loss of established feu identity, whilst also requiring removal of part of the historic feu wall which currently serves to separate the existing garages, would cause harm to the character of the conservation area, where such feu boundaries are regarded as a key characteristic, as outlined within the Council's Albyn Place and Rubislaw Conservation Area Character Appraisal.

In further considering the setting of the application site, its relationship to the curtilages of the listed properties at No's 35 and 36, to the wider Albyn Place and Rubislaw Conservation Area, and with the proposed development in terms of its frontage onto Albyn Lane and the open aspect of this site when viewed from the lane, it is considered that the scale, form, height and overall massing of the proposed development would result in a particularly dominant and oversized ancillary building in the context of the surrounding streetscape.

The proposed garage design includes gables to the lane which are on the same plane as the ground floor, with this emphasising the height of the building and its overall volume when viewed in relation to the neighbouring mews property, which at 1½ storeys in height, has a more traditional roof form and dormers which see the upper volume pushed away from the lane, thus more clearly respecting its scale. The proposed pitch of the garage roof, at 50 degrees, along with the introduction of a solid dormer to the rear to accommodate the external stair access, would further add to the top-heavy nature of the design and overall massing of the building. In this respect and given how visible the proposed detached garage building would be within the streetscene, neither its scale nor design are considered to be in keeping with the prevalent context of the surrounding area. Taking into account the ridge height of 6.2 metres and double gable form to the front of the proposed garage, it would appear significantly more bulky within the streetscape when compared to the adjacent building to the east.

Taking all of the above into account, it is considered that the proposal, comprising the reconstruction and change of use of the existing commercial garages to form a single triple domestic garage with 1st floor storage and external stair access, does raise a number of concerns in terms of its failure to comply with all relevant policies and guidance.

Notwithstanding that there is conflict in terms of the principle of the proposed change of use from commercial garages to a single domestic garage on the basis that the triple garage, which according to the applicant would be ancillary to the dwellinghouse at No 36 Albyn Place, would in fact be located outwith the residential curtilage and separated from that curtilage by a commercial car park; there are also concerns with this proposal in terms of its scale and design and the resulting impact of the proposed triple garage, including on the historic and architectural character of the area. The proposed development fails to address the relevant criteria in terms of both Aberdeen Planning Guidance on Development along Lanes and on Householder Development relating to outbuildings, and conflicts with the expectations of Policy 14 (Design, Quality and Place) of NPF4 and Policy D1 (Quality Placemaking) of the ALDP, given the excessive scale of development that is being sought in the context of an ancillary building for domestic use.

In its current format, the proposed development would result in the loss of historic fabric due to the removal of part of the established and historic feu boundaries, with no justification provided, and would therefore not suitably preserve or enhance the character and appearance of the conservation area or its setting. Whilst the proposal may support the re-use of the vacant garage buildings, thereby addressing the expectations of Policy 9 (Brownfield, Vacant and Derelict Land and Empty

Building) of NPF4, it would nevertheless fail to address the expectations of Policy 7 (Historic Assts and Places) of National Planning Framework 4 and Policies D6 (Historic Environment) and D7 (Our Granite Heritage) of the Aberdeen Local Development Plan 2023, whilst also failing to address the expectations of Historic Environment Policy for Scotland (HEPS) and Historic Environment Scotland's Managing Change in the Historic Environment Guidance (MCHE) on Boundaries and Demolition.

Transport and Parking

Finally, the proposal is considered under Policy T3 (Parking) of the Aberdeen Local Development Plan, where there is an expectation for new development to have sufficient car parking for the context of the proposed use and its location and for parking to accord with Council standards.

The Roads Development Management (DM) team considered the proposed change of use of the two existing commercial garages to a triple domestic garage with upper floor store. The Roads DM team advised that they had no objection to the proposal on the basis that the garage use would remain, with the same footprint of building, would achieve acceptable dimensions as proposed (internal width, depth and entrance way) and with the visibility of accesses which lie either side of the site remaining as existing, and therefore with no worsening.

However, notwithstanding the above consultation response, this proposal does raise fundamental concerns in terms of how the additional parking which would be delivered can be justified in this instance. Given the intended domestic use of the proposed triple garage by the occupants of No 36 Albyn Place, the proposed development would result in off-street parking for a total of 9 vehicles for what is a 4 bedroom dwellinghouse, thus far exceeding the maximum parking standards of 3 vehicles for a residential property of this scale, as outlined within the Aberdeen Planning Guidance on Transport and Accessibility. It is noted that the existing parking allocation for this property, where 6 off-street parking spaces are currently accommodated within its front curtilage, and enclosed by means of railings and an electric gate, already exceeds those maximum parking standards and therefore the delivery of additional parking would introduce further conflict with the requirements of the aforementioned APG.

In this instance the proposal would result in the further accumulation of off street car parking available to and serving a single residential property, thereby doing nothing to discourage car use nor encourage travel by more sustainable means, including by the use of public transport or by walking or cycling. As such the proposal not only fails to address the requirements of Policy T2 (Parking) of the ALDP and the associated Aberdeen Planning Guidance on Transport and Accessibility, but in failing to take account of the impact which additional car use has on the climate, would also be contrary to the expectations of Policy 13 (Sustainable Transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP, which seek to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and use of public transport for everyday travel and reduce the need to travel unsustainably.

Tackling the Climate and Nature Crises, Climate Mitigation and Biodiversity

Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4) requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals whilst Policy 2 (Climate Mitigation and Adaptation) requires development proposals to be designed and sited to minimise lifecycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change. Policy 3 (Biodiversity) requires proposals for local development to include measures to conserve, restore and enhance biodiversity, proportionate to the nature and scale of development.

It is acknowledged that neither the extent or type of development being proposed in this instance would have a significant impact on the global climate and nature crises and offer limited opportunity for climate mitigation and adaptation or for minimising greenhouse gas emissions. Moreover, in the event that the proposed works are limited to the refurbishment of the existing garages, it is accepted that this would allow the re-use of embodied energy, thereby delivering a more sustainable option than that of constructing a new garage, including on a brownfield site. However, it is nevertheless apparent that as a direct result of increasing off street car parking the proposal would encourage more car use. The proposal would therefore raise a degree of tension with the expectations of Policies 1 (Tackling the Climate and Nature Crises) and 2 (Climate Mitigation and Adaptation) of National Planning Framework 4 (NPF4). On the basis that the proposed development would be largely contained within the footprint of the existing garage buildings, it would offer no real opportunity for biodiversity gain, so whilst there may therefore be a degree of tension with Policy 3 of NPF4, this would not in itself be sufficient to raise any significant concerns with the proposal.

Notice of Review Supporting Statement

It is noted that pre-application advice was not sought for this proposed development, which if the applicant had done so, would have given the applicant a clear steer on what is considered to be an acceptable scale and form of development on this site. The Planning Service did formally request in writing a number of amendments to the proposed development with a view to addressing the issues which this proposal raises, and which are outlined in the evaluation above. Whilst that communication occurred after the target date for determination of the planning application, it was still a live planning application and it does not undermine or negate the relevance and importance of the matters raised and explanations provided for why the proposal is unacceptable when assessed against the relevant NPF4 and ALDP policies, national guidance on the historic environment and the statutory duty on planning authorities to seek to preserve or enhance the character and appearance of conservation areas. No response was received to that request and rather than attempting to address these issues, the applicant/agent chose instead to seek a decision through the Local Review Body.

Issues raised within the Statement include reference to one of the existing garages having been the subject of a Dangerous Building Notice, the current state of disrepair of that garage being a blight on the conservation area with the potential to attract criminality, and the tendency for anti-social behaviour increasing where property is not in use. The Planning Service submits that whilst not a relevant consideration, no evidence has been provided by the Agent or Applicant that criminality or anti-social behaviour has occurred at this site, or on this lane. One incident in Albert Street, which is not in close proximity, does not justify the works that are being proposed. It is also submitted by the Planning Service that both past and continuing lack of maintenance of a building which has resulted in its structural deterioration is not a material consideration in the determination of a planning application, other than potentially justifying the demolition of that building, rather, the proposal must be determined in the first instance against relevant national and local policy.

It is maintained within the Statement that the proposed garage building would provide a safe, secure location for domestic cars to be parked overnight. The Planning Service would submit that there is currently car parking available for up to six vehicles within the front curtilage of the dwelling at No 36 Albyn Place, with this space being enclosed by railings and a gate and directly overlooked by windows in the property, thus providing a safe and secure space.

The Statement notes the commitment to taking on a difficult task of refurbishment of a building to allow for it to be brought back into use and the challenges faced in working within a period property. The Planning Service submits that insufficient information has been submitted to demonstrate that

the proposed development, which is referred to by the Agent as the 'refurbishment' of the existing garage buildings, is in fact achievable as currently proposed, and that the existing garages are in fact structurally capable of being 'refurbished', given their age, current condition and construction type.

It is noted within the Statement that the proposed 'reinstatement of the garage with scale and material choices which respect the character of the building, benefits modern living requirements with no adverse impact on the neighbouring properties or the Conservation Area.' The Planning Service submits that the inappropriate scale and design and resulting visual impact of the proposed development fails to respect the character, appearance and setting of the historic environment. Notwithstanding that the Planning Service considers it most likely that the proposed development will require substantial or complete demolition of the existing garage buildings, the proposal as it currently stands would already result in the loss of historic fabric through the removal of a section of boundary wall, thereby delivering a layout for the triple garage building which fails to recognise and reflect the historic feu boundaries of the properties at No's 35 and 36 Albyn Place, an integral part of these properties listing and a key characteristic of the Albyn Place and Rubislaw Conservation Area, whilst also adversely affecting the historic setting of these properties through the loss of feu identity.

The Statement refers to the Planning Department having been averse to any proposals presented to them in relation to development at No 36 Albyn Place. However, no evidence has been presented to back up this claim. Indeed, the planning history listed above and included in the Notice of Review Statement by the applicant contradicts this notion.

Whilst other matters have been raised by the Agent, the Planning Service submits that these are not of relevance in the consideration of the planning application.

Precedent

Precedent is not normally a factor to consider but there is the potential for a cumulative impact if this application were approved and as a result it does become an important and relevant material consideration. Approval would set a precedent whereby it could allow for the introduction of similar, oversized garage buildings along rear lanes within the West End, resulting in the character and appearance of the corresponding conservation areas being adversely affected and to the detriment of the built historic environment.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

The site lies within the West End Area (Policy VC6), as zoned in the Aberdeen Local Development Plan 2023 (ALDP). Policy VC6 (West End Office Area) states that applications for all development must take into account existing uses and avoid undue conflict with the adjacent land uses and amenity.

The proposal seeks a change of use and reconstruction of two existing commercial garages for domestic use, resulting in a building which would incorporate a triple garage and storage at 1st floor level. The proposed triple garage building would be located outwith and remote from any existing

residential curtilage, with commercial car parking separating the application site and the residential property at No 36 Albyn Place which the garage is proposed to serve. The principle of the proposed development does therefore raise a degree of conflict with the expectations of Policy VC6 of the ALDP, given the intended domestic use of the garage and its siting which would be independent of any residential curtilage.

This siting of the development also raises conflict with the Aberdeen Planning Guidance on Householder Development with specific guidance on outbuildings/ancillary buildings stating that these are '*detached buildings within a dwelling's curtilage that are used in association with the enjoyment of the residential use of the property*'. Whilst the proposal seeks consent for a triple domestic garage and storage facilities associated with the residential use of the property at No 36 Albyn Place, the resulting building would be remote from and function independently of that dwelling's curtilage, and its intended use would have no formal connection with the residential use of the property.

The proposed development is unacceptable in terms of its scale/form and its impact, including on the historic environment, with the application site forming the original curtilage of the listed buildings of No's 35 and 36 Albyn Place and lying within the Albyn Place and Rubislaw Conservation Area. The development as proposed would require removal of a boundary wall which forms part of the formal listing and with the resulting triple garage straddling the rear curtilages of No's 35 and 36 Albyn Place, the loss of established and historic feu boundaries which are a key characteristic of the conservation area, as outlined within the Council's Albyn Place and Rubislaw Conservation Area Character Appraisal. Such loss would cause harm to the character of the conservation area, thereby directly conflicting with the expectations of Policy 7 (Historic Assts and Places) of NPF4, Policies D6 (Historic Environment) and D7 (Our Granite Heritage) of the ALDP, with Historic Environment Policy for Scotland (HEPS) and Historic Environment Scotland's Managing Change in the Historic Environment Guidance (MCHE) on Boundaries and Demolition.

Taking account of the scale and form of the proposed triple garage, it is not apparent that the reconstruction of the existing buildings would in fact be achievable, given their current status and different material construction, and with one of the garages having been the subject over two years ago now of a Dangerous Building Notice which resulted in its partial demolition. With this in mind and whilst acknowledging that the proposed development in its current format would support the re-use of the vacant garage buildings, thereby addressing the expectations of Policy 9 (Brownfield, Vacant and Derelict Land and Empty Building) of National Planning Framework 4 (NPF4), compliance with Policy 9 would however fail in the event of the proposed development involving demolition work and substantial rebuild.

The scale and form of the proposed development would appear particularly dominant within the streetscape in the context of its intended use as a domestic garage, and notably a resulting floorspace over the two floors which would be equivalent to that of a sizeable dwellinghouse. The proposed design would introduce additional height and massing to the ancillary building, including the incorporation of an external stairs with box dormer to the upper floor which would allow for access independent of the garage accommodation, with these aspects being in clear conflict with the requirements of the Council's Aberdeen Planning Guidance on Householder Development Guide.

Taking the above into account the proposal would not suitably address the expectations of Policies 14 (Design, Quality and Place) and 7 (Historic Assts and Places) of NPF4, or Policies D1 (Quality Placemaking), D6 (Historic Environment) and D7 (Our Granite Heritage) of the ALDP, along with the associated Aberdeen Planning Guidance on Development Along Lanes and Householder Development Guide, and would also fail to address the expectations of Historic Environment Policy

for Scotland (HEPS) and Historic Environment Scotland's Managing Change in the Historic Environment Guidance (MCHE) on Boundaries and Demolition.

Whilst the proposed development does not raise road safety concerns, the additional vehicle parking which it would deliver would further breach the maximum parking standards of 3 off-street parking spaces relative to the 4 bedroom dwelling at 36 Albyn Place. The proposal would result in a total of 9 parking spaces for this single domestic property. It would therefore not only fail to address the requirements of Policy T2 (Parking) of the ALDP and the associated Aberdeen Planning Guidance on Transport and Accessibility, but would also be contrary to the expectations of Policy 13 (Sustainable Transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP in that it would not encourage the use of sustainable modes of transport.

In terms of the current proposal, where the demolition work identified relative to the existing garage buildings would appear to be relatively limited, then the resulting re-use of embodied energy would deliver a more sustainable option than that of constructing a new garage, including on a brownfield site. However, regardless of the scale of demolition work required, the proposal, by its very nature would encourage more car use and therefore would conflict with the expectations of Policies 1 (Tackling the Climate and Nature Crises) and 2 (Climate Mitigation and Adaptation) of NPF4. Whilst offering limited opportunity for biodiversity gain and therefore resulting in some tension with Policy 3 of NPF4, this in itself does not raise any significant concern with the proposal.

Statement in Response to Planning Appeal Ref LRB/P24146 Change of use of Commercial garage to form triple domestic garage with upper floor store and external access, , 36 Albyn Place, Aberdeen AB10 1YF

With reference to the Report of Handling lodged in response to the abovementioned application for Local Review and would take this opportunity to make the following comments.

We note the Report of Handling is watermarked DRAFT; however, we assume this is an error and have considered this version as the final statement.

It is agreed with the Planning Service that the key determining factors are as follows:

- Intended use of the ancillary building
- Reconstruction and the resultant impact on its historic nature
- Scale form of the proposed garage and its impact on the historic character.

Background

The application subject to the application for review relates to an application for full planning permission for the change of use of a commercial garage to form triple domestic garage with upper floor store and external access at 36 Albyn Place, Aberdeen (241416/DPP). A concurrent appeal for listed building consent (241415/LBC) is currently pending with the Directorate of Planning and Environmental Appeals.

With a change in working practices and a downturn in the commercial market in Aberdeen, and the availability of purpose-built office accommodation, there has been a reduced demand for office space within the traditional granite villas within the West End, as a result many former offices are now returning to their original residential use. This is the case at No.36 with recent planning consent for the change of use from commercial offices to residential use approved July 2020, Ref 220733/DPP. As part of this change the appellants, who reside at 36 Albyn Place and have undertaken considerable sympathetic works to return the property to its original form, are looking to make best use of the ancillary structures within their ownership creating secure parking and allowing the provision of an electric car charging point. This is of particular significance as there has been recent acts of deliberate fire raising in Aberdeen which has sadly seen a vehicle within the immediate area set alight.

The site subject of appeal relates to two semi derelict garages located to the rear of 35/36 Albyn Place which take access from Albyn Lane. The original villas were constructed in the mid nineteenth century with the garages added later. This is demonstrated by the OS map of 1923/24 which indicates only the garage at 36. The appeal site sits to the rear of the Albyn Place and is unseen from the main public view.

The garages are in very poor condition, with part of the garage to the east, No. 35, partially demolished as part of a Dangerous Buildings Notice Ref E22022 dated 15th December 2022. The garage structures have been variously altered over the years with a corrugated roof installed,

modern steel concertina door and part render finish. The buildings are in a dilapidated state and are an eyesore in the immediate area. Without some sort of intervention, it is likely the buildings will continue to degrade to a point where they are beyond any possible repair.

The wider Albyn Lane and Lanes area of the West End currently accommodate a wide variety of modern and traditional ancillary structures, ranging from single storey, 1 ½ storey and 2 storey, finished in a range of materials and include residential properties, garages, stores, commercial uses etc. Some examples are provided in Appendix 3 and can be viewed on a site visit. It is fair to say that the north side of the lane, where the appeal site is located, includes a range of older and new commercial and residential properties, many of which are two storey. Indeed, it is this variety which contributes to the overall character of the Lanes area.

The current proposal is for the continued use of the garage by the occupants of No.36 providing secure off-street parking and an EV point. The current proposal is for the reconstruction of the garages to create a 3-bay garage, please refer to the submitted plans. 2854-PG01-A & 2854-PG02-A. The three remaining walls of the original garage structure will be retained and incorporated into the new garage building. If there is any concern with regard to the structural integrity of the existing walls, the walls will be carefully removed and reconstructed in the exact location of the original walls and finished in render as per the drawings. It was confirmed to the Planning officer during a previous Planning approval 221477/DPP that remaining granite from the window cut down would remain on site and be reused in the repair of the garage. The boundary wall between the garages, which is currently unseen from public view, will be removed with the remainder of the granite rubble wall which divides the feu, which extends to some 64m, retained. The proposed gable frontage of the garage mirrors the existing gable frontage providing continuity in the rebuild. The proposed pitch of 50 degrees, only a 3 degree increase on the existing roof pitch of 47 degrees which would not be perceptible when viewed on site. The roof height has been marginally increased however, it has been designed to be lower than the immediate neighbouring property on the lane. The garages will provide a 3 bay garage and will include an EV charging point. The upper floor will be used for storage only, if there is any concern the use of this element can be restricted through an appropriate worded condition.

Considering the agreed determining factors:

- Intended use of the ancillary building

The garages originally formed part of the properties at 35/36 Albyn Place when they were first constructed and used in association with the villas when residential homes. When the properties were used as commercial offices the garages were used in association with that use. The appellants purchased the then vacant office in November 2023 with the garages forming part of that sale. Therefore, it is clear that the garages have been used in association with the properties at No.35/36 regardless of the use of these buildings.

A planning application for the change of use of 36 Albyn Place from office to residential homes was approved in July 2022, Ref 220733/DPP. At that time the Report of Handling recognised that the area had seen a rise in the number of offices lying vacant, largely as a result of the downturn in the oil

industry and an increase in the availability of purpose-built office accommodation elsewhere in the city. The change is reflected in the Council's vision for the West End Office Area, with Policy VC6 (West End Area) of the Aberdeen Local Development Plan now having a stronger focus on supporting a mix of uses. When no longer required for a commercial purpose, allowing these historic properties to revert to their original residential use supports fabric of the buildings and vibrancy of the wider area. Further, in allowing this change of use, it is only reasonable to allow the ancillary structures associated with the villa, in this case the garages , to also change their use in line with the main house.

The current proposal relates directly to this change, with No.36 now a residential property it is logical that the residents will seek to use the garages as ancillary to their homes. The appellant and his family looking to make best use of the ancillary buildings within their ownership while creating secure parking and an EV charger assorted with their house.

It is important to recognise that fundamentally nothing will change, the garages are within the ownership of No.36, whether this is a commercial use or now, a residential use. The garages originally formed part of the residential property. The Report of Handling asserts that the garages are "remote and function independently" from the house at No.36, this is clearly not the case. The application seeks a change of use from commercial to domestic specifically related to the property at No.36. While there is a small car park lying between the two sites there is nothing to prevent the garage and house being used in association with each other.

The Aberdeen Housing Holder Development guide provides guidance on a range of extensions and alterations associated with homes and relates to structures within a curtilage. However, there is nothing to hinder an ancillary building associated with a residential property being separate from the curtilage for example domestic garages or lock ups are commonplace in urban areas, these provide garage and storage facilities separate from the curtilage, such as this case.

The background to Policy V6 West End confirms the policy is to "encourage and promote the continual development of this area as a focus for a mix of uses including residential."

Policy V6 states

"The West End Area (as shown on the Proposals Map) comprises a mix of uses including residential, business (Class 4), food and drink (Class 3) and other commercial uses. In this area, the principle of change of use from office to residential will be supported. Applications for all development, including changes of use, must take into account existing uses and avoid undue conflict with the adjacent land uses and amenity."

In the current circumstance, the return to a domestic use of the garage which originally formed part of the residential properties will have a positive impact on the surrounding area making best use of existing buildings, supporting the use of 36 Albyn Place as a home by providing safe secure parking and an EV charging point, there is no conflict with the adjacent land uses and therefore the use of the garages for a domestic purpose associated with No.36 as a residential property supports Policy V6.

- Scale form of the proposed garage and its impact on the historic character and reconstruction and the resultant impact on its historic nature

These matters are interlinked and will be considered together. 35 and 36 Albyn Place are designated Category C listed. Historic Environment Scotland's listing description for 36 Albyn Place provides a helpful factual description of the properties and includes mention of the 4-bay double villas with Italianate detailing making mention of the gate piers and boundary walls to the north. There is no mention of the garages.

The Statement of Special Interest provided alongside the list description confirms the importance of the villas as part of the wider street scheme with the gates and walls to the north of the villas and the Italianate detailing being of interest. Again, no mention is made of the garages. All the elements of special interest are to the front of the main villas, none of these features are seen from the rear. As a result, the proposed reconstruction of the garages have no impact on any of the historic features of special interest.

The site subject of appeal is also included within the Albyn Place/Rubislaw Conservation Area. No 36 Albyn Place is located in character Area B of the Conservation Area (Queen's Road and the south side of Albyn Place). Albyn Place is described as having been developed as a set of high-quality houses set within their own large back gardens. However, while the Appraisal identifies a number of exemplar or particularly significant buildings in the area, 36 Albyn Place is not one of these.

The Appraisal then goes on to describe the area within which 36 Albyn Place is located as having experienced many changes in back garden areas referring to the rear lanes being used for access. The Appraisal goes on to recognise that there have been a number of back lane developments of existing coach houses or the creation of new premises. These have typically taken the form of two storey developments which are usually accessed from Albyn Lane. Within the conservation area, the use of granite predominates, both ashlar and course, with the roof generally slate. Within Albyn Place, the back, lanes are characterised by wall /garage/features, with the diversity of buildings seen as a strength within the area.

Albyn Lane runs the full length of Albyn Place and includes a number of modern additions and alterations, particularly to the north of the lane, most notably, to the east No.34 includes a mews type house constructed on the heel of the pavement and includes dormer windows. No.32 and No.30 are small infill housing developments. As demonstrated in Appendix 3 there are a wide variety of buildings and garages within the lanes areas, there are of a variety of ages, uses, scale, design and finishings, however these all, in their own way contribute to the character of the area. While all development is considered on their individual merits, structures developments demonstrate the evolving nature of the area which has not detracted from the quality or historic character of the surrounding area.

The proposed development is for the reconstruction of the garages. The existing built form will be respected while making best use of the land providing secure parking, an EV charger and storage for

the residents of the main house. The design has been carefully considered, it is of a modest scale and reflects the established layout of the site and surrounding area. The building will be finished with reclaimed granite to the south/public elevation with the remaining elevations finished in a wet dash. The roof will be finished in natural slate with conservation style rainwater detailing. Conservation area velux will be included in the south, east and west elevations. The building, which is to the rear of the houses, will not impact on the character or appearance of the of the main house, Albyn Place or any of the features of special interest. The development is of a size and form which is in keeping with the lane, it is of smaller scale, with a roof ridge similar to the existing garage structure which has a lower roof than adjacent house. As a result, the proposed design will ensure the special architectural and historic interest of the main building and surrounding area will be preserved, indeed the reconstruction of the semi derelict garages will bring a positive contribution to the amenity of the area.

Considering the relevant policies and advice of relevance to the current proposal.

National Planning Framework 4

Provides several spatial principles, of relevance to the current proposal are:

- Conserving and recycling assets - The proposal makes productive use of an existing buildings and allows the provision of a secure EV charger.
- Local living - The small development supports the reuse of the main villa back to the original residential use, providing safe and secure parking within an area which has experienced anti-social behaviour.

The current proposal fully aligns with these spatial principles as it will result in the reuse of existing garages within the settlement boundary.

The development further meets the tests of successful places in that

- **Healthy:** Provides safe and secure parking for the residents.
- **Distinctive** – the proposed design responds to the site context, being of high-quality design and materials, complementing those of the existing streetscape and reinforcing the established pattern of development while having no adverse impact on important views,
- **Pleasant** – Reconstructs an unsightly and semi derelict building, making a positive impact on the adjoining uses, while not resulting in any invasion of privacy or overshadowing. Providing secure parking for the residents in an area which has been the subject of vandalism and anti-social behaviour
- **Connected:** Makes best use of a land and buildings in an urban location
- **Sustainable:** Represents the efficient use of land and buildings while allowing the provision of a secure EV charger in an area on the edge of the Aberdeen City LEZ.
- **Adaptable:** Provides adaptable ancillary accommodation for the main house.

Policy 7 Historic assets and Places

Policy Intent: To protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.

Policy Outcomes:

- The historic environment is valued, protected, and enhanced, supporting the transition to net zero and ensuring assets are resilient to current and future impacts of climate change.
- Redundant or neglected historic buildings are brought back into sustainable and productive uses.
- Recognise the social, environmental and economic value of the historic environment, to our economy and cultural identity.

Policy 7 (c) Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest

Response: In the current circumstances it is submitted that the garages which are currently in poor condition are an eye sore in the immediate area. The garages, which are a later addition and are of no special interest, have been significantly altered over the years. The garages are set some distance from the rear of the main villas and will not have any impact on the historic character of the houses or any feature of special interest.

The proposed development will result in redundant and neglected buildings being brought back into a productive use, which in turn supports the return to the original residential use of the main villa at No. 36 Albyn Place. The proposed garage will include an EV charger which supports the transition to net zero. The reconstruction of the garage will retain as much of the original walls as possible, with the side and rear walls retained. Much of the front facing wall facing the lane has already been removed due to damage with the opening of the large concertina doors, this will be reduced and finished with reclaimed granite. The building has been designed to respect the scale and form of the original garages. The proposed garage will be subservient in form to the main house while maintaining a similar form and scale to the built form in the immediate area, including the neighbouring property.

Therefore, it is submitted that proposal achieves the Policy outcomes as it will bring back into a productive use a neglected building, in turn this will make a positive contribution to the wider area. The proposed building has been designed to respect the buildings of special interest while preserving the character and setting of the area. Finally, the reuse of the garages supports the recent change of use of No.36 back to a residential use, which in turn helps support the vibrancy of the West End.

Therefore, the proposal complies with Policy 7.

Policy (Brownfield Development, Vacant and Derelict Land and Empty Buildings)

Policy Intent is stated as “To encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.’

Policy 9(a) supports development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported.

Response: Clearly, the reuse of the existing garages bringing the buildings back into a productive use complies with Policy 9.

Therefore, it is submitted that the proposal complies with the spatial principles and relevant policies of NPF4.

Historic Environment Policy Scotland

Provides a policy statement which directs decision-making that affects the historic environment looking to ensure that changes to specific assets and their context are managed in a way that protects the historic environment.

HEP1 Decisions affecting any part of the historic environment should be informed by an inclusive understanding of its breath and cultural significance.

HEP4 Changes to specific assets and their context should be managed in a way that protects the historic environment. Opportunities for enhancement should be identified where appropriate.

HEP5 Confirms that decisions affecting the Historic Environment should contribute to the sustainable development of communities and place.

A core principle of SHEP recognises that change is inevitable, and change is necessary for places to thrive.

Manging Change in the Historic Environment- Demolition of Listed Buildings.

The definition of demolition being provided as “total or substantial loss of a listed building”. It is submitted that the current building will be demolition of the of the garages rather the reconstruction of the structures. However, in considering this advice the following matters have been considered:

- Is the building no longer of special interest?

Response - from a review of the list description and the Statement of Special Interest, it is clear that the main villa along with the Italianate detailing and the gate piers and boundary walls to

the north are the features of special historic interest. The garages subject of the current appeal, which are later additions, are set to the rear of the main buildings as a result the proposed reconstructed garage will not impact these historic features.

The garages are clearly in very poor condition, as demonstrated by the dangerous building notice Ref E22022 which resulted in part of the garage structure being removed. The garages have been much altered over the years with raised gables, corrugated roof installed, modern steel concertina door installed and render finish over a mixture of materials including granite, brick & concrete block work. Part of the east section of the building has been substantially removed including the roof for safety reasons.

There is no specific mention of the garages in the list description or the Statement of Special Interest, this may be due to the fact that they are later additions. Therefore, it is submitted that the garages are of no special interest.

- Is the building capable of meaningful repair?

Response: It is submitted that the current proposal represents the meaningful repair, with the remaining external walls retained, the built form maintained, and a new structurally sound building constructed.

In the current circumstances the granite villas at 35/36 Albyn Place are of considerable historic interest within the street and contribute to the conservation area. The garages subject of the appeal lie to the rear of Albyn Place and are unseen from main public view. The proposed replacement garage will front onto the service lane, will be of subservient scale while maintaining a similar form and profile to existing structures along the lane, which helps to reinforce the established built form. The reuse of the structure will provide safe and secure parking allowing an EV charger to be provided for the residents resulting in an active use for the building which in turn contributes to sustainable development, supporting the return of the main villa to its original residential use.

Therefore, while total demolition is not proposed, it is submitted that the proposal complies with the advice of HES in that what remains of the original structure will be reused creating a new garage structure which reflects the use, built form, scale and nature of the lane and the existing ancillary buildings which face onto the lane. The proposed garage will not harm the character or appearance of the listed building or the conservation area as it is set some distance from the main house and is away from main public view. The reconstructed garage will continue to be subservient in scale and maintains a similar form and profile to the existing garages on site which in turn will reinforce the built form within the lanes. Indeed, it is submitted that the reconstruction of the garages will have a positive impact on the area with the removal of unsightly dilapidated buildings.

Aberdeen City Local Development Plan

Policy D6 Historic Environment requires that

“Development must protect, preserve and enhance Aberdeen’s historic environment, including its historic fabric.

There will be a presumption in favour of the retention and appropriate reuse of historic environment, historic assets, and heritage assets that contribute positively to Aberdeen's character."

It is submitted that the proposed reconstructed garages are compatible with the existing villa and the existing ancillary properties which currently face onto Albyn Lane. The scale, massing and materials are similar to those in the immediate area. The palette of materials reflects the surrounding area and includes the reuse of the existing granite on the main elevation, the variety of materials assists in reducing the massing to the street.

The renovation will bring a net improvement to the lane with the removal of an unsightly dilapidated buildings, allowing new secure parking associated with the main villa which has recently been converted back to a residential use, which in turn supports the vitality of the wider area.

As demonstrated in Appendix 3 there are a wide variety of garages within the lanes areas, these demonstrate a variety of age, use, scale, design and finishings, however all, in their own way, contribute to the character of the area. The previous alterations and infill developments demonstrate the evolving nature of the area which has not detracted from the quality or historic character of the surrounding area.

Therefore, overall, it is submitted that the proposal will preserve and enhance Aberdeen's historic environment and therefore complies with Policy D6.

Policy 7 Our Granite Heritage requires that

"The retention and appropriate re-use, conversion and adaption of all historic granite buildings, structures and features, including setted streets, granite kerbs and granite boundary walls.

Proposals to demolish any granite building, structure or feature, partially or completely, will not normally be granted planning permission, conservation area consent or listed building consent.

Any listed building; structure or feature in the curtilage of a listed building; or any unlisted building, structure or feature in a Conservation Area, may only be demolished where:

- evidence is provided to demonstrate that every effort has been made to retain it, and:
- It is no longer of special interest or cultural significance; or
- It is incapable of meaningful repair; or it can be demonstrated the demolition is essential to delivering significant benefits to economic growth or the wider community; or
- Its repair and reuse is not economically viable and that it has been marketed in an open and transparent manner.

To be clear, the current application is for the reconstruction of the garages. In their current form the buildings are of no special interest, the garages are in a very poor condition, with part of the building having been removed for health and safety reasons. The buildings have been altered over

the years with little of the original structure remaining. The garages are of no special interest or cultural significance.

The proposal will result in the meaningful repair with the reconstruction of the garages on the same site. The remaining walls will be reused with new garage structure built which replicates the form and character of the existing garages. Care has been taken with the design to ensure no detrimental impact on the surrounding area. The resultant garage will be of a form, scale and design appropriate to the lanes location, being subservient to the main villa and of similar scale to the neighbouring buildings. It was confirmed to the Planning officer during a previous Planning approval 221477/DPP that remaining granite from the window cut down would remain on site and be reused in the repair of the garage.

In terms of the loss of a small part of the feu boundaries, it should be recognised that there are many examples in the surrounding streets where the historic feu has been amended in order to allow new development examples can be seen at:

- No 2 Albyn Place
- No 26 Albyn Place
- No 31 / 32 Albyn Place
- Albyn Hospital No 21 Albyn Place
- Albyn School 17 – 23 Queens Road
- No 40 Queens Road
- Malmaison Hotel 49 – 53 Queens Road
- Chester Hotel 55 – 63 Queens Road
- No 68 Queens Road
- No 80 Queens Road

As confirmed by SHEP, change is inevitable, these earlier changes have not had a significant impact on the quality of the historic environment. The vast majority of the feu will be retained, only a small part, already unseen, will be removed. At any point in the future, if appropriate this can be reinstated. A marking could be made within the garage floor as a record to show the location of the hidden wall.

Therefore, it is submitted that the proposal complies with Policy D7.

Development Along Lanes, A Technical Advice Note

This document provides advice to those looking to develop in the lanes, by implication recognising that development is appropriate.

Para 1.4.5 acknowledges that while residential use might be more suited, other uses are also acceptable. In the current circumstances the garages will be returned to a residential use, therefore the principle of the domestic garage is supported. The advice recommends a number of steps in

bringing forward plans to develop within the lanes, these have been adhered to by the appellants architect and include,

- Step 1. Find out what was there before - in the current circumstances we know what is on site currently, the proposal is to reconstruct the shape, form and use of the existing structures.
- Step 2. Record and evaluate - The design has been carefully developed to reflect the garages currently on site and the neighbouring property. The existing garage walls will be reconstructed with the front/public elevation finished with reclaimed granite with the remaining elevations finished in a wet dash. The current 2.6m high concertina door will be reduced down to a 2.25m high door. The current ceiling height of 2.9m will be reduced down to 2.8m. The roof will be finished in natural slate with conservation style rainwater detailing. Conservation area velux will be included in the south, east and west elevations. The proposed stair will be unseen from public view. The building, which is to the rear of the houses, will not impact on the character or appearance of the of the main house, Albyn Place or any of the features of special interest. The development is of a size and form which is in keeping with the lane, it is of smaller scale, with a roof ridge similar to the existing garage structure which is lower roof than adjacent house. As a result, the proposed design will ensure the special architectural and historic interest of the main building and surrounding area will be preserved
- Step 3. Window to Window distances - there is no issue of overlooking or loss of privacy or amenity for neighbouring properties.
- Step 4. Amenity - the proposal is for the continued use of the site for a garage and therefore no issue of amenity.
- Step 5. How Accessible is the proposed site - there are no issues with accessibility.
- Step 6. Built Form - As stated the built form reconstructs the existing buildings.

Therefore, it is submitted that the proposal follows the advice provided by the Development in Lanes.

The Report of Handling further refers to guidance on Householder Development, this notes that garages are “traditionally” single storey, however, goes on to confirm that an additional storey can be accommodated. The proposed garage does not include dormer windows, rather conservation style velux are proposed. The access to the upper floor is from an external stair, however again this is unseen from public view and will have no impact on the overall appearance of the garage. In addition, there are examples of external stairs within the immediate vicinity of the application site external access stairs can be viewed to the rear of 33, 35 & 36 Albyn Place and 80/82 & 84/86 Stanley Street.

The reconstructed garage has been designed with care, it remains subordinate to the main villa at No.36, the building looks to replicate the developments within the immediate area and gives the appearance of a single storey building, while the access is external, this is unseen from public view. The scale and design reflect the neighbouring building, although it must be appreciated that the area includes a range of building types and designs. The reconstruction will have a positive impact on the immediate area, by removing an existing semi derelict building which has become an eye sore.

Therefore, on balance the proposal complies with the guidance provided by The Householder Development Guide.

Transport and Parking

There is no objection from the Roads Development Management Team to the proposal.

As stated the site is currently garages, this use will continue and as such the site will not create any additional parking. The existing house is well placed for active travel routes. The proposed garage will allow for the provision of a secure EV charger and therefore supports sustainable transport.

Albyn Place and Rubislaw Conservation Area.

The appeal site sits within the Albyn Place/Rubislaw Conservation Area. The Conservation Area Appraisal makes reference to the rear lanes being used for access. The Appraisal recognises that there have been a number of back lane developments of existing coach houses or the creating of new premises. These have typically taken the form of two storey developments which are usually accessed from Albyn Lane.

Within the conservation area, the use of granite predominates, both ashlar and course, with the roof generally slate. Within Albyn Place, the back lanes are characterised by wall /garage/features, with the diversity of buildings seen as a strength within the area.

Within Albyn Lane there have been a number of alterations and extensions, and infill development, particularly to the north of the lane. The current proposal will continue the scale, nature and form of buildings within the rear lane. While the reuse of the dilapidated building will bring a net environmental and visual improvement to the area.

Response to Comments in The Supporting Statement

The current non determination appeal was lodged in frustration at the lack of progress with the planning application. The application was lodged on the 4th of December 2024, despite numerous telephone calls, which went unanswered and additional email requests to the Planning officer no progress had been made. While the pressures in the Planning Service are appreciated, in this instance the allocated Planning officer knows the property well having been involved in ten planning applications from 2022 to date. All applicants must have a reasonable expectation that an application will be dealt with efficiently and within reasonable a timeframe. Further frustration was felt by the applicant when in an email reply from the Planning officer dated 20th January 2025 noted that she would not discuss any matters of the application until such time as she had received Roads Department comments, the online portal notes that the Roads Department had issued their response a month earlier on the 20th December and had no comments or objections to the proposal.

With regards comments related to vandalism, deliberate fire raising was experienced in the area with a vehicle set alight on Albert Street. The Council describes this as one incident which is not in close proximity. For clarity Albert Street is a short walk to Albyn Lane, approx. 400m distance. The vehicle was parked in an open office car park similar to the surrounding area of the application site. The Police Scotland report for The Queens Cross and Harlaw Community Council confirms 21 crimes were recorded in the area in February 2025, increasing to 34 crimes recorded in March 2025, please refer to Appendix 1 and 2. These included anti-social behaviour, vandalism and an attempted theft of a vehicle from Albyn Grove. This information has been included to demonstrate the need for residents to have safe and secure parking associated with their home.

The Planning Service have commented that there are parking spaces to the front of the house. With respect this is a busy main road with significant road and pedestrian traffic passing at all hours. The appellant owns high value cars for which he requires secure parking. This is not an unreasonable aspiration. Council policy encourages the mixed-use nature of the area, to encourage residents to live in the city centre ancillary facilities, such as secure parking, must be provided.

In terms of the proposed reconstruction, the appellant will make every effort to retain the existing walls and is confident this can be achieved. However, if it is not possible careful removal and rebuild will be undertaken. Again, this demonstrates the appellants commitment to a high-quality development which respects the surrounding area.

Precedent, all planning applications are considered on their own merit. Any possible issue of cumulative impact will be assessed as and when individual planning applications are considered.

Conclusion

At present the existing garages are in a very poor condition, with the eastern garage already partially demolished due to health and safety concerns. The existing garages which are a later addition to the properties at 35/36 Albyn Place are not mentioned in the list description or the Statement of Special Interest. The garages have been much altered over the years and as a result they are of little if any special interest. The reconstructed garage has been designed to be subservient in scale while maintaining a similar form and profile to the existing garages on site, this in turn will reinforce the built form within the lanes. The garages are located to the rear of Albyn Place, set some distance from the main villas, and are substantially unseen from main public view and as a result will not impact any feature of special architectural or historic interest.

The proposed change of use will, in effect, maintain the status quo, the garages remain associated with the main villas at No.36/35 regardless of use. The reuse and reconstruction of the garage is proposed as part of the wider reuse of No.36 returning the property to its original residential function, this use is supported by Aberdeen City Council ensuring the vibrancy of the West End. The residents are looking to make best use of the ancillary structures within their ownership allowing the residents to benefit from safe and secure parking. The proposed garage will include an EV charger which supports the transition to net zero, which supports the wider goals of the Scottish Government.

The proposed reconstructed garage will be architecturally compatible in design and scale with the original garages and the surrounding context. The garage will be similar in scale to the neighbouring house while remaining subservient to the original villa at No.36. The wider Albyn Lane and Lanes area of the West End currently accommodate a wide variety of modern and traditional ancillary structures, ranging from single storey, 1 ½ storey and 2 storey, finished in a range of materials and include residential properties, garages, stores, commercial uses etc. The north side of the lane, where the appeal site is located, includes a range of older and new commercial and residential properties, many of which are two storey. Indeed, it is this variety which contributes to the overall character of the Lanes area.

While the reconstruction will require some down taking, the external walls will be reconstructed with the original granite incorporated into the final build. Granite retained on site from previously approved house alterations will be reused within the proposal. The majority of the granite rubble boundary wall between the properties will be retained with only a small section, currently unseen from public view, removed. The garages are of little special interest given their current condition and the alterations and down takings which have occurred over the years, in fact the dilapidated buildings are an eyesore and detract from the area. As a result, the proposal will bring a net improvement while supporting the main villa at No 36 to a return to a residential use.

The proposed reconstruction of the garages will preserve the historic character of the area. The proposal has no detrimental impact on the character or environmental quality of the listed building or surrounding conservation area by virtue of size, design and materials and is considered to comply with the relevant policies of National Planning Framework 4, Aberdeen Local Development Plan, including the various guidance and advice, Scottish Historic Environment Policy and as a result we respectfully request that the appeal is upheld and planning consent granted.

Appendix 1 Police Scotland report for The Queens Cross and Harlaw Community Council Feb 2025

Appendix 2 Police Scotland report for The Queens Cross and Harlaw Community Council March 2025

Appendix 3 Examples of garages within the Lanes of Conservation Area



Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100693796-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- ☒ Application for planning permission (including changes of use and surface mineral working).
- ☐ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Refurbishment of Garages and change of use from commercial to domestic

Is this a temporary permission? *

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

☐ Yes ☒ No

Has the work already been started and/or completed? *

☒ No ☐ Yes – Started ☐ Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ken Mathieson Architectural Design Ltd		
Ref. Number:	2854	You must enter a Building Name or Number, or both: *	
First Name: *	Stuart	Building Name:	Mansard House
Last Name: *	Mathieson	Building Number:	15
Telephone Number: *	01224 710357	Address 1 (Street): *	Oldmeldrum Road
Extension Number:		Address 2:	Bucksburn
Mobile Number:		Town/City: *	Aberdeen
Fax Number:		Country: *	Scotland
		Postcode: *	AB21 9AD
Email Address: *	stuart@kenmathieson.com		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	P	Building Number:	36
Last Name: *	Webb	Address 1 (Street): *	Albyn Place
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Aberdeen
Extension Number:		Country: *	Scotland
Mobile Number:	07436545039	Postcode: *	AB10 1YF
Fax Number:			
Email Address: *	stuart@kenmathieson.com		

Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

36 Albyn Place Aberdeen AB10 1YF

Northing

805699

Easting

392606

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

108.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

mixed commercial parking and dilapidated former garage

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

☒ Yes ☐ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>	
<p>How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?</p>	<div style="border: 1px solid black; padding: 2px 10px;">3</div>
<p>How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *</p>	<div style="border: 1px solid black; padding: 2px 10px;">3</div>
<p>Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).</p>	
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2>	
<p>Will your proposal require new or altered water supply or drainage arrangements? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>Do your proposals make provision for sustainable drainage of surface water?? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>	
<p>Are you proposing to connect to the public water supply network? *</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input checked="" type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>	
<h2 style="margin: 0;">Assessment of Flood Risk</h2>	
<p>Is the site within an area of known risk of flooding? * <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p>	
<h2 style="margin: 0;">Trees</h2>	
<p>Are there any trees on or adjacent to the application site? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>	
<h2 style="margin: 0;">Waste Storage and Collection</h2>	
<p>Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

If Yes or No, please provide further details: * (Max 500 characters)

not required for this application

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

☐ Yes ☒ No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

☐ Yes ☒ No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *

☐ Yes ☐ No ☒ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

☐ Yes ☒ No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

☒ Yes ☐ No

Is any of the land part of an agricultural holding? *

☐ Yes ☒ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Stuart Mathieson

On behalf of: Mr P Webb

Date: 04/12/2024

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- ☒ Site Layout Plan or Block plan.
- ☒ Elevations.
- ☒ Floor plans.
- ☒ Cross sections.
- ☒ Roof plan.
- ☐ Master Plan/Framework Plan.
- ☐ Landscape plan.
- ☒ Photographs and/or photomontages.
- ☐ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. *

☒ Yes ☐ N/A

A Flood Risk Assessment. *

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

☐ Yes ☒ N/A

Drainage/SUDS layout. *

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. *

☐ Yes ☒ N/A

Habitat Survey. *

☐ Yes ☒ N/A

A Processing Agreement. *

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Stuart Mathieson

Declaration Date: 04/12/2024

Payment Details

Pay Direct

Created: 04/12/2024 10:49

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Consultee Comments for Planning Application 241416/DPP

Application Summary

Application Number: 241416/DPP

Address: 36 Albyn Place Aberdeen AB10 1YF

Proposal: Change of use and reconstruction of existing commercial garages to form triple domestic garage with upper floor store and external stair access

Case Officer: Jane Forbes

Consultee Details

Name: Mr Michael Cowie

Address: Aberdeen City Council, Marischal College, Broad Street, Aberdeen AB10 1AB

Email: Not Available

On Behalf Of: ACC - Roads Development Management Team

Comments

It is noted this application for change of use and reconstruction of existing commercial garages to form triple domestic garage with upper floor store and external stair case at 36 Albyn Place, Aberdeen AB10 1YF.

It is confirmed that Roads Development Management have no objections to this application as the proposed shall effectively remain same use from a roads perspective, retain the same footprint and the visibility of both accesses on either side of the site shall remain as existing (i.e. no worsening). Furthermore, it is noted and confirmed that the proposed meets necessary dimensions in terms of internal width, depth and entrance way.

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Application 241416/DPP: 36 Albyn Place

Development Plan

National Planning Framework 4

[Supporting documents - National Planning Framework 4: revised draft - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents-national-planning-framework-4-revised-draft)

- 1. Tackling the climate and nature crises
- 2. Climate mitigation and adaptation
- 3. Biodiversity
- 4. Natural places
- 5. Soils
- 6. Forestry, woodland and trees
- 7. Historic assets and places
- 9. Brownfield, vacant and derelict land and empty buildings
- 13. Sustainable transport
- 14. Design, quality and place

Aberdeen Local Development Plan 2023

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

- D1 Quality Placemaking
- D6 Historic Environment
- D7 Our Granite Heritage
-
- VC6 West End Area
- T2 Sustainable Transport
- T3 Parking

Aberdeen Planning Guidance

[Aberdeen Planning Guidance \(APG\)](#)

- [Householder Development Guide](#)
- [Transport and Accessibility](#)
- Transport and Accessibility SG
- Development along lanes

Other National Policy and Guidance

Managing Change in the Historic Environment: Boundaries

Historic Environment Policy for Scotland (HEPS)

[Historic Environment Policy for Scotland | Historic Environment Scotland](#)

Other Material Considerations:

[Albyn Place and Rubislaw Conservation Area Character Appraisal](#)



Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100693796-005

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

≤ Applicant T Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Ken Mathieson Architectural Design Ltd"/>		
Ref. Number:	<input type="text" value="2854"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Stuart"/>	Building Name:	<input type="text" value="Mansard House"/>
Last Name: *	<input type="text" value="Mathieson"/>	Building Number:	<input type="text" value="15"/>
Telephone Number: *	<input type="text" value="01224 710357"/>	Address 1 (Street): *	<input type="text" value="Oldmeldrum Road"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Bucksburn"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="AB21 9AD"/>
Email Address: *	<input type="text" value="stuart@kenmathieson.com"/>		

Is the applicant an individual or an organisation/corporate entity? *

T Individual ≤ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="P"/>	Building Number: <input type="text" value="36"/>
Last Name: *	<input type="text" value="Webb"/>	Address 1 (Street): * <input type="text" value="Albyn Place"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text" value=""/>	Postcode: * <input type="text" value="AB10 1YF"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value=""/>	

Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="36 Albyn Place Aberdeen AB10 1YF"/>

Northings	<input type="text" value="805699"/>	Easting	<input type="text" value="392606"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use and reconstruction of existing commercial garages to form triple domestic garage with upper floor storage and external stair access.

Type of Application

What type of application did you submit to the planning authority? *

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☐ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Notice of Review supporting statement for full details

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Planning application form, Design Statement-Albyn Lane Garage, Drawings Ref: 2854-EX01-A, 2854-EX01-B, 2854-PG01-A, 2854-PG02-A, 2854-SP01-B, 2854-Notice of Review statement-241416-DPP

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

241416/DPP

What date was the application submitted to the planning authority? *

04/12/2024

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Stuart Mathieson

Declaration Date: 28/02/2025

Agent Reference: 2854

Applicant: Mr & Mrs P. Webb

Application Address: 36 Albyn Place, Aberdeen

Request for review of Planning application 241416/DPP for the Change of use and reconstruction of existing commercial garages to form triple domestic garage with upper floor storage and external stair access.

Statement to accompany the Notice of Review.

To read in conjunction with information previously supplied to Aberdeen City Council.

Introduction

This appeal has been prepared by Ken Mathieson Architectural Design Ltd on behalf of Mr & Mrs P. Webb to support the request for review under appeals against non-determination.

Site Description

The original building was constructed in 1840 with the side extension being added in 1884. Built as a dwelling the property combined use as a dwelling with surgery in 1942 and a residential ballet school from 1960. It was in 1969 that the property was to be used as an office building for Campbell Connors solicitors who were in occupation of the building until the applicant took possession in 2023.

The property is 183 years old and was a residence for 129 years. During the buildings lifetime it has never been vacant.

It is not known exactly when the gardens to the rear of No. 35 & 36 were formed into car parking but we can assume this was post 1942.

Separate vehicle access points to the rear car parks have been formed off Albyn Lane with modern boundary masonry walls to both No. 35 & 36.

The property is Class C listed jointly with the neighbouring property No. 35 Albyn Place and is located within the Albyn Place / Rubislaw Conservation area.

The application site is accessed at front from Albyn Place and rear from Albyn Lane. The applicant has ownership of the carpark to the rear accessed from Albyn Lane which includes the old coach house / garage. The carpark to the rear of No 35 Albyn Place, the coach house / garage of No 35 and the rear garden of No 35 are also owned by the applicant.

To the East of the application site is No 35 a vacant office building. To the West is No 37 which is operated as an office building with multiple tenants. The original building at No 37 remains facing Albyn Place and there has been an addition of large extension to the rear.

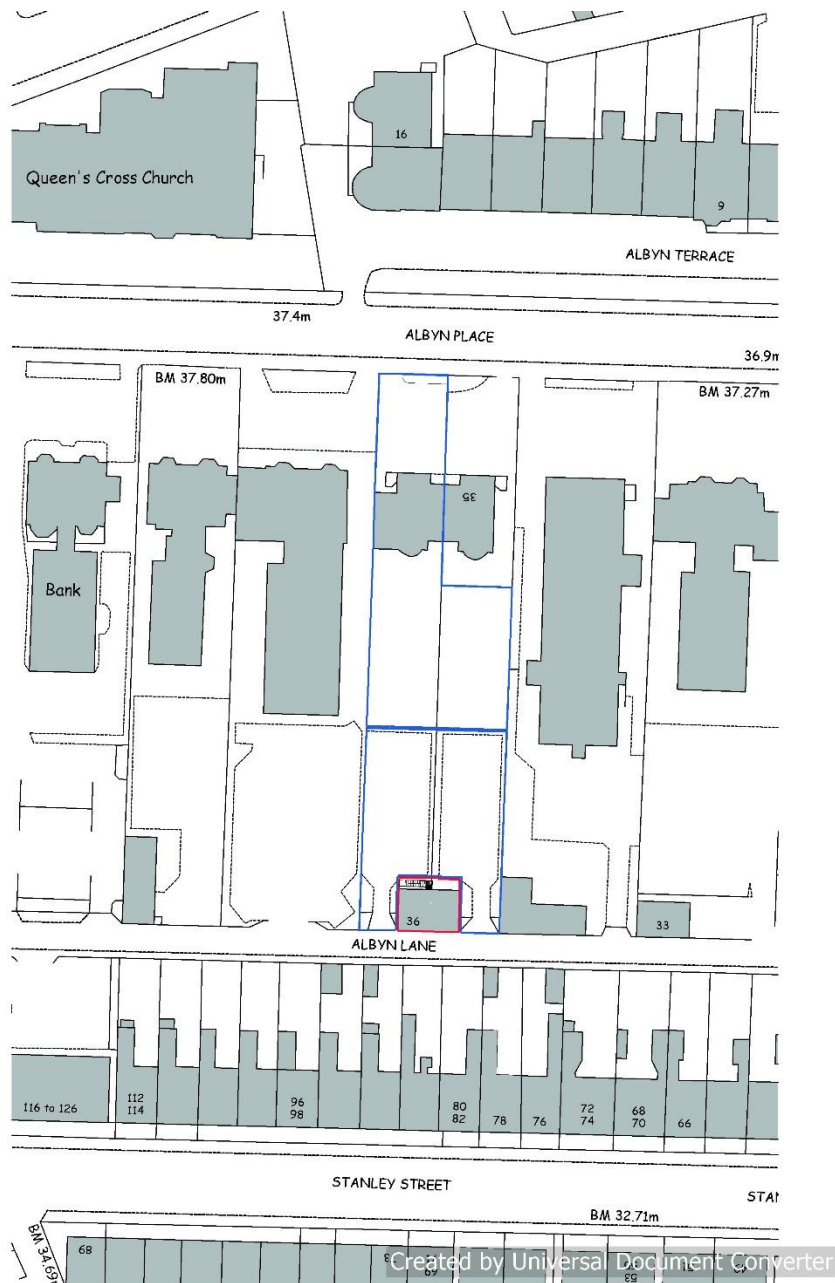


Photograph taken from Albyn Lane showing garage at 35 & 36 Albyn Place

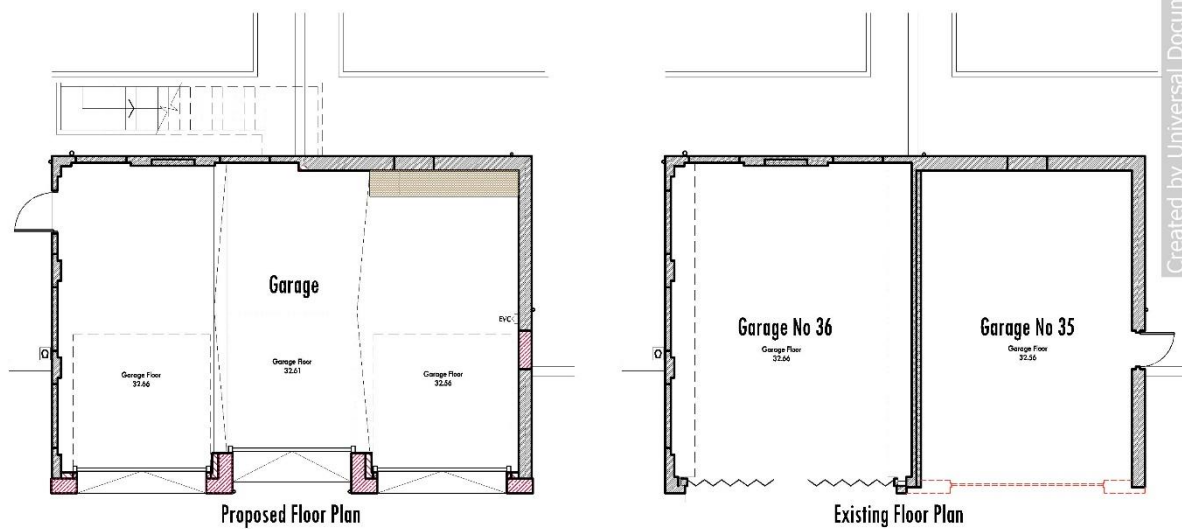
Proposal

The application seeks detailed planning permission for the change of use and reconstruction of existing commercial garages which were formally the garages to the main dwelling houses to take them back into residential use, create a triple garage within the existing footprint of the garages and create an upper store which would be accessed by an external stair in keeping with the numerous external stair access into buildings as can be seen from the application site.

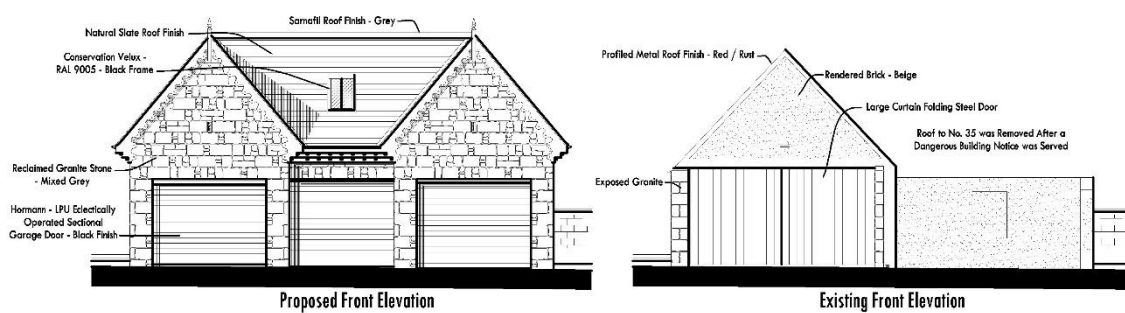
The property is to be reinstated back to domestic use and new roof constructed after a section of the roof fell into disrepair and was removed on safety grounds.



This Site plan shows the proposed rear external stair to the rear of the property in context to the surrounding area.



Drawing showing the Proposed & Existing Layout Plans side by side for comparison.



The above drawing shows the Proposed & Existing Front Elevations for comparison.

Reason for Appeal Review: 241416/DPP

The Planning Department have not provided a decision with the statutory determination date ending 4th February 2025.

Relevant Planning History

Planning Permission was Granted under reference 220733/DPP on 14/07/2022 for change of use from Class 2 (financial, professional and other services) to Class 9 (dwellinghouse).

Listed Building Consent was Granted under reference 221457/LBC on 17/05/2023 for erection of fence (rear); installation of railings & gate (front); replacement of rainwater goods to front and rear; associated internal works including removal of existing and installation of new partition.

Listed Building Consent was Granted under reference 221476/LBC on 24/05/2023 Installation of replacement windows, doors & rooflights.

Planning Permission was Granted under reference 221477/DPP on 16/05/2023 for the erection of fence to rear; installation of railings and gate to front; replacement rainwater goods to front & rear; window, door & rooflight replacement and associated works.

Listed Building Consent was Granted under reference 221498/LBC on 10/03/2023 for the installation of gas meter box to front.

Listed Building Consent was applied for under reference 221505/LBC on 14/12/2022 for garage roof removal (to make safe).

The garage was the subject to a Dangerous Building Notice reference E22022 dated 15th December allowing the removal of the roof to make safe.

Planning Permission was Granted under reference 230652/DPP on 13/10/2023 after a Notice of Review due to the planning Department exceeding the determination date for the erection of balcony with external stairs and formation of door from an existing window opening to rear.

Listed Building Consent was Granted after appeal under reference LBA-100-2022 on 13/10/2023 due to the Planning Department exceeding the determination date for application reference 230653/LBC for the erection of balcony with external stairs and formation of door from an existing window opening to rear.

The Planning Officer allocated to this application has been involved in all of the projects noted above.

Application Timeline: 241416/DPP

Planning application submitted 4th December 2025

Planning registered with Planning department 5th December 2025.

Planning application submitted along side Listed Building Consent application ref: 241415/LBC.

Last advertised in Press on 8th January 2024

Expiry date for comments expires 29th January 2025. No neighbour or consultant comments are submitted.

Planning officer emails Agent on 9th January 2025 at 4:44pm requesting clarification in storage space of garage. See Appendix for copy of email.

Agent replies to Planning officer on 9th January 2025 at 5:12pm confirming domestic use and requesting information on timescales. See Appendix for copy of email.

Agent phones, leaving voicemail & emails Planning officer on 15th January at 4:50pm looking for reply to previous email sent 9th January. See Appendix for Copy of email.

Agent emails Planning officer on 17th January at 4:10pm looking for reply to previous email sent 9th January & 15th January. See Appendix for Copy of email.

Planning officer replies to email on 20th January at 8:53am noting that they are awaiting Roads department comment. See Appendix for Copy of email.

Agent emails Planning officer on 20th January at 9:10am asking for information on any Planning concerns while awaiting Roads comments to prevent any delays. See Appendix for Copy of email.

****Determination deadline passes 4th February 2025 with no correspondence from the Planning Department.****

Agent phones leaving voicemail & emails Planning officer on the 6th February 2025 at 2:43pm noting that the determination date has expired to enquire if the approvals documents are forthcoming. Appendix for Copy of email.

Planning officer emails agent on 19th February 2025 at 5:17pm with long list of queries. This is 15 days after the determination deadline and 30 days since the Agents last request for any Planning queries.

See appendix for timeline graphic showing the above.

Consultee & Neighbour Comments

No concerns or comments from any consultee or neighbour have been noted within the application Planning Portal.

Conclusion

The Act states only that the right to appeal the non-determination of an application arises if the appointed case officer “...has not determined it within such period as may be prescribed by regulations or a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the person so appointed” I can confirm that no extension of time has been requested, agreed or signed by the Agent / Applicant & the Planning Department so any correspondence after the determination date of 4th February 2025 should not form part of this review.

The garage was subject to a Dangerous Building notice due to the lack of maintenance in the year prior to the applicant purchasing the property. It currently sits with temporary security fencing in place to prevent vandalism. The building is a blight on a Conservation area and the applicant has put forward a solution to bring the building back to life with appropriate good quality materials suitable for the historic setting.

It has been established that where there are run down buildings then an element of criminality can develop with anti-social behaviour increasing where property is not brought back into use, recently within Aberdeen there have been a series of fires started by as yet uncaught persons. In close proximity to the application site a car was set alight on the 18th February 2025 in Albert Street. By approving the garage rebuild the Council would be bring a building back into use and providing a safe secure location for domestic cars to be parked overnight.

The applicant is committed to take on the difficult task of refurbishing the building to allow the garage to be used for its original domestic purpose. With so many properties sitting vacant within the city centre it is a credit to the applicant to take on the challenge of working within a period property, but it is only being undertaken due to the applicants love of Aberdeen and their commitment to reside within the City centre for many years to come.

Prior to purchasing the property, the applicant had been assured that Aberdeen City Council were encouraging the reinstatement of the granite properties from vacant commercial use back to residential use but the negative experience of working with the Planning Department who have been averse to any proposals presented to them at 36 Albyn Place and have been secretive with their reasoning and absent when contacted has soured the design process.

Without applicants willing to take on the challenge of bringing abandoned period properties back into their original residential use, Aberdeen will soon look different to the silver city, we wish it to remain. We would be grateful if the Council could support the refurbishment of the dilapidated building in this location rather than allowing the Planning department to place obstacles in the way of willing applicants.

No objections were noted online from any neighbours or Planning consultees. The property is located within a large site and the proposal will have no adverse impact on any residential amenity.

It is not disputed by the Planning Department that the building was once part of the residential property but they somehow want to use bureaucracy to leave the building with a commercial use. The works to return the building back to its original use as a domestic garage require time and effort by the applicant and the reinstatement of the roof will help ensure long term maintenance requirements can be undertaken safely and on a regular basis to prevent the level of deterioration which is currently present.

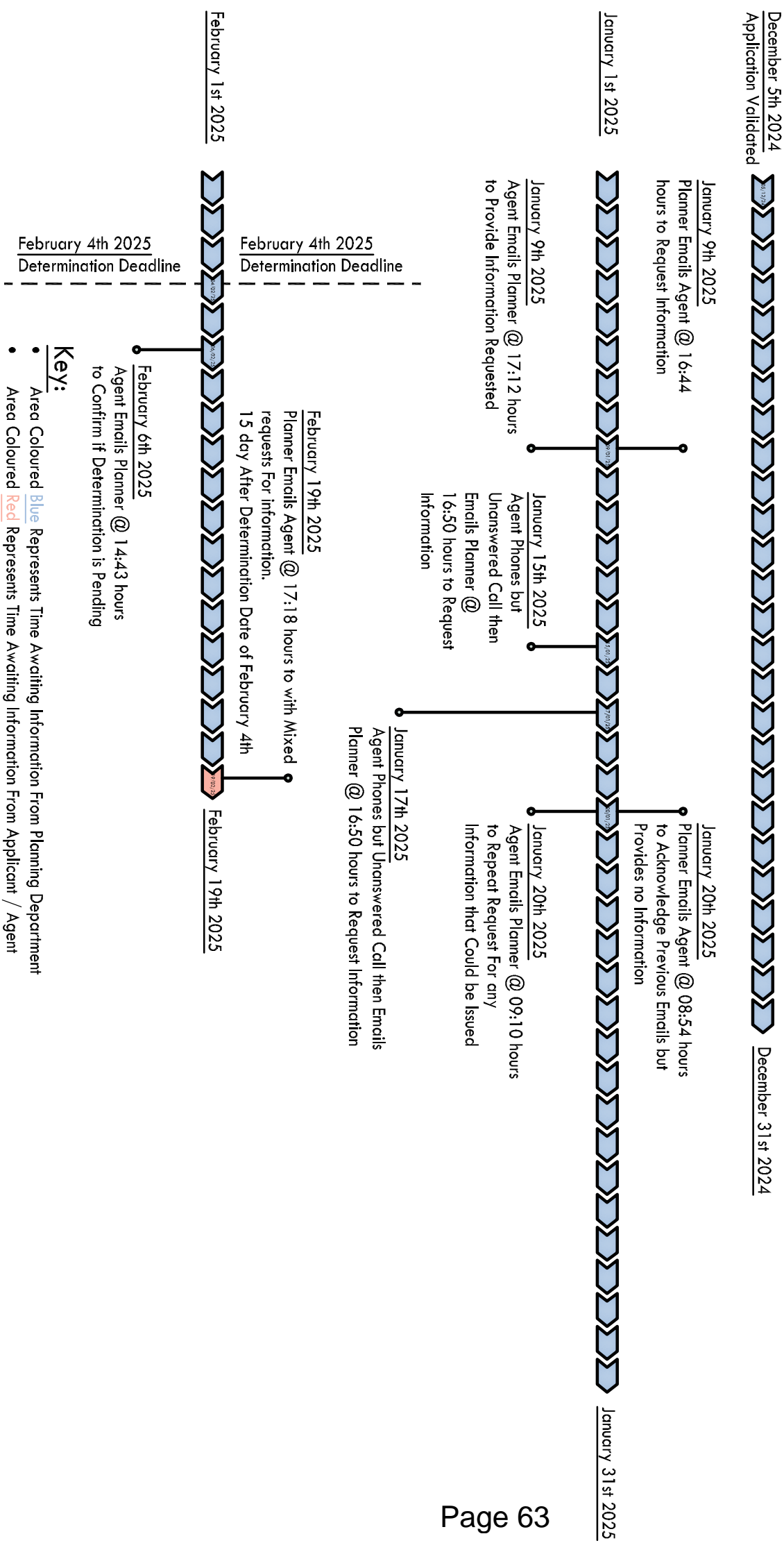
We feel that if the Local Review Body can visit this site first hand, they will see that our proposed reinstatement of the garage with scale, and materials choices which respect the character of the building, benefits modern living requirements with no adverse impact on the neighbouring properties or the Conservation area.

Application Timeline

Timeline Representing Planning Application Ref:241416/DP & Listed Building Consent Ref:241415/LBC

For: Change of Use and Reconstruction of Existing Commercial Garages to Form Triple Domestic Garage with Upper Floor Store and External Stair Access

At: 36 Albyn Place, Aberdeen, AB10 1YF



Stuart Mathieson

From: Stuart Mathieson
Sent: 20 January 2025 09:10
To: Jane Forbes
Subject: FW: 2854-RE: Planning Application Ref 241416/DPP & Listed Building Consent Application Ref 241415/LBC - 36 Albyn Place

Morning Jane,
Thank you for the reply, the applicant is keen to address any potential issues which may arise at the earliest opportunity to avoid any delays in determining the application.
Could you please let me know if you have any concerns with the application prior to the Roads department returning their comments.
Any queries give me a call.

Kind Regards
Stuart

on behalf of
KEN MATHIESON ARCHITECTURAL DESIGN Ltd.
Tel No. 01224 710357

From: Jane Forbes <JANEF@aberdeencity.gov.uk>
Sent: 20 January 2025 08:53
To: Stuart Mathieson <stuart@kenmathieson.com>
Subject: RE: 2854-RE: Planning Application Ref 241416/DPP & Listed Building Consent Application Ref 241415/LBC - 36 Albyn Place

Hi Stuart

Apologies for not having got back to you earlier, but we are awaiting Roads comments so my intention would be to get back to you on the application once these are received and all matters can then be discussed.

Regards
Jane



Jane Forbes MRTPI | Planner – Development Management
Aberdeen City Council | Development Management | Strategic Place Planning
City Regeneration & Environment | Marischal College | Ground Floor North |
Street | Aberdeen | AB10 1AB

Direct Dial: 01224 053557 | General Planning Support: 01224 053746
www.aberdeencity.gov.uk | X: @AberdeenCC | [Facebook.com/AberdeenCC](https://www.facebook.com/AberdeenCC)

From: Stuart Mathieson <stuart@kenmathieson.com>
Sent: 17 January 2025 16:10
To: Jane Forbes <JANEF@aberdeencity.gov.uk>
Subject: FW: 2854-RE: Planning Application Ref 241416/DPP & Listed Building Consent Application Ref 241415/LBC - 36 Albyn Place

Hi Jane,

Can you please give me a call on Monday to let me know if there is anything we should be addressing for the garage at 36 Albyn Place.

Kind Regards
Stuart

on behalf of
KEN MATHIESON ARCHITECTURAL DESIGN Ltd.
Tel No. 01224 710357

From: Stuart Mathieson
Sent: 15 January 2025 16:50
To: Jane Forbes <JANEF@aberdeencity.gov.uk>
Subject: 2854-RE: Planning Application Ref 241416/DPP & Listed Building Consent Application Ref 241415/LBC - 36 Albyn Place

Hi Jane,
Tried calling a couple of times with no luck.
Could you please give me a call on Tel: 01224 710357 to let m know your thoughts on the above application.

Kind Regards
Stuart

on behalf of
KEN MATHIESON ARCHITECTURAL DESIGN Ltd.
Tel No. 01224 710357

From: Stuart Mathieson
Sent: 09 January 2025 17:12
To: Jane Forbes <JANEF@aberdeencity.gov.uk>
Subject: 2854-RE: Planning Application Ref 241416/DPP & Listed Building Consent Application Ref 241415/LBC - 36 Albyn Place

Evening Jane,
Planning permission for the change of use for the main property at No. 36 Albyn Place to be returned from Office back to residential was obtained on the 14th July 2022 (220733/DPP).
The rear car park to No. 36 could not be included in the change of use application for the property as it is subject to lease to the neighbouring offices for parking. This was an inherited condition of the purchase of the property and not something put in place by the applicant.
The applicant purchased the car paring, garage and section of the rear garden from the owners of No. 35 and all the ground is now within their ownership.
The applicant and his family are close to finalising the refurbishment of the property and have moved into their new home at No. 36. They are now in a position where they are ready to renovate the rear garages which have been neglected to a state where a Dangerous Building Notice was issued on the 15th December 2022 (E220022) to allow the collapsing roof to be removed for public safety.
The application we have made to the Council includes a change of use from commercial back to residential and is for the sole use of the applicant who as noted above is the owner of all the surrounding ground.
The storage area in the roof space is for domestic storage only. It would be counter productive for the applicant to apply for a change of use from commercial to domestic only to use the property for commercial use.
Please let me know your thoughts as soon as possible on how the Planning Department are going to proceed given the clarifications provided above.

I look forward to hearing from you, however in the meantime should you have any queries please do not hesitate to contact me.

Kind Regards
Stuart

on behalf of
KEN MATHIESON ARCHITECTURAL DESIGN Ltd.
Tel No. 01224 710357

From: Jane Forbes <JANEF@aberdeencity.gov.uk>

Sent: 09 January 2025 16:44

To: Stuart Mathieson <stuart@kenmathieson.com>

Subject: Planning Application Ref 241416/DPP & Listed Building Consent Application Ref 241415/LBC - 36 Albyn Place

Hello Stuart

As part of our initial assessment of the above applications, and on the basis that the proposed garage would neither lie within the residential curtilage of No 36 Albyn Place or within any other residential curtilage and therefore cannot be considered for domestic purposes, we are seeking clarification on how the garage and the storage space above would be used.

Thanks very much for providing clarity on the above.

Regards
Jane



Jane Forbes MRTPI | Planner – Development Management
Aberdeen City Council | Development Management | Strategic Place Planning
City Regeneration & Environment | Marischal College | Ground Floor North | 1
Street | Aberdeen | AB10 1AB

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Stuart Mathieson

From: Stuart Mathieson
Sent: 06 February 2025 14:43
To: Jane Forbes
Subject: 2854 - Garage - rear lane to 36 Albyn Place - 241426/DPP & 241415/LBC

Afternoon Jane,

Tried calling earlier and left a message on your voicemail.

I'm writing in regards to the Change of use and reconstruction of existing commercial garages to form triple domestic garage with upper floor store and external stair access (Application Ref: 241416/DPP & 241415/LBC) to the rear of 36 Albyn Place.

The determination date passed this week on the 4th February and we received no documentation regarding the application.

We have reached out previously with my last email being sent on the 20th January to which there was no reply from yourself.

Having checked online I note there are no objections shown from any neighbour or consultee.

The applicant is keen to move forward with finalizing the Building Warrant drawings and we would be grateful if you could please indicate that the Planning & LBC approvals are forthcoming.

I trust all is in order and look forward to hearing from you.

Kind Regards
Stuart

on behalf of
KEN MATHIESON ARCHITECTURAL DESIGN Ltd.

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& DEVELOPMENT CONSULTANT

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15 OLDMELDRUM ROAD
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AB21 9AD
Tel No. 01224 710357
Fax No. 01224 710358

e-mail - stuart@kenmathieson.com

From: Jane Forbes <JANEF@aberdeencity.gov.uk>
Sent: 19 February 2025 17:17
To: Stuart Mathieson
Subject: Planning Application Ref 241416/DPP & Listed Building Consent Application Ref 241415/LBC - 36 Albyn Place

Hello Stuart

We would want to advise that the above applications have been considered in full, with detailed discussions which have now taken place having raised a number of issues and concerns with regards the proposed development works. These are outlined as follows:

Principle of Proposed Development

- The proposal seeks a change of use from commercial to residential garage, however the proposed garage building with storage space within the upper floor would lie outwith any residential curtilage. Rather, the proposed garage would be sited within a commercial car park, and whilst it is acknowledged the car park is within the ownership of the applicant, it is clearly not in residential use. A residential curtilage cannot be created where there is no residential property, therefore this raises the fundamental question as to how this proposal is categorised and defined and what justification there would be for a change of use to residential for a triple garage with domestic storage in these circumstances, where that building would lie within a commercial site. That is the dilemma which the Planning Service is currently wrestling with and which has significant implications in terms of how it is both assessed and determined.
- The scale/form/layout of the proposed garage would result in two separate garage buildings being replaced by a single building which would straddle the rear curtilages of No's 35 and 36 Albyn Place, resulting in the loss of the established and historic feu boundaries and a failure to address and respect the historic character and context of the conservation area within which the existing garages lie. It is expected that a clear definition of the two feus and their associated boundaries is retained.
- Notwithstanding the dilemma identified in the first bullet point, based on what you have stated is the intended purpose of the garage, the proposal would result in a total of 9 spaces being delivered as car parking for a single dwelling. The Council's Aberdeen Planning Guidance on Transport and Accessibility outlines maximum parking standards for residential properties, with a maximum parking allocation of 3 spaces for dwellings in this location of 4 bedrooms or more. It is noted that the property at No 36 Albyn Place currently provides off-street parking for 6 vehicles within the front curtilage, with this level of parking therefore already equating to double the maximum standards applicable to the property. This proposal would see those maximum parking standards further breached and with no justification.

Notwithstanding that there are issues with the basic principle of development that need to be resolved, as outlined above, there are also concerns with this proposal from a design/build perspective, notably:

- Whilst the listed building consent application and the associated planning application were both described as 'refurbishment' of the existing garages, taking into account the current status of the buildings and scale of the proposed development works being sought, the proposal is described more accurately as a reconstruction of these garage buildings. Bearing this in mind and given the detail shown within the existing and proposed layout plans and elevational drawings, it is apparent that the proposal involves demolition works. However, with the exception of some reference to the garage roof at No.35 and a section of its front wall having been removed as part of the dangerous building notice served in December 2022, no further reference is made on any of the plans submitted as part of the listed building consent application to the additional demolition works being proposed. It should be noted that all demolition work (partial or complete) required in association with the reconstruction of these two garage buildings must be clearly identified and shown on the relevant plans as part of this listed building consent application, with

clear justification provided for such works. It has been noted that the existing wall which currently splits the two garage buildings does not form part of the proposed 3 car garage layout, however the proposal makes no reference to the demolition of this wall. Noting the current condition, in particular of the east wall of the partially demolished garage at No.35, we would encourage you to consider carefully at this stage the full extent of demolition works that will, or are likely to be required, so that the current listed building consent application can take account of those works. It would be unlawful to undertake any additional demolition work which is not approved as part of a listed building consent. If additional works were identified at the time of detailed design of the garage or at the demolition stage, a new listed building consent would be required before such works could proceed. All relevant plans/drawings that take account of the above should be submitted accordingly.

- In considering the scale, form and design of the proposed garage, Policies 7 (Historic Assts and Places) and 14 (Design, Quality and Place) of National Planning Framework 4 and Policies D1 (Quality Placemaking) and D6 (Historic Environment) of the Aberdeen Local Development Plan 2023 are directly relevant, together with the Aberdeen Planning Guidance (APG) documents 'Development Along Lanes' and 'Householder Development Guide'. In the context of this site, within the curtilage of a listed building and within a conservation area, and the lane on which it would front, the scale/form/height and overall volume of the garage is deemed excessive and is not acceptable as currently proposed. The garage would incorporate internal ceiling heights of between 2.7 to 2.8 metres at ground floor and 2.4 metres at 1st floor. There is no justification or apparent requirement for the elevated ceiling heights at either ground or first floor level, which it should be noted would even exceed the minimum required for a dwelling. The resulting height of the proposed development is considered to be neither acceptable or indeed appears to be necessary in terms of the intended use of this ancillary building for garage and storage purposes. In accordance with the Development along Lanes APG the maximum ridge height is of no more than 5.6 metres. The adjacent mews building, at 1½ storeys, has a traditional roof form and dormers that 'pushes the dwelling volume away from the lane', thus respecting the scale of the lane. The proposed garage is different with its gables to the lane which are on the same plane as the ground floor, thus emphasising the height of the structure and not reducing its volume.
- The design of the garage is noted as being particularly ornate with the gable features and barge boards, which give modelling and visual interest. This is welcomed. However, the pitch of the roof, at 50 degrees, does need to be revisited with a view to reducing the top-heavy design and massing of the proposed building.
- Finally, in terms of the design of the proposed garage building and taking into account that its stated intended use is to be used by the occupants of the house at 36 Albyn Place and thus ancillary to its residential occupation, then it is also appropriate and relevant to assess the proposal against the guidance on the design of outbuildings detailed within the Council's Aberdeen Planning Guidance on Householder Development Guide is of particular relevance. The guidance outlines that outbuildings '*are traditionally single storey in height, with either a flat or pitched roof*' and advises that '*it may be possible to accommodate an additional storey within the roof space of a pitched-roof outbuilding, although in such cases the use of dormers will not be supported, as they increase the visual dominance of an outbuilding and give the impression of a two storey appearance*'. The guidance states that '*dormers will not be permitted as a means of gaining additional headroom.*' and that '*access to an upper floor should be situated internally*'. Further, it states '*where highly visible and especially in conservation area, detached garages should be of a scale and design that respects the prevalent context of the surrounding area*'. The design, scale and form of the proposed garage building are clearly contrary to these requirements.

Thank you in advance for advising whether any amendment to the current proposal will be made with a view to addressing the concerns noted above, or whether the applications should be determined as they stand. Specifically, with regard to the listed building consent application, that decision can only be refusal on the grounds of missing detail identifying the extent of demolition on the submitted drawings.

Regards
Jane



Jane Forbes MRTPI | Planner

Development Management | Strategic Place Planning | City Regeneration & Environment |

Aberdeen City Council

Marischal College | Ground Floor North | Broad Street | Aberdeen | AB10 1AB

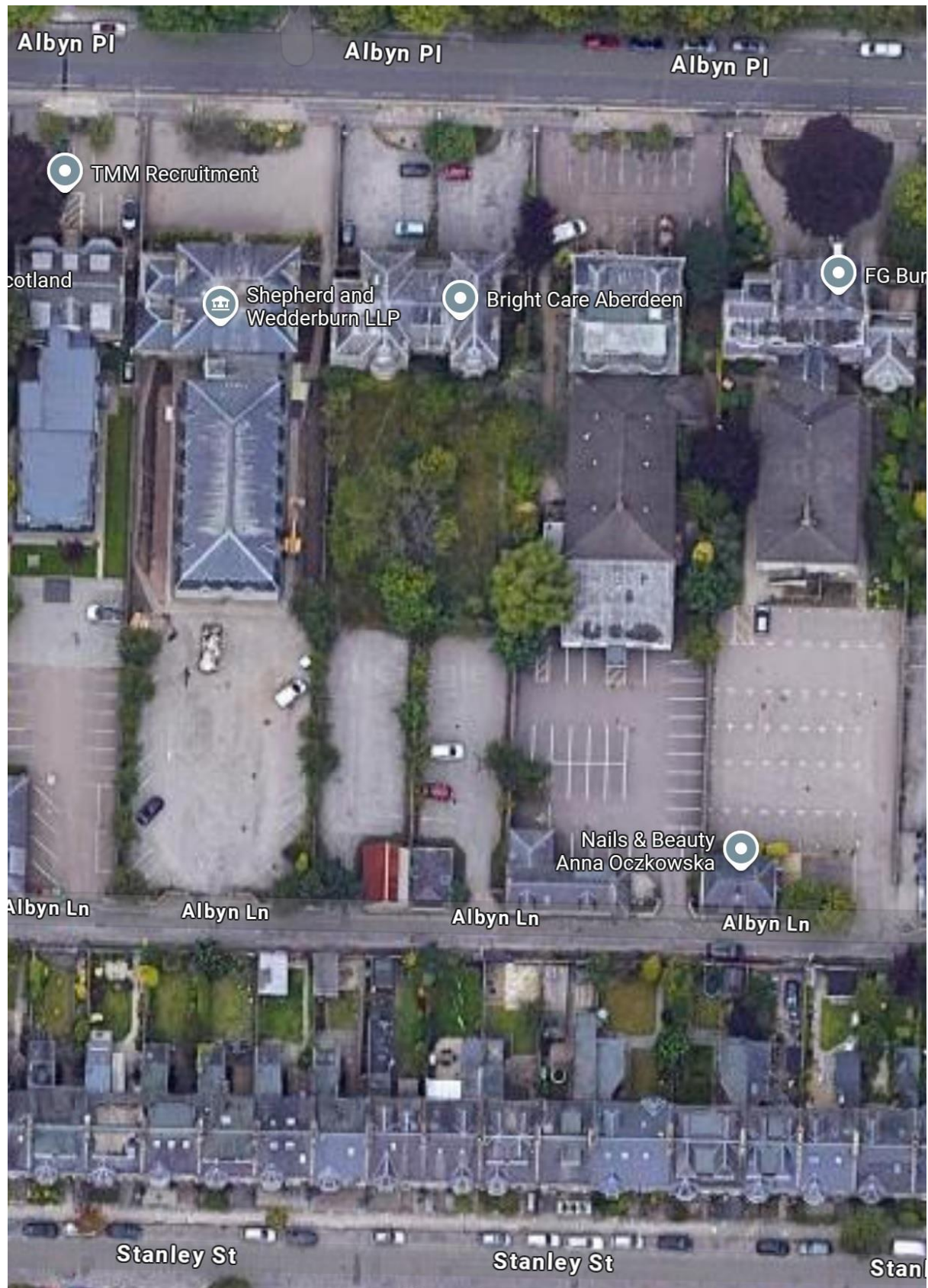
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Proposed: Refurbishment of Dilapidated Garage and Change of Use from Commercial to Domestic

At: to the Rear of 35 / 36 Albyn Place facing Albyn Lane



Property Introduction:

Number 36 Albyn Place is C listed alongside its attached neighbouring property No. 35 Albyn Place. The garages are located on the rear of the property facing onto Albyn Lane and were constructed independently of the main houses and were erected at separate times from each other.

The properties are located within the Albyn Place and Rubislaw Conservation Area.

The development of 36 Albyn Place (and No. 35) and associated structures was inextricably linked to the last phase of Aberdeen's neo-classical expansion, West of Union Street. It will be seen in the following sections that the house has undergone many changes, both to its footprint and internal arrangement. These changes reflect the changing needs and requirements of the occupants. It was, from inception until around the early 1940's, a domestic premises. There is some evidence that business was conducted and that a major change to the internal layout and overall footprint may be associated with this activity. After the last occupant moved the house appears to have operated initially as a doctor's surgery, a dance school, then offices, culminating after 1969 with Campbell Cannon, solicitors. No. 36 has reverted back to it's original use as a home in 2023.

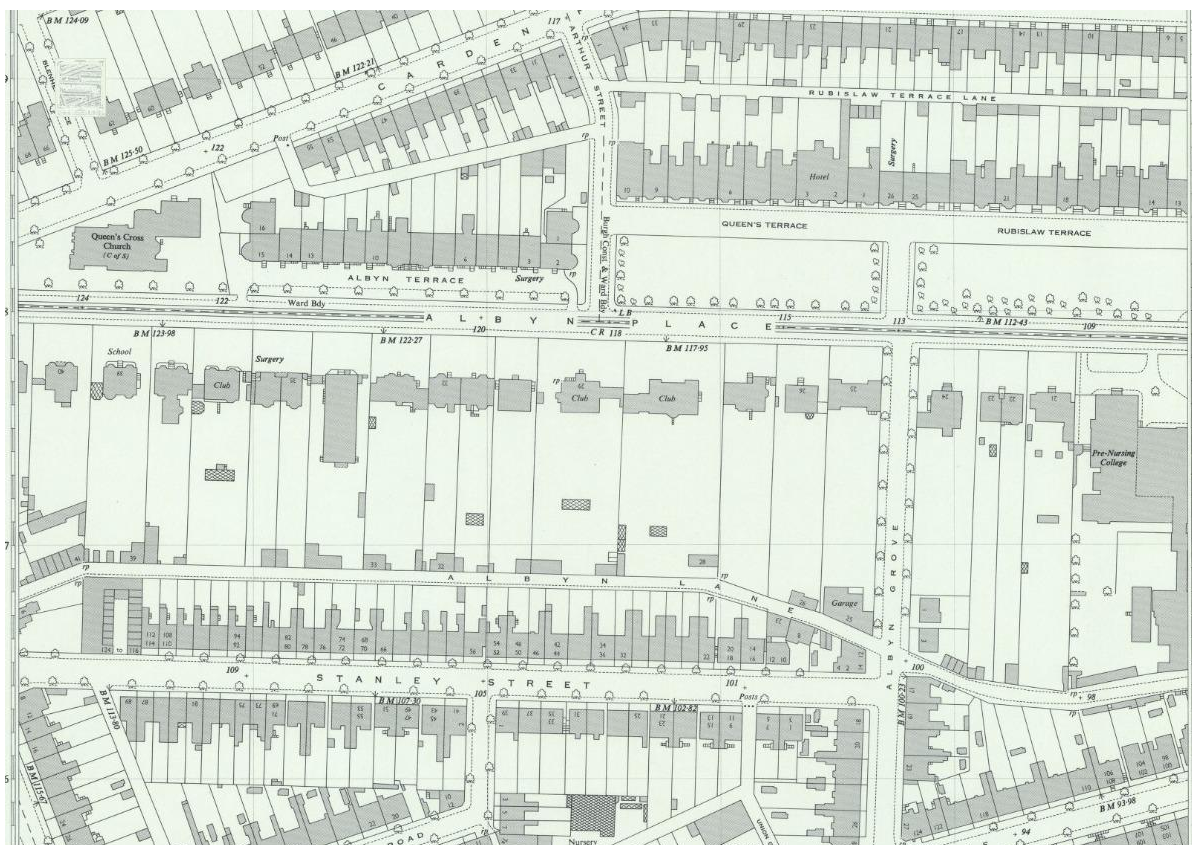
It is not known exactly when the gardens to the rear of No. 35 & 36 were formed into car parking but we can assumed this was post 1942.

Separate vehicle access points to the rear car parks have been formed off Albyn Lane with modern boundary masonry walls to both No. 35 & 36.

The first references to the garages can be seen on the Ordnance Survey maps below.



The Ordnance Survey map of 1923 / 24 shows a garage built to the Southeast corner of the rear garden to No. 36



The Ordnance survey map of 1954 shows a garage built to the Southwest corner of the rear garden to No. 35 adjoining the garage to No. 36.

The rear carparking to No. 35 & 36 are under the applicants ownership. The car parks were not included in the original Change of Use to domestic dwelling approval dated 2022 as they are under separate lease agreements.

Description of the Existing Garages:

The garages are 2no separate semi-detached buildings sharing a brickwork party wall.

The garages are constructed from a mix of materials beginning with No 36 the side and rear walls are red brick with render finish externally. Internally you can see the location of doors & windows which have been infilled. The frontage facing Albyn Lane has a large steel curtain opening double door with steel lintel exposed. The piers either side of the door are erected in granite, above the steel lintel concrete blockwork forms a gable with render finish. The roof is formed with hand built raised tie trusses with signs of rot and historic wood worm. A storage area is formed within the raised ceiling tie. The pitched roof is finished externally with profiled metal sheet cladding which has corroded turning red. The paint finish of the timber fascia is faded and damaged. The fascia has come away from the wall and roof finish allowing water ingress.



Picture showing the frontages of the garages from Albyn Lane.



Picture showing the rear of the garages taken from the carpark at No. 35.

The garage for No. 35 was subjected to a Dangerous Building Notice in December 2022 and the roof and garage door were removed on safety grounds. The remaining side & rear walls are constructed from granite rubble stone which has historic sides of render finish at the front elevation. Former window openings have been built up in concrete blockwork.

Historically the roof to No. 35 was a hipped slate pitched roof with flat roof section. The roof had 3no roof lights facing the rear and 2no sides to provide natural light into the garage. The garage door was a steel “up & over” model painted white, which would have projected into Albyn Lane when opened.

The floors to both garages are formed in concrete with the floor to No. 35 showing signs of impact damage.



Picture taken along Albyn Lane showing existing garage in relation to the neighbouring Coach House at No. 34.



Picture showing Coach House at No. 33.

Description of the Proposed Refurbishment:

The 2no garages are to be combined into a single garage. The existing brick work and granite external walls to the rear and sides are to remain in place. Externally the remaining render will be removed and a new wet dash render covering will be applied. The mixed granite / blockwork walls to the front elevation will be removed with a new granite wall being built along the footprint of the existing.

A new pitched roof finished in slate with flat roof section, the rear of the roof will be hipped in tribute to the former garage roof at No. 35 with the front elevation being a gable wall to match No. 36.



Image showing the proposed frontage from Albyn Lane.

The roof will have conservation velux windows to provide natural light into a storage area to mirror the roof lights in the former roof at No. 35. The use of velux windows has been established on Albyn Lane with a velux being fitted to the neighbouring coach house at No. 34.

The storage area will be accessed via a steel external stair. There are many examples of external stair surrounding the property so this will not be out of character for the lane, some examples can be seen at No. 35 & 36 Albyn Place (directly behind the garages), No. 78 & 84 Stanley Street (opposite the garages & visible from Albyn Lane).

A rear access door will be formed with a flat roof dormer in keeping with the flat roof dormer extension to the rear of the neighbouring coach house at No. 34 which is visible from the application

site. The rear of Stanley Street facing into Albyn Lane has too many flat roof extensions and flat roof dormer extensions to list confirming these proposals are in keeping with the surrounding area.

The existing mixed rainwater goods will be upgraded with uPVC goods coloured black.

The fascia's and soffits will be formed in timber with black stained finish.

A new floor slab will be formed in concrete to follow the levels of the site with the lowest level to match the existing floor slab level at No. 35.

Conclusion:

The refurbishment sits well within the site as we are using the existing walls within the existing footprint. The new roof combines elements of both the previous roofs and will be finished in traditional natural slate. The new roof has been designed to be lower than the closest neighbouring property along Albyn Lane at No. 34 and is lower than the buildings behind on Albyn Place and in front on Stanley Street ensuring the refurbishment will not be over dominant.

The proposal has been carefully designed to have no adverse impact upon neighbours. Overshadowing will not be an issue as there are no immediate neighbours to the building. The ground to the rear is carparking and to the sides are vehicle access ways. To the front there is Albyn Lane and beyond the lane there are the rear gardens to Stanley Street. The Stanley Street gardens are South of the proposed garage refurbishment so would have no loss of light.

There is no overlooking expected (i.e. a minimum separation of 18 metres between first floor windows to the storage area and the rear of Stanley Street is maintained) the true distance is approx.. 26.5 metres.

The new garage will allow secure off-street parking for electric vehicle charging to allow travel within the Aberdeen Low Emission Zone (LEZ).

No granite stone will be removed from the site.

In terms of that guidance, the location and size of the refurbished garage will be in keeping with the established spatial character and built form of the surrounding area whilst the scale and massing are also complementary, as explained above.

Based upon the size of the application site, no more than a third of the total site area will be built upon. That reduces even further if you include the remaining commercial carparking at No. 35 & 36 Albyn Place.

It should also be noted that this development will have no impact on any of the important vistas and views identified in the Conservation Area Character Appraisal.

In terms of the conservation area, it is clear that new development is seen as acceptable in this area. Indeed, development of both a traditional and contemporary style has been accepted, including the change of use and refurbishment of the neighbouring property at No. 34. In that regard, this high quality, and traditionally designed garage will be an enhancement of the area.

Furthermore, no specifically protected trees, or vegetation that add to the ambience of the wider area, will be lost as a result of this development taking place.

Overall, it is considered that the proposal will not impact on the setting of any listed building and will have no detrimental impact of the Conservation Area. Indeed, it will, if anything, enhance the area adding a new and attractively designed garage, and adding to the aesthetic quality of this part of the Conservation Area.

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Appendix 3

Examples of buildings within Albyn Lane





Example of garages within the wider Lanes Area







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Queens Cross and Harlaw

Community Council

March 2025

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This report aims to highlight emerging issues in your area, and to provide crime prevention advice and guidance to Community Council members and the residents you represent. Our focus is to reduce crime and disorder, help create safer communities and respond effectively to local concerns.

Crime Overview

We are pleased to announce improvements in the way statistics are provided to Community Councils. Previously, the manual generation of stats due to misalignment between Community Council boundaries and Police beat codes led to occasional inaccuracies and was time-consuming. Now, the North East Police division will provide data that aligns with police beat codes, some of which encompass multiple Community Council areas. Additionally, beat code maps will be available for reference. We have also updated previous data to ensure comparable statistics are readily accessible.

In the Queens Cross and Harlaw community, there were a total of 110 calls to Police during February 2025. This is a increase of 1 call compared to January 2025. Calls to Police predominantly related to non-criminal matters including, concern for persons, missing persons, assisting the public and false calls with good intent.

As a result of these incidents, and proactive Police activity, 21 crimes were recorded in the Queens Cross and Harlaw community during February 2025. This is a decrease in 10 crimes recorded since January 2025.

Crime Type	Jan 25	Feb 25	Mar 25	Apr 25	May 25	Jun 25
Drugs	2	2				
Vandalism	4	2				
Assault	5	4				
Theft	5	4				
RTO	10	4				

Antisocial behaviour, Violence and Disorder

On Tuesday 04 February 2025, a female was walking her dogs near Albyn Grove when she was approached by a group of 7 or 8 youths. Two youths from the group were verbally abusive towards the female, shouting and swearing at her. The female felt threatened by the youths therefore contacted the Police. The youths involved have been identified and enquiries are currently ongoing.

On Saturday 22 February 2025, a female was stopped in the Forest Avenue area by Police. The female was detained for a drugs search and found to be in possession of a personal amount of controlled drugs. The female was issued with a Recorded Police Warning.

Acquisitive Crime

On Tuesday 18 February 2025, Police received a report of an attempted theft of a vehicle from the Albyn Grove, Aberdeen area. A witness reported seeing a male attempting to break a window to a motor vehicle, before attempting to open it by pulling at the door handles. No entry was gained, and the vehicle was not damaged. This has been captured on private CCTV. The male was identified and a report has been submitted to the Procurator Fiscal for consideration.

On Friday 28 February 2025, at a local store within the Fountainhall Road, Aberdeen area, a male entered and selected 4 gift cards from display. The male attended the till point and handed the cashier two gift cards and asked them to be activated with £100. On giving the cashier money, the male asked for it back to count before stating he had changed his mind and no longer wished to purchase the gift cards. The male gave the cashier back the two inactivated gift cards and left in possession of two activated gift cards without paying for them. This is a fraudulent scheme. Enquiries are currently ongoing however the incident was fully captured on CCTV.

The community should remain vigilant and consider the following advice.

- Ensure all vehicles and property are secured when not in use.
- Consider the installation of CCTV cameras covering private property.
- Ensure that you are comfortable with the identity of persons before providing personal information over the telephone. If in doubt, hang up contact Police via 101 for further advice.

Road Safety & Road Crime

On Tuesday 18 February 2025, Roads Policing Officers were carrying out high visibility patrols in the area of Queens Road, Aberdeen. A vehicle was stopped and was found to have excessively tinted windows. The light transmission was checked using a tint meter and found to be below the legal limit. The driver was offered and accepted a Conditional Offer resulting in a £50 fine.

On Sunday 23 February 2025, in the area of Fountainhall Road, Aberdeen, a driver failed to stop after colliding with another vehicle. The driver of the offending vehicle would have been aware of the collision and both vehicles sustained minor damage. Enquiries are currently ongoing to identify the driver of the offending vehicle.

Road safety remains a priority for the North East Police Division, and local resources will continue to undertake high visibility proactive patrols to ensure your roads are safe.

As a result of feedback from residents, the Community Action Team have been carrying out additional speed patrols in the area as a deterrent to speeding offences.

Community Safety Advice

Flying on a Budget? Don't Get Grounded by Scammers

Several North East residents have recently fallen foul of scammers whilst booking flights. Finding a cheap flight can be exciting, but falling victim to a travel scam can quickly turn your dream trip into a nightmare. Online travel scams are becoming increasingly common, so it's crucial to be vigilant. Here's some tips to protect yourself:

Always compare the price on the suspected deal with the airline's official website. Significant discrepancies are a major red flag. Legitimate companies maintain professional websites, look for typos, grammatical errors, and unprofessional design.

Social media ads or pop-ups advertise flights at impossibly low rates to lure victims in with "Too Good to Be True" offers, be wary of prices that are significantly lower than competitors.

While some last-minute deals exist, be highly sceptical of incredibly low prices for flights departing within a few days.

Check contact information, look for a physical address, phone number, and email address. Try to contact them directly to verify their legitimacy.

Scammers have been known to post fake helpline numbers online, posing as airline agents to extract payment or personal data.

Stick to known platforms and book through well-established and reputable registered travel agencies, check reviews from other travellers about the agency or platform.

In the UK, travel companies primarily need to be registered with an "Air Travel Organiser's Licence" (ATOL) if they plan to sell flights, which is a mandatory requirement to protect consumers in case the company goes bankrupt.

Paying with a credit card offers more protection against fraud than debit cards. You can dispute charges if the transaction turns out to be fraudulent.

Always check for hidden fees and beware of hidden costs like baggage fees, seat selection fees, and credit card processing fees.

If you believe you may have been a victim of a scam, contact your bank or financial institution immediately.

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In the UK you can forward scam text message to OFCOM on 7726 (free of charge), and forward suspicious emails to report@phishing.gov.uk

Community Concerns

Please take the opportunity to let us know of any community concerns or issues so that we can explore these issues and take action to address your concerns.

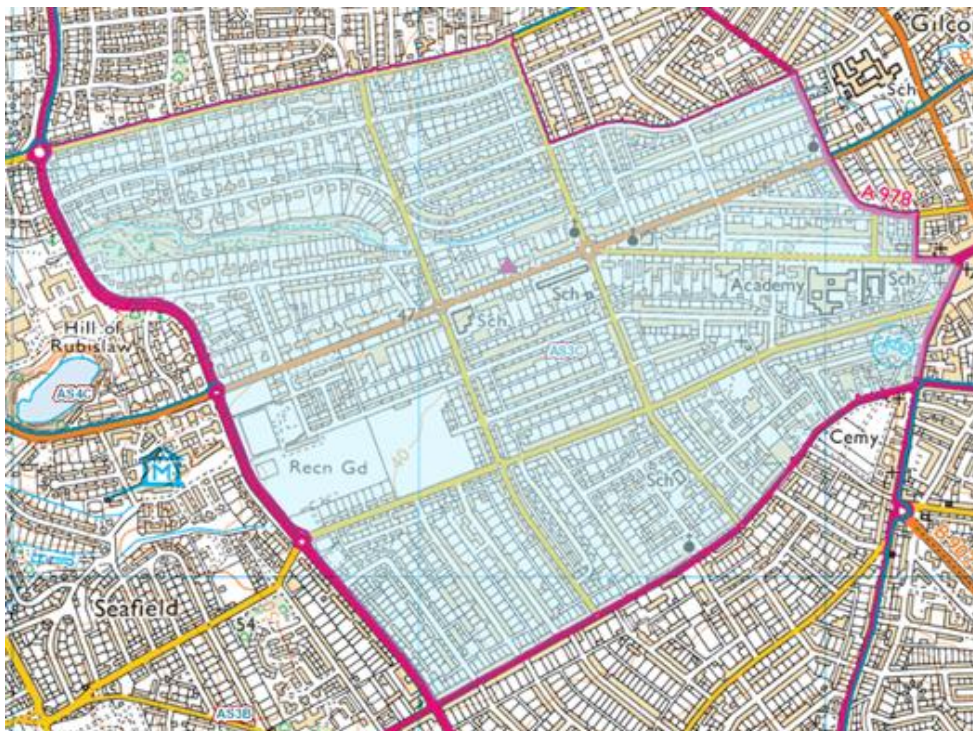
Any updates will be fed back to the Community Council in future reports.

Contact Us

Please also remember you can contact us using any of the following:

- ☎ 101 – Non emergency;
- ✉ Email - AberdeenSouthCPT@scotland.police.uk
- 🐦 Twitter - @NorthEPolice
- 📘 Facebook – www.facebook.com/NorthEastPoliceDivision
- 🌐 Web – www.scotland.police.uk
- ☎ 999 – Emergency;
- ☎ 0800 555 111 - Crimestoppers;

Beat Code Map



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Queens Cross and Harlaw

Community Council

March 2025

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This report aims to highlight emerging issues in your area, and to provide crime prevention advice and guidance to Community Council members and the residents you represent. Our focus is to reduce crime and disorder, help create safer communities and respond effectively to local concerns.

Crime Overview

We are pleased to announce improvements in the way statistics are provided to Community Councils. Previously, the manual generation of stats due to misalignment between Community Council boundaries and Police beat codes led to occasional inaccuracies and was time-consuming. Now, the North East Police division will provide data that aligns with police beat codes, some of which encompass multiple Community Council areas. Additionally, beat code maps will be available for reference. We have also updated previous data to ensure comparable statistics are readily accessible.

In the Queens Cross and Harlaw community, there were a total of 105 calls to Police during March 2025. This is a decrease of 5 calls compared to February 2025. Calls to Police predominantly related to non-criminal matters including, concern for persons, missing persons, assisting the public and false calls with good intent.

As a result of these incidents, and proactive Police activity, 34 crimes were recorded in the Queens Cross and Harlaw community during March 2025. This is an increase in 13 crimes recorded since February 2025.

Crime Type	Jan 25	Feb 25	Mar 25	Apr 25	May 25	Jun 25
Drugs	2	2	2			
Vandalism	4	2	3			
Assault	5	4	8			
Theft	5	4	5			
RTO	10	4	8			

Antisocial behaviour, Violence and Disorder

On 13 March 2025, there was a vandalism to a licensed premises in the area of Alford Place, Aberdeen. Two youths deliberately threw an item at a window causing it to break. The incident is captured on CCTV and enquiries are currently ongoing. The cost of damage to the window is estimated to be £300.

Acquisitive Crime

On 03 March 2025, there was a theft by shoplifting at a store on St Swithin Street, Aberdeen. A male entered the store, grabbed 3 bottles of alcohol and left without paying for same. The alcohol stolen was valued at £129.90. Enquiries were carried out however the male responsible was not identified and the crime has been closed as undetected.

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On 16 March 2025, Police received a report of a theft of a purse and contents from a church near Holburn Street, Aberdeen. The owner left the purse unattended and on returning for it, found it had been stolen. The owner later received notifications from her bank that her card had been used for several transactions. Enquiries are still currently ongoing in to this incident.

The community should remain vigilant and consider the following advice.

- Ensure all vehicles and property are secured when not in use.
- Consider the installation of CCTV cameras covering private property.
- Ensure that you are comfortable with the identity of persons before providing personal information over the telephone. If in doubt, hang up contact Police via 101 for further advice.

Road Safety & Road Crime

On 25 March 2025, Roads Policing Officers were carrying out high visibility patrols in the area of Holburn Street, Aberdeen. A vehicle was stopped and the rear passenger was identified as not wearing a seatbelt. They were issued with, and accepted, a £100 fine.

On 31 March 2025, in the area of Osborne Place, Aberdeen, a driver was found to be driving without due care or attention. The driver was cautioned, charged and issued with a conditional offer resulting in a £100 fine and 3 penalty points.

Road safety remains a priority for the North East Police Division, and local resources will continue to undertake high visibility proactive patrols to ensure your roads are safe.

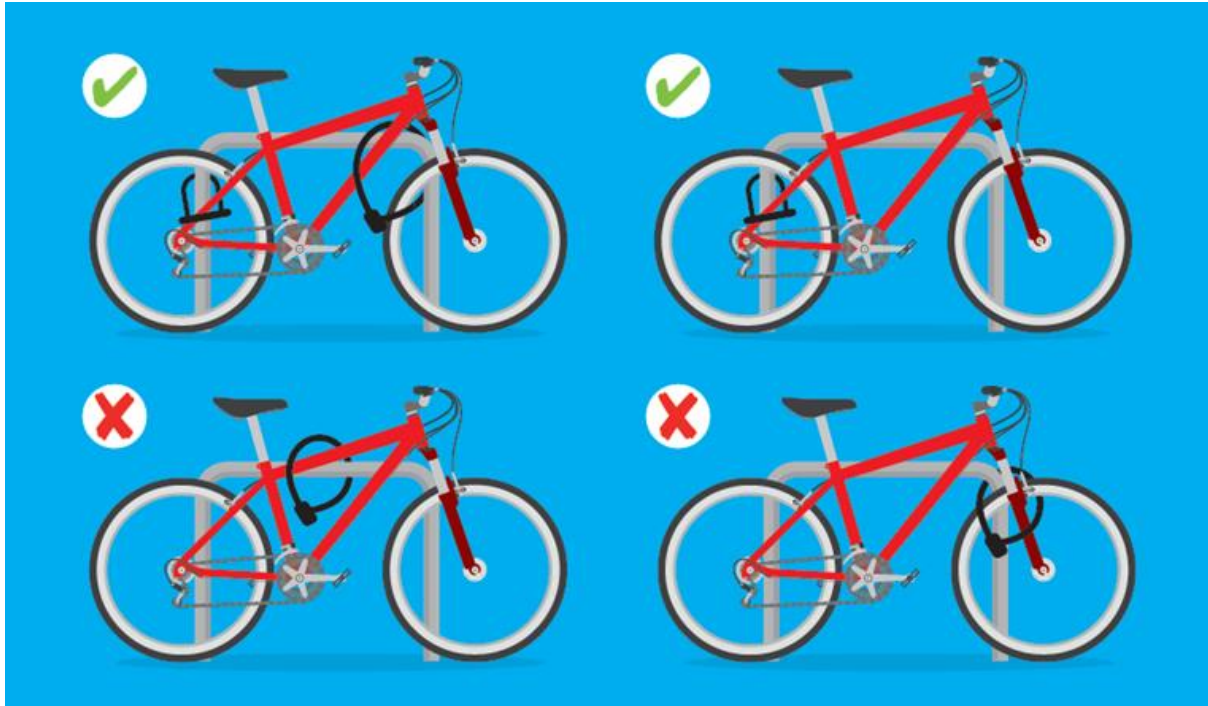
Community Safety Advice

The North East Crime Reduction team are advising all bike owners to consider their bike security after a recent increase in thefts.

'Whether you have just purchased your first bike or are a seasoned cyclist it is worth investing in good quality cycle specific locks to secure your bike. Consider a ground anchor for securing your bike to a solid surface at home. Ideally, when out, use two different types of lock. Remember that locks are more vulnerable when close to the

ground, so keep them off the floor.'

Thieves will routinely carry bolt croppers or even battery powered angle grinders and light weight, poor quality locks offer very little resistance and are easily overcome. As a rough guide consider spending at least 10% of the value of the bike on a lock.



Always buy the best quality lock you can afford and look out for those that have been endorsed as 'Sold Secure' or 'Secured by Design.' Invest in high-quality padlocks, hasps, and sturdy hinges. Consider using security screws or coach bolts to deter removal.

Photograph your bike and record all of your bike's details and distinguishing features and keep in a safe place. The serial number can be found on the bottom bracket. Consider using a bike registration scheme such as 'Bike Register' to mark your bicycle. Not only is this a deterrent to thieves but should you be unlucky enough to have your bicycle stolen it increases the chances of getting your bicycle back.

If you are solely relying on your home insurance policy for cover, it may be worth making contact with them if your bike is valued at over £400, policies often will only pay this amount unless the bike is specified on the policy.

We advise everyone to look at their buildings through the eyes of a thief. Start by looking at the grounds of their property and think about lighting and fencing. Are there any loose objects lying about which could be used by the thieves to help force entry to the premises? CCTV is a useful tool, but it must be remembered that CCTV on its own, is not a deterrent to criminality and should always be combined with appropriate physical security.

If you have an intruder alarm at home, consider extending it to cover sheds, garages and outbuildings and ensure that there is a visible external sounder box. If not

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consider battery powered motion detector alarms, readily available online.

Illuminate the exterior of your garage. Outdoor security lighting is an excellent deterrent for intruders, especially when you opt for a motion sensor light. It can also bring illumination to your outdoor areas, bringing you better security.

Further advice can be obtained by contacting Police Scotland Crime Reduction Officers at:

NorthEastCrimeReduction@scotland.pnn.police.uk

Community Concerns

Please take the opportunity to let us know of any community concerns or issues so that we can explore these issues and take action to address your concerns.

Any updates will be fed back to the Community Council in future reports.

Contact Us

Please also remember you can contact us using any of the following:

- ☎ 101 – Non emergency;
- ✉ Email - AberdeenSouthCPT@scotland.police.uk
- ✉ Twitter - @NorthEPolice
- ✉ Facebook – www.facebook.com/NorthEastPoliceDivision
- ✉ Web – www.scotland.police.uk
- ☎ 999 – Emergency;
- ☎ 0800 555 111 - Crimestoppers;

Beat Code Map



	Strategic Place Planning
	Report of Handling by Development Management Manager

Site Address:	Attic Floor Flat, 320 Great Western Road, Aberdeen AB10 6PL
Application Description:	Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people
Application Ref:	240651/DPP
Application Type:	Detailed Planning Permission
Application Date:	3 June 2024
Applicant:	Mr Gordon Brown
Ward:	Hazlehead/Queen's Cross/Countesswells
Community Council:	Ashley and Broomhill

DECISION

Refuse

APPLICATION BACKGROUND

Site Description

The site to which this application relates is an attic floor flat within a traditional granite tenement in a residential area to the west of Aberdeen City Centre. The site and surroundings are within the Great Western Road Conservation Area. The building in which the flat is located houses two flats in the upper storeys of the building and a ground floor shop facing on to the corner of Great Western Road and Forest Avenue and a second shop facing only onto Forest Avenue. The flats are accessed from the front entrance through a front enclosed garden area into a communal hallway and staircase. The shops have separate front entrances, independent of the flats above. The flat has a floor area of 93m².

The flat is laid out with a living room, kitchen, bathroom and two bedrooms off a central entrance foyer from the attic landing. There are no other flats accessed from the attic landing. Currently the other flat within the building is in residential use.

No vehicular parking is provided or proposed to be provided with this application site. The flat does have access to outside communal space in the form of a rear garden.

Relevant Planning History

None relevant.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought, retrospectively, for the change of use of the property from a residential flat to Short Term Let (STL) accommodation (both sui generis).

The applicant advises that the maximum occupancy for the STL is four persons at any one time, with a minimum stay duration of two nights. There would be no maximum period of stay. The property would be operated as an STL on a permanent basis. Waste from the property would be collected from the on-street communal residential waste bins. There is no off street parking provided currently nor is proposed as part of this application.

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=SE5DMLBZG1300>

- Short term let Planning Checklist.

CONSULTATIONS

Roads Development Management Team – No objection.

Waste and Recycling – to make use of the existing on street bins until the commercial status can be confirmed.

Ashley and Broomhill Community Council – No response received.

REPRESENTATIONS

None

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 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

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 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 7 (Historic Assets and Places)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 30 (Tourism)

Aberdeen Local Development Plan (2023)

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking)
- Policy D6 (Historic Environment)
- Policy R5 (Waste Management Requirements for New Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy VC2 (Tourism and Culture)

Aberdeen Planning Guidance

- Short-term lets
- Transport and Accessibility

Other National Policy and Guidance

Scottish Government publications

- Circular 1/2023: Short-term Lets and Planning
- Short Term Lets: Business and regulatory impact assessment – November 2021
- Scottish Government – Research into the impact of short-term lets on communities across Scotland – October 2019

EVALUATION

Key Considerations

The key material consideration in the assessment of this planning application for the change of use of the property to STL accommodation is whether the proposed use (for which consent is sought retrospectively) would harm the amenity of neighbouring residential properties to any significant degree and thus conflict with the Development Plan. Matters for consideration in assessing the potential harm to residential amenity include:

- impacts on privacy and sense of security, whether actual or perceived;
- disturbance through having to share a communal entrance, vestibule and garden area solely with the frequently changing transient non-residents that would access and occupy the STL accommodation;
- Potential for the large flat to be used for group gatherings and the associated noise disturbances to the residential flat below.

The evaluation is set out in detail below, and these matters are considered in detail with the other relevant material considerations.

Principle of development: Tourism and Residential areas.

Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP) does not explicitly preclude tourist development in residential areas however, non-residential uses will only be supported in residential areas where;

1. *they are considered complementary to residential use; or*
2. *it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity*

The Council's Short-Term Lets Aberdeen Planning Guidance (APG) states that the following matters will be taken into consideration in the assessment of planning applications for Short-Term Let accommodation:

- *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.*
- *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.*

Provision of short term let accommodation and impacts on character & amenity

Policy 30 (Tourism), paragraph (e) of NPF4 states:

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

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

Impact on the amenity direct neighbours

The key concern relating to this application is the potential for harm to adjoining residential uses within the building. In terms of impact upon the amenity of neighbours it is noted that the property shares a communal entrance with only one other residential flat. It is considered that the use of the property as an STL could result in increased harm to the amenity of this neighbouring property within the building, beyond that which would typically be expected from a property in mainstream residential use, particularly due to the following:

- the potential for noise from increased coming and goings via the communal entrance and

stairwell due to frequent customer turnovers (check-ins and check-outs) and cleaning between occupancies;

- the potential for noise from customer activities within the property, particularly in the quieter, more sensitive late evening and early morning periods – especially if used as a ‘party flat’;
- the potential for the disturbance of privacy and the perceived impact on safety resulting from the use of communal areas (including gardens) by transient persons unknown to permanent residents.

In this instance, the proposed STL is a relatively large two-bedroom flat with an stated maximum occupancy of four people. The approximate 93m² GIA means that even with a limitation to four overnight guests it is considered that the flat could be used for the hosting of parties or other events due to its spacious living areas and accessibility. This could therefore pose a risk of potential anti-social impacts that could harm the amenity of neighbouring property in terms of noise from activities within the property during the more sensitive late night and early morning periods by larger groups. Whilst this is a concern, it is important to note that such activities could nevertheless take place in the property if operated as mainstream residential accommodation.

The flat is located in the attic of the building, this means that any noise through the floor would impact the flat below which is in permanent residential use. Additionally, it would mean that occupants of the proposed short term let would need to travel up the stairway past the entrance and landing to the residential flat at the first floor.

As the application property shares the communal entrance, corridor and stairs with only one other flat this neighbour is likely to be impacted significantly as a direct neighbour from the comings and goings at the entrance, in the hall around the base of the stairs and on the landing of the first floor. This impact upon the neighbour would be particularly adverse in this and other cases of pairs of flats accessed from a single entrance relating to their security or perceived security and safety. Unlike traditional tenements or larger modern blocks of flats with multiple permanent residential flats and a small number of flats in use as short term lets, in this case permanent residents would only ever encounter strangers in the communal areas should planning permission be granted. In buildings with multiple flats the presence of some strangers visiting a short term let would in effect be less prominent in day to day encounters, as residents would also likely encounter other permanent residents.

The fact that in this case residents in the single permanent residential flat remaining would only ever meet strangers, or those working to serve the short term let would be a significant change in experience of living in a flat residential building. In the opinion of the Planning Service this would have a significant adverse impact on the amenity and sense of security for the permanent occupants. This would be particularly felt in a residential location such as this property, because whilst Great Western Road and the shops and businesses surrounding the site attract footfall from visitors to these businesses, within the property the expected amenity would be to not meet strangers on a regular basis, or at least to meet neighbours or have neighbours in close proximity.

This may prove to be intimidating or disturbing to permanent residents using these communal areas especially if the flat was regularly let at maximum occupancy which could include groups of four unrelated adults unknown to the neighbouring residents. As such this commercial use within a residential area and building is not considered appropriate.

Considering the low number of flats in the building mean that this impact would be significant against typical residential occupation.

It is also noted that the regular change in guests means that any potential impact through nosier guests is time limited unlike cases of long term residents. However, the general use of this flat by up to four guests would likely be more intense than permanent residential occupation. The potential for an adverse impact through intensification of occupation is therefore present, which combined by the direct impact due to their only being one other flat accessed from this entrance mean the change in use would have a significant impact upon the amenity of the one neighbouring flat.

This change would result in a reduction in safety and security either actual or perceived for the permanent residents in the building. Due to their being no other access route available, it is considered that this adverse impact could not be mitigated such as through appropriate management of the property through the licencing regime.

It is therefore considered that the change of use of the property to an STL would cause significant harm to amenity of the residents located in the other flat accessed from the communal entrance, contrary to Policy 30(e)(i) of NPF4 and Policy H1 of the ALDP.

Impact on character and amenity of the area

The application property is situated within a residential area as zoned in the ALDP Proposals Map, and is not within the city centre boundary. This section of Great Western Road and the street to the north, Forest Avenue is predominantly residential. However, the corner where the property is located has a mix of uses including retail uses and a café in the ground floor on both sides of the junction. Additionally, there are or have historically been a number of guesthouses in the former houses and other hospitality businesses along Great Western Road. Therefore, the surrounding area is residential in general terms but with the relatively high density development and interspersed business uses there was notable footfall associated with these nearby land uses during the site visit. It is also noted that Great Western Road is a busy main road leading to the city centre served by frequent buses and commuter traffic.

By virtue of the relatively large number of flats and houses within the wider area, the presence of ground floor commercial units, and the surrounding road network being open to through traffic including direct routes to the city centre, the busy character means that visitors would not necessarily be as notable as in quieter residential areas.

On balance, the use of the application property as an STL, with a potentially increased frequency of comings and goings (when the property is occupied), is unlikely to have a significant impact on the character of the wider area. No external changes are proposed. This also means that there would be no impact upon the character and appearance of the Great Western Road Conservation Area.

It is therefore considered that the change of use of the property to an STL would not cause significant harm to either the character or amenity of the wider area, in accordance with Policy 30(e)(i) of NPF4 and Policy H1 of the ALDP.

Provision of Short Term Let tourist accommodation and local economic benefits

Policy VC2 (Tourism and Culture) of the ALDP states that:

'Proposals for new, or expansion of existing, visitor attractions and facilities capable of strengthening the appeal and attraction of Aberdeen to a wide range of visitors will be supported.'

Proposals should complement existing visitor facilities and be sequentially located in the city centre, or on a site allocated for that use in this Plan, unless activity and locality specific issues demonstrate that this is impracticable.'

The use of the property as an STL would offer a different type of visitor accommodation to hotels and guesthouses that can be more attractive for certain visitors, particularly families and business travellers / contract workers who may be staying in the city for several weeks. The Scottish Government's publication on 'Short Term Lets: Business and regulatory impact assessment' from November 2021 states:

'Short-term lets make an important contribution to the tourist economy because they can:

- a) offer visitors a unique tourist experience through a host's local knowledge, increasing the attractiveness of Scotland as a place to visit,*
- b) offer accommodation in places not served by hotels and hostels, for example, and therefore help with dispersal of visitors from "hotspot" areas,*
- c) offer more affordable accommodation, helping to attract tourists that may have a lower budget, and*
- d) provide additional capacity to accommodate tourist or other visitor demand in areas with a high demand over a short period of time (for example, to accommodate tourists during the Edinburgh Festival or the Open golf tournament).'*

Although it is not possible to precisely quantify or demonstrate the local economic benefits that would be derived from the use of the application property as an STL, as required by Policy 30(e)(ii) of NPF4, given the likely use of the property by tourists and/or business travellers, it is envisaged that customers of the property would be likely to spend money in the local tourism and hospitality sectors, to the benefit of those businesses. This is backed up in general terms by the Scottish Government's 'Research into the impact of short-term lets on communities across Scotland' publication, produced in October 2019, which states in Key Findings - Chapter 5:

'The positive impacts of STLs most commonly identified related to the local economic impacts associated with the tourism sector.'

The application property is not within a short distance to the city centre; however there are direct bus routes to the city centre, as well as access to the railway station and bus station directly from outside the property. It is therefore considered that the use of the property as an STL is generally compliant with the aims of Policy VC2 of the ALDP as guests are likely to want to use the city centre services when staying at this property.

However, as the site is outside of the city centre area this does represent a very minor tension with Policy VC2 of the ALDP. This tension is limited by the small scale of this development, i.e. one flat would not displace significant tourist accommodation from the city centre.

Therefore the use of this site as a STL would not undermine the intent of Policy VC2, which seeks to ensure that tourist development supports, and is supported by, existing businesses, services and public transport located in the city centre. It is also noted that the siting of the accommodation could have the benefit as set out in the Scottish Government's publication on 'Short Term Lets: Business and regulatory impact assessment' in offering more affordable accommodation helping to attract

tourists that have a lower budget and offering accommodation which is not currently served by hotels or hostels.

Whilst the site is considered acceptable in terms of Policy VC2 the potential economic benefits of the development have not been identified which would outweigh the potential detrimental impacts upon neighbouring amenity as set out above.

Housing Demand

Policy 30 (Tourism) part e) ii) sets out that development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

In relation to impacts on local housing need and demand, the Council's Short-Term Lets APG states:

'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.'

The Aberdeen City Council Communities, Housing and Public Protection Committee declared a housing emergency in Aberdeen on 5 September 2024, with an action instructed to commit to the creation of a Housing Emergency Action Plan to develop solutions to resolve it. To date, there has been no revision to the Short-Term Lets APG following this declaration. There is no guidance within the declaration itself regarding its application in relation to the change of use of existing mainstream residential properties to STLs, nor has any been issued at the time of writing. Because of this, at the time of the determination of this application, minimal weight can be placed on the declaration relative to the other material planning considerations, notably the Development Plan and the adopted Aberdeen Planning Guidance.

The APG does, however, state the following:

'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.'

In relation to the duration of planning permissions for Short Term Lets, the Scottish Government Circular 1/2023 (Short-Term Lets and Planning) notes that:

'4.14 Planning authorities can impose a condition when granting planning permission to require the permitted use to be discontinued after a specified period – this is known as “planning permission granted for a limited period”.

4.15 Planning authorities may consider applying a discontinuation condition of 10 years, or such other time period as they consider appropriate, when granting planning permission for short term letting in a control area (or outside, if they see fit).'

The refusal of planning permission for the ongoing use of the property as STL accommodation on a permanent basis may result in the flat returning to a residential use on a permanent basis. However there is no current evidence that this use of the property as an STL would have any significant identified impact on local housing need currently and therefore this would not form part of the reason for refusal.

Transport & Accessibility

Policy 13 (Sustainable Transport) on NPF4 and Policies T2 (Sustainable Transport) of the ALDP both promote and encourage the use of sustainable and active modes of travel where possible, as opposed to private vehicle trips. Policy T3 (Parking) of the ALDP promotes low-car developments in accessible locations close to public transport routes and within walking distance of the city centre. Where this is not possible development shall be required to comply with the parking standards set out in the Aberdeen Planning Guidance: Transport and Accessibility.

There is no off-street parking associated with the flat currently and none would be made available for the short term let use. The Roads Development Management Team have assessed this provision and consider that the difference between the two uses is unlikely to result in an intensification of use or different requirement for parking.

As stated above, the application property lies outwith the city centre boundary but is within close proximity to public transport links to the city centre. Due to its relatively accessible location visitors would be able to come by other means than private car.

The proposals are therefore compliant with Policy 13 of NPF4 and Policies T2 and T3 of the ALDP.

Waste Management

Policy 12 (Zero Waste) of NPF4 and Policy R5 (Waste Management Requirements for New Development) of the ALDP both require developments that generate waste and/or recyclables to have sufficient space for the appropriate storage and subsequent collection of that waste and recyclable materials. Although the property is a business and therefore does not pay Council Tax, customers of the STL utilise existing domestic on-street general waste and recycling bins.

The ACC Waste and Recycling team have been consulted on this application and do not object to the proposal. The intensity of use and type of waste generated is likely to be domestic in nature and type similar to the existing residential use.

The ACC Waste and Recycling Team have, however, advised that a business waste contract with the Council would be required. The proposals are therefore acceptable in accordance with Policies 12 of NPF4 and R5 of the ALDP.

Tackling the Climate and Nature Crises, Climate Mitigation and Biodiversity

Policy 1 (Tackling the Climate and Nature Crises) of NPF4 requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. Policy 2 (Climate Mitigation and Adaptation) of NPF4 requires development proposals to be designed and sited to minimise lifecycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change. Policy 3 (Biodiversity) of NPF4 requires proposals for local development to include measures to conserve, restore and enhance biodiversity, proportionate to the nature and scale of development.

The proposed development, comprising the change of use of an existing property, with no associated external alterations, is sufficiently small-scale that it would not likely contribute further to the global climate and nature crises nor to climate mitigation and adaptation. The siting of tourist accommodation in a sustainable location may reduce the need of travellers to arrive by car, and certainly whilst within the city would allow for sustainable travel to attractions and services which would minimise greenhouse gas emissions. Therefore the proposals are compliant with Policies 1 and 2 of NPF4. The proposed development would be wholly internal, small-scale and does not offer the significant opportunity for any biodiversity gain and the proposals are thus considered to be acceptable, despite some minor tension with Policy 3 of NPF4.

DECISION

Refuse

REASON FOR DECISION

The retrospective change of use of the property from a residential flat to short term let accommodation would have a significant adverse impact on the amenity of the occupants of the neighbouring residential flat which shares the same entrance. This is because the occupants of the neighbouring flat would have to share the communal entrance, vestibule and stairway solely with frequently changing transient guests and cleaners of the short term let accommodation unit, who would be unknown to them. Taking into account the open nature of the vestibule and close proximity of the private entrances of each property to each other, this would result in a significant adverse impact on the privacy and sense of security, whether actual or perceived, on the occupants of the neighbouring flat, as well as result in likely general noise disturbance compared to if the application property was in mainstream residential use. The proposal would therefore adversely affect the residential amenity of the surrounding area, contrary to the aims of Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4), and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023.

It is recognised in general terms that the location of this short term let accommodation unit would likely have local economic benefits in that it would provide tourist accommodation which is accessible from the city centre, the amenities and businesses of Great Western Road and it is in a location that is accessible to public transportation. However, the specific circumstances of this site and the proposal are such that it would result in an unacceptable impact on the local amenity of the area to a degree that would significantly outweigh any local economic benefit that would arise from the use of the property as a short term let accommodation unit. The proposal is therefore also contrary to the aims of Policy 30 (Tourism) of NPF4.



Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100673029-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

☒ Application for planning permission (including changes of use and surface mineral working).

☐ Application for planning permission in principle.

☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition

etc) ☐ Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Required Planning Permission to apply for Short Term Letting Licence

Is this a temporary permission? * ☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place? ☐ Yes ☒ No
(Answer 'No' if there is no change of use.) *

Has the work already been started and/or completed? *

☒ No ☐ Yes – Started ☐ Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Gordon"/>	Building Number: <input type="text" value="308"/>
Last Name: *	<input type="text" value="Brown"/>	Address 1 (Street): * <input type="text" value="Great Western Road"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: * <input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="AB10 6PL"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	<input type="text"/>

Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="ATTIC FLOOR FLAT"/>
Address 2:	<input type="text" value="320 GREAT WESTERN ROAD"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB10 6PL"/>

Please identify/describe the location of the site or sites

<input type="text"/>			
Northing	<input type="text" value="804956"/>	Easting	<input type="text" value="392488"/>

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☒ Yes ☐ No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

☐ Meeting ☐ Telephone ☐ Letter ☒ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

The Planning Team have confirmed that using the property as a short term let would constitute a material change of use and therefore, it would require planning permission. You are therefore advised to contact the Planning Team by email to pi@aberdeencity.gov.uk and they will be able to advise you further on the requirement for planning permission.

Title:

Ms

Other title:

First Name:

Rachel

Last Name:

Correspondence Reference Number:

Date (dd/mm/yyyy):

08/03/2024

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

93.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Being used for Short term letting

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

Water Supply and Drainage Arrangements	
Will your proposal require new or altered water supply or drainage arrangements? *	≤ Yes T No
<p>Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>	
<p>Are you proposing to connect to the public water supply network? *</p> <p>≤ Yes</p> <p>≤ No, using a private water supply</p> <p>T No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>	
Assessment of Flood Risk	
<p>Is the site within an area of known risk of flooding? *</p> <p style="text-align: right;">≤ Yes T No ≤ Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? *</p> <p style="text-align: right;">≤ Yes T No ≤ Don't Know</p>	
Trees	
<p>Are there any trees on or adjacent to the application site? *</p> <p style="text-align: right;">≤ Yes T No</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>	
All Types of Non Housing Development – Proposed New Floorspace	
<p>Does your proposal alter or create non-residential floorspace? *</p> <p style="text-align: right;">≤ Yes T No</p>	
Schedule 3 Development	
<p>Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 * ≤ Yes T No ≤ Don't Know</p> <p>If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.</p> <p>If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.</p>	
Planning Service Employee/Elected Member Interest	
<p>Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *</p> <p style="text-align: right;">≤ Yes T No</p>	

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

☐ Yes ☒ No

Is any of the land part of an agricultural holding? *

☒ Yes ☐ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr Gordon Brown

On behalf of:

Date: 29/05/2024

☐ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☒ Yes ☐ No ☐ Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

☒ Yes ☐ No ☐ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

☒ Yes ☐ No ☐ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☐ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

☐ Yes ☐ No ☐ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☐ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☐ Site Layout Plan or Block plan.

☐ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. * ☐ Yes ☐ N/A

A Design Statement or Design and Access Statement. * ☐ Yes ☐ N/A

A Flood Risk Assessment. * ☐ Yes ☐ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * ☐ Yes ☐ N/A

Drainage/SUDS layout. * ☐ Yes ☐ N/A

A Transport Assessment or Travel Plan ☐ Yes ☐ N/A

Contaminated Land Assessment. * ☐ Yes ☐ N/A

Habitat Survey. * ☐ Yes ☐ N/A

A Processing Agreement. * ☐ Yes ☐ N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Stephen Westall

Declaration Date: 27/05/2024

Payment Details

Online payment: ABSP00010890

Payment date: 27/05/2024 14:14:00

Created: 27/05/2024 14:14

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DECISION NOTICE

The Town and Country Planning (Scotland) Act 1997

Detailed Planning Permission

Mr Gordon Brown
308 Great Western Road
Aberdeen
AB10 6PL

Aberdeen City Council in exercise of its powers under the above mentioned Act hereby **refuses planning permission** for the development specified below and shown in the plans and drawings listed.

Application Reference Number	240651/DPP
Address of Development	Attic Floor Flat 320 Great Western Road Aberdeen AB10 6PL
Description of Development	Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people
Date of Decision	23 January 2025

DETAILS OF ANY VARIATION MADE TO THE APPLICATION

None.

REASON FOR DECISION

The reasons on which the Council has based this decision are as follows –

The retrospective change of use of the property from a residential flat to short term let accommodation would have a significant impact on the amenity of the occupants of the

neighbouring residential flat which shares the same entrance. this is because the occupants of the neighbouring flat would have to share the communal entrance, vestibule, and stairway solely with frequently changing transient guests and cleaners of the short term let accommodation unit, who would be unknown to them. Taking into account the open nature of the vestibule and close proximity of the private entrances of each property to each other, this would result in a significant adverse impact on the privacy and sense of security, whether actual or perceived, on the occupants of the neighbouring flat, as well as result in likely general noise disturbance compared to if the application property was in mainstream residential use. The proposal would therefore adversely affect the residential amenity of the surrounding area, contrary to the aims of Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4), and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023.

It is recognised in general terms that the location of this short term let accommodation unit would likely have local economic benefits in that it would provide tourist accommodation which is accessible from the city centre, the amenities and business of Great Western Road and it is in a location that is accessible to public transportation. However, the specific circumstances of this site and the proposal are such that it would result in an unacceptable impact on the local amenity of the area to a degree that would significantly outweigh any local economic benefit that would arise from the use of the property as a short term let accommodation unit. The proposal is therefore also contrary to the aims of Policy 30 (Tourism) of NPF4).



A full evaluation and account of the processing of the application is contained in the report of handling, which is available by entering the application reference number at <https://publicaccess.aberdeencity.gov.uk/>.

PLANS AND DRAWINGS

801506

Location Plan
Other Floor Plan (Proposed)
Short Term Let Checklist

Signed on behalf of the planning authority

Daniel Lewis
Development Management Manager

IMPORTANT INFORMATION RELATED TO THIS DECISION

RIGHT OF APPEAL

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. A review request must be made using the 'Notice of Review' form available from <https://www.eplanning.scot/>.

SERVICE OF PURCHASE NOTICE

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Consultee Comments for Planning Application 240651/DPP

Application Summary

Application Number: 240651/DPP

Address: Attic Floor Flat 320 Great Western Road Aberdeen AB10 6PL

Proposal: Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people

Case Officer: Jack Ibbotson

Consultee Details

Name: Mr Jack Penman

Address: Aberdeen City Council, Marischal College, Broad Street, Aberdeen AB10 1AB

Email: Not Available

On Behalf Of: ACC - Roads Development Management Team

Comments

I note that this proposal is for a change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people at Attic Floor Flat, 320 Great Western Road, Aberdeen, AB10 6PL.

The site is in the outer city boundary and not in a CPZ.

I note there is 0 parking associated with the site and 0 is proposed.

The site is fronted by good standard adopted footways and is close to well served public transport stops on Great Western Road.

There are existing parking restrictions nearby which would prevent any obstructive / inappropriate parking. Nearby there is kerbside parking which is available on a first come first served basis.

I can confirm that Roads have no objection to this proposal.

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Aberdeen City Council – Development Management Team Consultation Request

Case Officer: Jack Ibbotson	To: ACC - Waste And Recycling
E-mail: JIbbotson@aberdeencity.gov.uk	Date Sent: 4 June 2024
Tel.: 01224 053589	Respond by: 25 June 2024
Application Type: Detailed Planning Permission	
Application Address: Attic Floor Flat 320 Great Western Road Aberdeen AB10 6PL	
Proposal Description: Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people	
Application Reference: 240651/DPP	
Consultation Reference: DC/ACC/SEKFWFBZ03V04	

To view the plans and supporting documentation associated with the application please [follow this link](#).

In the case of pre-application enquires please login at <https://publicaccess.aberdeencity.gov.uk> and in 'Consultation Search' enter the consultation reference (shown above) into the 'Letter Reference' field and then click 'Search'.

Unless agreed with the case officer, should no response be received by the respond by date specified above it will be assumed your service has no comments to make.

Should further information be required, please let the case officer know as soon as possible in order for the information to be requested to allow timeous determination of the application. **Response**

Please select one of the following.

No observations/comments.	
Would make the following comments (please specify below).	
Would recommend the following conditions are included with any grant of consent.	Y
Would recommend the following comments are taken into consideration in the determination of the application.	Y
Object to the application (please specify reasons below).	

COMMENTS

The following development is classified as commercial and therefore receives a business waste collection.

When providing feedback on commercial developments, I can only provide a very general response regarding commercial developments due to Aberdeen City Council not being the only waste service contractor available in the city.

Site Specific comments:

- To make use of current bins until commercial status can be determined.

See below for general comments:

- Business premises need to be provided with a bin store to allocate, within the property, the waste and recycling bins
- Commercial waste bins cannot be stored on the street any day of the week as per Council Policy 2009 (Obstructions- Commercial Waste Bins). Infringement on the Council Policy can lead to a fine of £500 per bin as adopted by the Enterprise, Strategic Planning and Infrastructure Committee on 29th August 2013
- There are many waste contract collection providers operating in Aberdeen and each one provides different collection of waste and recycling services. For this reason, business premises need to liaise with their waste contract collection to ensure the correct management of their waste.
- Business premises have a legal Duty of Care covering all the waste they produce. This means that it is the Business premises responsibility to manage and dispose of any waste correctly.
- The Waste (Scotland) 2012 requires that **all businesses** from 1st January 2014 are required to separate paper, cardboard, glass, plastic and metals for recycling. Some businesses will additionally be required to separate their food waste (where food waste >5kg per week).
- General tips for site and hopefully the chosen waste collection contractor will detail this but for access, the following is needed:
 - An area of hard standing at storage and collections point(s)
 - Dropped kerb at proposed bin collection point
 - Yellow lines in front of bin collection point
 - Bin storage areas to ideally be provided with a gulley and wash down facility for the interest of hygiene

For further independent guidance about waste and recycling provision, storage and collection please refer to the following document: http://www.lgcplus.com/Journals/3/Files/2010/7/14/ADEPTMakingspaceforwaste_000.pdf and additional Trade Waste information can be found in the Waste Supplementary Guidance available at: [Requirements for New Developments](#)

Responding Officer: N Taylor

Date: 7th of June 2024

Email: wasteplanning@aberdeencity.gov.uk

240651: 320 Great Western Road – Change of Use to Short Term Let (4 persons)

National Planning Framework 4 (NPF4)

Policies:

- 1: Tackling the Climate and Nature Crises
- 2: Climate Mitigation and Adaptation
- 3: Biodiversity
- 6: Historic Assets
- 12: Zero Waste
- 13: Sustainable Transport
- 30: Tourism

Aberdeen Local Development Plan (2023)

- H1: Residential Areas
- R5: Waste Management Requirements for New Developments
- T2: Sustainable Transport
- T3: Parking
- VC2: Tourism and Culture

Aberdeen Planning Guidance

- Short Term Lets

Scottish Government publications:

[Circular 1/2023: Short-Term Lets and Planning](#)

[Short Term Lets: Business and regulatory impact assessment – November 2021](#)

[Scottish Government – Research into the impact of short-term lets on communities across Scotland – October 2019](#)

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100708995-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

≤ Applicant T Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Wright Planning & Development Ltd"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="John"/>	Building Name:	<input type="text" value="Norma Villa"/>
Last Name: *	<input type="text" value="Wright"/>	Building Number:	<input type="text" value="26"/>
Telephone Number: *	<input type="text" value="07980992740"/>	Address 1 (Street): *	<input type="text" value="Wilson Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Lower Flat"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Perth"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
		Postcode: *	<input type="text" value="PH2 0EX"/>
Email Address: *	<input type="text" value="john@wrightpdl.co.uk"/>		

Is the applicant an individual or an organisation/corporate entity? *

T Individual ≤ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Gordon"/>	Building Number: <input type="text" value="308"/>
Last Name: *	<input type="text" value="Brown"/>	Address 1 (Street): * <input type="text" value="Great Western Road"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value="REDACTED"/>	Postcode: * <input type="text" value="AB10 6PL"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="ATTIC FLOOR FLAT"/>
Address 2:	<input type="text" value="320 GREAT WESTERN ROAD"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB10 6PL"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="804928"/>	Easting	<input type="text" value="392441"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people.

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See attached statement.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☒ Yes ☐ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

We believe that the suggestions made in the appeal statement, whilst not before the Officer at the point of determination, would be worthwhile considering in the appeal and may address the concerns about the proposal resulting in its refusal.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Appeal Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

240651/DPP

What date was the application submitted to the planning authority? *

03/06/2024

What date was the decision issued by the planning authority? *

23/01/2025

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☐ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☐ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☐ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☐ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☐ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☐ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☐ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☐ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr John Wright

Declaration Date: 22/04/2025

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**Notice of Review against refusal of planning permission under s43A(8) of The
Town and Country Planning (Scotland) Act 1997 (as amended).**

**Change of use of flat to Short Term Let accommodation (sui generis) with
maximum occupancy of 4 people**

Attic Floor Flat 320 Great Western Road Aberdeen AB10 6PLApplication

Reference: 240651/DPP

Appeal Statement on behalf of:

Mr Gordon Brown

Prepared by:

Wright Planning & Development Ltd

John Wright (BSc Hons) MRICS

22 April 2025

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APPENDIX 2 – DECISION NOTICE

APPENDIX 3 – REPORT OF HANDLING

APPENDIX 4 – PHOTOGRAPHS

APPENDIX 5 – CUSTOMER REVIEWS

APPENDIX 6 – GUEST WELCOME NOTE

APPENDIX 7 – CHIEF PLANNER LETTER

APPENDIX 8 – CIRCULAR 1/2023.

1.0 INTRODUCTION

Wright Planning & Development Ltd (WPDL) are instructed by Mr Gordon Brown (308 Great Western Road), owner of the application property, and applicant on this proposal, to prepare and submit this request for review.

This request for review is in response to the refusal of an application for Detailed Planning Permission (**Appendix 1**) by Aberdeen City Council (Ref: 240651/DPP) by Decision Notice (**Appendix 2**) issued on 23rd January 2025. This appeal statement comprises our reasons for requesting a review.

The Local Delegated Decision Notice received confirms a reasonably lengthy reason for refusal citing multiple NPF4 and LDP Policies in that and therefore we will not re-state it here.

The Delegated Report (**Appendix 3**) provides additional information on the reasons for refusal and, from reading that, the primary concern appears to centre on the actual or perceived impact of the proposal on the residential amenity and security of the occupant of the neighbouring property and the amenity of the area as a whole.

2.0 Proposed Appeal Procedure

We are happy for this appeal to be considered on the basis of written submissions although if Members would appreciate a site visit, one can be arranged.

We have provided photographs (**Appendix 4**) of the property to provide greater context of the setting to assist the LRB in their consideration of this review.

3.0 Grounds of Appeal

The Site description in the report indicated that the properties are both on the upper floor, however, the neighbouring flat is in fact below the application property (as per the rest of the report).

The reason for refusal states that the proposal “*would have a significant impact on the amenity of the occupants of the neighbouring residential flat which shares the same entrance*” for a variety of reasons (cleaners, frequently changing guests etc.), however it is worth noting that the current occupier of the flat has had no complaints about the use for Air B n B over the last 2 years (it was in use as serviced accommodation before that) of operation and raised no objection to the application.

The quality of the property is reflected in its “Guest Favourite” ranking on the Air B n B website (extract of reviews at **Appendix 5**). The listing makes it clear that it is targeted at families and couples, rather than parties (and this is reflected in the reviews from guests). The reviews also reflect the positive management of the property by the owners. When checking in to the property a welcome note is provided (**Appendix 6**) reminding guests of their responsibilities to minimise any potential for an adverse impact to occur.

This property is professionally managed (by Cobra Property Solutions Ltd – Mr Browns son) as part of the wider family portfolio of accommodation. The family have been involved in hospitality and serviced accommodation for over 20 years now, including traditional hotel operations and, more recently, short- and long-term rental accommodation across the City and Shire. During that time, they have owned and managed over 60 rooms and 20 dedicated holiday/worker let units- experience which has shaped their professional approach to design, guest experience and property management. Their track record of operation of this property, and others in the portfolio, by an experienced property manager, should

provide Members with some confidence that there is no significant actual impact occurring to the neighbour's amenity, and no need to perceive that this will become an issue through time.

Given the description of the area generally in the report, it is difficult to understand how this proposal would be detrimental to the amenity of the local area particularly to a degree that would significantly outweigh any local economic benefit that would arise from the use of the property as a short term let. The Officers Report seems to accept that *"On balance, the use of the application property as an STL, with a potentially increased frequency of comings and goings (when the property is occupied), is unlikely to have a significant impact on the character of the wider area"* and goes on to state that there would be no *"significant harm to either the character or amenity of the area"*. Therefore, it is unclear why this then features in the reason for refusal on the Decision Notice.

Whilst the Report and Decision Notice cites NPF4 Policies, with the LDP adopted in June 2023 it is the more up to date expression of Policy and takes precedent over NPF4 (adopted Feb 2023) and the Chief Planners letter is clear (**Appendix 7**) that where there is a incompatibility between a provision of NPF4 and the LDP (which appears to be the case here) the more up to date applies.

The more recently adopted LDP contains a Policy relating to Tourism and Culture (Policy VC2) which provides support for the proposal and does not contain the same requirements relating to local amenity, or a resistance to the loss of residential property or requirements for that loss to be outweighed by local economic benefits. This would represent an incompatibility in Policy where the more up to date applies.

4.0 Material Considerations

Planning Circular 1/2023 (Short-term lets and planning – **Appendix 8**) relates primarily to establishing a control area and the considerations to be made in doing so.

At s4(e) para 4.14 the Circular clarifies that;

"Planning authorities can impose a condition when granting planning permission to require the permitted use to be discontinued after a specified period – this is known as "planning permission granted for a limited period"."

Given the potential for either the ownership of the appeal property, or the property below to change over time, and accepting that a change in the ownership of the appeal property could bring about less attentive management of the property, we would request consideration be given in this case to granting consent for a 2 year period to allow the actual impact to be reviewed at that time and any changes to be considered.

5.0 Conclusion

Should the LRB require any further procedure or information, or require clarification of any aspect of the development, we would be very happy to assist.

We believe that in this instance, we have demonstrated that there is no currently adverse impact on the amenity of the neighbouring property, and that through the management practices in place, the potential for harm to occur is controlled. Should the LRB remain concerned about the potential for harm to occur a 2 year consent (or potentially a personal consent) could be issued in this instance to allow the property to continue operating, but to enable the impact to be reconsidered in the future.

Short Term Let Accommodation

Planning Supporting Information Checklist



What is the property address and floor level?	
What is the maximum number of occupants that would be allowed to stay in the property?	
How many bedrooms and beds would there be?	
What are the minimum and maximum durations of stays for customers?	
Would there be any car parking available for customers?	
If yes, how many spaces and what type? (i.e. dedicated off-street space, on-street etc)	
Would the property be in use as a Short Term Let (STL) on a permanent basis, or would it only be available to hire for certain periods of the year only?	
If not permanent, please provide further details	
Would the property be let out to one group, as one booking, or would individual rooms be available to let separately?	
What would the check-in and check-out times be and would customers be met or would they collect the keys from a key box or similar?	
Please advise what the arrangements would be, including frequency, for cleaning the property and how would waste be disposed of?	
Does the property share a communal access with any other properties and if so, how many?	
Does the property have access to any communal amenities, including garden ground or roof terraces?	
If so, provide details	
If known, how many other properties in the building are currently in use as Short Term Let accommodation?	
If the application seeks permission retrospectively, how long has the property been in use as Short Term Let accommodation?	
Please provide any existing online links to view & book the accommodation, if available.	

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apartment was also far enough away from the centre to be quiet, but close enough for easy access. All in all, it was a great stay and we'd thoroughly recommend booking!




6 months on Airbnb

★★★★★ · September 2024

Amazing apartment, spotless and pristine in its presentation. It had everything we needed, including nice touches of shower gels, and milk, water and soft drinks in the fridge, chocolates and crisps. Ideally located for getting into the city centre with off street parking available and a bus route outside the flat. Would highly recommend to anyone looking to stay in the Aberdeen area.

Response from 

November 2024

Thank you  for your comments and review :) I am glad that you enjoyed staying with us :)



5 years on Airbnb

★★★★★ · September 2024



was a wonderful host. Going above



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Contro

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★★★★★ · December 2024

I booked [REDACTED] lovely place for two work colleagues, we often have personnel staying locally and I like to choose central locations so they can access everything. This property has now jumped to the top of the list as a favourite, we will certainly stay again. Thank you for clearly communicating, the apartment is beautiful and both guests loved their stay.



9 years on Airbnb

★★★★★ · November 2024

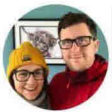
We had a lovely stay at [REDACTED] apartment. The rooms are a really great size and very comfortable. There is a lovely coffee shop just opposite and it's right by a bus stop into town. [REDACTED] responded very quickly to any questions we had.





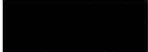
Q Search reviews

review :) I am glad that you enjoyed staying with us :)



9 years on Airbnb

★★★★★ · October 2024

Had an excellent stay here. The apartment was easy to access and was lovely. The bed in the master bedroom was really comfy. It was a struggle to leave it!  had also left some treats for us, which was a lovely touch. We have a long wheelbase van so parking was initially a concern, but there was lots of space around and we didn't struggle at all. The apartment was also far enough away from the centre to be quiet, but close enough for easy access. All in all, it was a great stay and we'd thoroughly recommend booking!



6 months on Airbnb

★★★★★ · September 2024

Amazing apartment, spotless and pristine in its presentation. It had everything we needed, including nice touches of shower gels, and milk, water and soft drinks in the fridge, chocolates and crisps. Ideally located for

Welcome to our apartment!

To ensure a pleasant stay for you—and peace and harmony with our neighbours—please take a moment to review our house guidelines:

- **Maximum guests:** 4 persons.
- **No parties or events**—this includes balconies and all communal areas.
- **Quiet hours:** 10 PM–8 AM. Please keep noise to a minimum inside and out.
- **Communal care:**
 - Sort your bins on collection day (recycling/green/general).
 - Respect corridors, elevators, and shared spaces.
 - Leave all areas as you found them.
- **Security:**
 - Always lock the front door and windows when you go out and at bedtime.
 - Do not buzz in strangers or let anyone you don't know access the building.

We take our communal responsibilities seriously—thank you for helping us maintain a friendly community spirit. Enjoy your stay!

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Publication - Correspondence

Transitional arrangements for National Planning Framework 4: Chief Planner letter - February 2023

Published: **8 February 2023**

Directorate: [Local Government and Housing Directorate](#)

Topic: [Building, planning and design](#)

Planning Minister Tom Arthur and Chief Planner Fiona Simpson have written to stakeholders to provide advice on the transition to the new development plan system and on some policy considerations. This is in advance of National Planning Framework 4 (NPF4) being adopted on 13 February 2023.

Part of

[Chief Planner letters](#)

Following the approval by the Scottish Parliament of National Planning Framework 4 (NPF4) on 11 January 2023, the following provides advice on NPF4 becoming part of the statutory 'development plan' alongside local development plans (LDPs). We intend for this advice to support consistency in decision making ahead of new style LDPs being in place.

The Development Plan

In Scotland, the planning system is plan-led. From 13 February, on adoption and publication by Scottish Ministers, NPF4 will form part of the statutory development plan, along with the LDP applicable to the area at that time and its supplementary guidance. NPF4 will supersede National Planning Framework 3 and Scottish Planning Policy (SPP) (2014). NPF3 and SPP will no longer represent Scottish Ministers' planning policy and should not therefore form the basis for, or be a consideration to be taken into account, when determining planning applications on or after 13 February.

On 13 February, Strategic Development Plans (SDP) and associated supplementary guidance will cease to have effect and as such no longer be part of the development plan.

LDPs already adopted will continue to be part of the development plan. For avoidance of doubt, existing LDP land allocations will be maintained.

LDPs within SDP areas will no longer be required to be consistent with the SDP. For proposed LDPs prepared prior to the adoption and publication of NPF4, it may be that there are opportunities to reconcile identified inconsistencies with NPF4 through the examination process. However there are clear limitations to this. The scope of an examination is limited to issues raised in representations and the process must remain proportionate and fair.

Whether an LDP has been adopted prior to or after the adoption and publication of NPF4, legislation states that in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); section 24(3)).

Across Scotland there is a substantial amount of supplementary guidance associated with SDPs and LDPs. Supplementary guidance associated with SDPs will no longer have effect following adoption and publication of NPF4 on 13 February. Supplementary guidance associated with LDPs which was in force before 12 February (the date on which section 13 of the 2019 Act comes into force) will continue to be in force and be part of the development plan (1997 Act; paragraph 2 of schedule 1).

As the development plan system transitions to one without statutory supplementary guidance, the Planning (Scotland) Act 2019 (Commencement No.11 and Saving and Transitional Provisions) Regulations 2023 provide for local authorities to continue to prepare and adopt supplementary guidance associated with LDPs until 31 March 2025. Supplementary guidance adopted under those provisions is to be treated as forming part of the development plan for the area to which the LDP relates.

The provisions of section 16(1)(a) of the 1997 Act require planning authorities to prepare a new LDP for their area at intervals of no more than 10 years or whenever required to do so by the Scottish Ministers. It will be important for the first round of 'new style' LDPs to be prepared in a timely fashion. We expect that every planning authority in Scotland will have a new style plan in place within around 5 years of the new development plan regulations coming into force, which we anticipate happening this spring.

Legislation provides for planning authorities to prepare LDPs that include policies and proposals for development and use of land in their area. There is no legal requirement for LDPs to be directly 'compatible' with NPF4, although in preparing LDPs, there will be a statutory requirement under section 16(2)(a)(i) of the 1997 Act that planning authorities take the NPF into account.

Applying NPF4 Policy

Section 25 of the 1997 Act requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. Application of planning judgement to the circumstances of an individual situation remains essential to all decision making, informed by principles of proportionality and reasonableness.

It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement.

It is recognised that it may take some time for planning authorities and stakeholders to get to grips with the NPF4 policies, and in particular the interface with individual LDP policies. As outlined above, in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail. Provisions that are contradictory or in conflict would be likely to be considered incompatible.

We expect that monitoring of the policies will particularly focus on new and developing policy areas, so that their application in practice can inform future guidance.

Below we have set out some more specific advice on individual policies.

Policy 1 – Tackling the climate and nature crises

This policy prioritises the climate and nature crises in all decisions. It should be applied together with the other policies in NPF4. It will be for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to the climate and nature crises.

Policy 2 - Climate mitigation and adaptation

There is currently no single accepted methodology for calculating and / or minimising emissions. The emphasis is on reducing emissions as far as possible, rather than eliminating all emissions.

At this stage, quantitative assessments are not expected for all applications and there are no defined thresholds that require different levels of information at this stage. Planning authorities will be aware that this is unlikely to be a key consideration for many applications, for example for smaller scale developments, householder applications or many changes of use. However, for other types of development proposals that may generate significant emissions, such as some national or major developments, we consider it to be reasonable to expect quantitative information to be provided. For developments that require an Environmental Impact Assessment (EIA), the impact of the project on climate (e.g. the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change will have been considered as appropriate in the EIA Report. See [Circular 1/2017](#) for further information.

Last year the Scottish Government published [carbon management guidance for projects and programmes](#). Whilst this is aimed at larger scale projects within city region and growth deals and a fully quantified approach is only likely to be proportionately applicable to larger scale proposals, at least whilst practice and methodologies develop over the coming years, the guidance includes useful information and highlights established methodologies which may be of assistance to applicants and planning authorities. Published research on the Lifecycle Greenhouse Gas Emissions of NPF4 Proposed National Developments, also offers an example of a high-level approach to identifying direct and indirect effects of proposals on GHG emissions which can be embedded into statutory Environmental Assessment obligations.

Policy 3 - Biodiversity

To support this policy in practice, NatureScot previously consulted on new 'Developing with Nature guidance' to accompany NPF4 Biodiversity policy 3c), which is to be applied to certain local development. A final version of the guidance will be available shortly. We are committed to developing guidance to accompany wider NPF4 policy 3, and – recognising that currently there is no single accepted methodology for calculating and / or measuring biodiversity 'enhancement' – we have commissioned research to explore options for developing a biodiversity metric or other tool, specifically for use in Scotland. There will be some proposals which will not give rise to opportunities to contribute to the enhancement of biodiversity, and it will be for the decision maker to take into account the policies in NPF4 as a whole, together with material considerations in each case.

Policy 16 - Quality homes

NPF4 sets out a distinct, new approach to planning for new homes across Scotland that aims to deliver more quality homes that meet diverse needs. Policy 16, Quality Homes, promotes a planned approach.

New style LDPs must include targets for meeting the housing needs of people living in the area, this is referred to in NPF4 as the "Local Housing Land Requirement" (LHLR). The LHLR will be informed by the Evidence Report and Gate Check process. It is expected that the LHLR will exceed the Minimum All-Tenure Housing Land Requirements (MATHLR) set out in NPF4.

Proposed Plans will allocate sites to meet the LHLR and, in doing so, we expect there to be greater emphasis on delivery. Policy 16 looks to incentivise delivery of allocated sites, as they will have been considered and agreed through the comprehensive and participative LDP preparation process. If an LDP reaches Examination without sufficient sites identified to meet the LHLR, a planning authority can be required to prepare another Proposed LDP under new legislative provisions in section 19ZA of the 1997 Act.

Once adopted, the delivery of new style LDPs will be monitored and supported through the Housing Land Audit and the LDP Delivery Programme. New guidance on Housing Land Audits will be prepared this year, in collaboration with key stakeholders. The new guidance will seek to ensure a consistent approach is adopted in the preparation of new Housing Land Audits. If needed, collaboration on the LDP Delivery Programme can assist in early consideration of bringing forward longer term sites.

Policy 16 is applicable to decision making when NPF4 becomes part of the statutory development plan. As outlined above, SPP(2014) will be superseded and not form part of Scottish Government planning policies, including: the requirement to maintain at least a 5 year supply of effective housing land at all times, shortfalls in supply indicating LDP policies are not up-to-date, the 'presumption in favour of development that contributes to sustainable development' and the concept commonly known as the 'tilted balance'. Consideration must be given as to whether provisions in LDPs are incompatible with provisions of NPF4. Where there is an incompatibility, such as between a housing exceptions policy in an LDP and Policy 16(f) of NPF4, the latter will prevail.

Policy 23 - Health and safety

We understand that there were some concerns about references within NPF4 to suicide risk, including recognition that LDPs should be informed by awareness of locations of concern for suicide. We would draw your attention to [Creating Hope Together \(Scotland's Suicide Prevention Action Plan 2022-2025\)](#), which was published last year by the Scottish Government together with COSLA. This recognises the importance of the National Planning Framework in reflecting the role of planning in suicide prevention. Further resources are referenced in the action plan and have been produced by Public Health Scotland.

It may also be useful to see [guidance](#) produced by the Welsh Government, which emphasises a pragmatic approach, suggests that suicide prevention should ideally be built into the design of projects and should be compatible with creation of good places. It also references further available practical advice on this.

Policy 27(d) - Drive through developments

During the Parliamentary scrutiny of the draft NPF4, there was some debate about the meaning and application of Policy 27(d), which states that "drive-through developments will only be supported where they are specifically supported in the LDP". The intention of this policy was to ensure that this type of development is considered as an integral part of the wider development plan, and is not (as has been erroneously reported) a moratorium or ban on such developments.

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.

Looking forward, we will include guidance on drive throughs and the relationship to Policy 27(d) within the forthcoming local development plan guidance, which will be published this spring to support implementation of the new arrangements for LDPs.

Further planning guidance and advice

In the NPF4 Delivery Programme, we have given our commitment to progress work on a new suite of guidance and advice that will support activity to deliver the policy intent of NPF4. We will do this alongside careful monitoring of the implementation of policies. With some substantial changes being made through the reform of our planning system, both through legislation and in NPF4, there will now be some discrepancies in existing planning guidance and advice as a result. Nevertheless, there will remain aspects which will still be useful for reference through the new planning system and policy approach. Over time, we will review that historic advice as appropriate.



[Chief Planner letter transitional arrangements for National Planning Framework 4 - February 2023](#)

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2023

SHORT-TERM LETS AND PLANNING

circular

Scottish Planning Series

PLANNING CIRCULAR 1/2023

Short-term Lets and Planning

Short-term Lets and Planning

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1. Glossary

In this circular, the following terms are used:

“the 1997 Act” means the [Town and Country Planning \(Scotland\) Act 1997](#);

“control area” means a short-term let control area designated under section 26B of the 1997 Act, as introduced by section 17 of the Planning (Scotland) Act 2019;

“the Control Area Regulations” mean the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 ([SSI 2021/154](#));

“GPDO” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (SI 1992/223)

“licensing scheme” means the scheme established by the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2021 (SSI 2021/32);

“short-term let” what constitutes providing a short term let is set out in regulation 2 of the Control Area Regulations read with section 26B(3) of the 1997 Act, see also [Annex A](#) .

2. Overview

2.1 This guidance is primarily concerned with the change of use of a **dwellinghouse** to use for **short-term lets** and whether this change is a “material” change of use for the purposes of planning. It covers how consideration of whether a change is material is affected by the establishment of a short-term let control area. It also considers the process and procedures to be followed in establishing, altering or removing a control area

2.2 This Circular replaces and revokes the previous Circular 1/2021: Short-Term Let Control Areas.

3. Establishing control areas

(a) Introduction

3.1 Whether a property is inside or outside of a control area, it continues to be the case that any change of use of a dwellinghouse which is a material change of use would require planning permission¹. A change of use of a dwellinghouse to use for short-term lets occurring after a planning authority has designated an area as a control area will, (with some exceptions as set out in annex A) be deemed a material change and therefore always require planning permission. The exceptions set out in annex A are exceptions only to the rule that such a change of use is deemed to be a material change of use. They do not alter the underlying position that a change of use that is a material change of use requires planning permission.

3.2 The purpose of control areas is to ensure that all changes of use of dwellinghouses to use for the purpose of short term letting are brought within the scope of the planning system without the need to consider if a particular change of use is or is not a material change of use. This should help manage levels of short-term letting where these affect the availability of residential housing or the character or amenity of a neighbourhood, and help local authorities ensure that homes are used to best effect in their areas.

(b) Legislative basis

3.3 Section 26B of the 1997 Act allows planning authorities to designate all of their area as a control area or parts of their area as one or more control areas. They are not under a duty to designate control areas and may choose not to do so.

3.4 The Control Area Regulations are made under powers contained in section 26B of the 1997 Act. Section 26B provides that the Scottish Ministers may make regulations relating to the procedures planning authorities must follow to make, vary or revoke a control area, the form of a designation of a control area, what constitutes

¹ changes of use within classes of the Use Classes Order are not development and so do not require planning permission.

a short-term let for the purposes of section 26B and any circumstances or descriptions of dwellinghouse to which section 26B does not apply.

3.5 Section 26B of the 1997 Act and the Control Area Regulations came into force on 1 April 2021. The Control Area Regulations were amended by The Town and Country Planning (Short-Term Let Control Areas) (Scotland) Amendment Regulations 2022. These made amendments to the list of excluded accommodation and added references to excluded tenancies.

(c) Reasons and evidence

3.6 In order to designate a control area, a planning authority will need to prepare a statement of reasons for their proposal. This is an important step in explaining to people affected by the control area, and the Scottish Ministers, why the planning authority considers it necessary.

3.7 A planning authority might want to designate a control area, and so ensure that planning permission will always be required for a change of use of a dwellinghouse to use for short term letting, for one or more of the following policy objectives:

- to allow consideration of impacts on the availability of residential housing
- to allow consideration of impacts on the character or amenity of a neighbourhood; to allow consideration of impacts on different types of building.

3.8 Planning authorities should consider whether there are systemic material planning considerations across one or more areas in the planning authority area as part of deciding whether to designate one or more control areas. Systemic here might mean the same consideration repeated many times or that there is a cumulative impact from the use of dwellinghouses as short-term lets. Example indicators include:

- Lack of affordable and appropriate housing for local residents, perhaps indicated by a high share of sale volumes to, and high prices paid by, non-residents.
- Detrimental impact on local amenity, with some businesses, schools or other services that serve, and are reliant on, permanent residents closing or relocating.
- Changes to the look and feel of a neighbourhood, such as multiple keyboxes on many buildings or structures or noise on streets and in stairwells.
- Signs that local services are struggling, such as many instances of overflowing bins.
- A significantly higher level of complaints relevant to use of dwellinghouses as short-term lets from neighbours spread across a number of tenements or

properties than in a comparable area, within or outside the planning authority area.

3.9 Ultimately, it will be for local authorities to determine whether a control area is required (based on some form of consultation) taking all relevant local circumstances into account. Planning authorities should keep their control area(s), or absence thereof, under review, perhaps aligned with any review of their local development plan.

(d) Designating one or more control areas

3.10 Under the provisions of section 26B of the 1997 Act, a planning authority may designate all of its area, or any part of its area, as a control area.

3.11 The process of designating an area as a control area essentially follows three steps as set out in regulation 3 of the Control Area Regulations.

3.12 The planning authority must undertake:

- **notification and consultation:** publish notice of their proposal to designate a control area and consult on the proposal;
- **submission and approval:** submit their proposal to the Scottish Ministers and obtain their approval; and
- **publicity:** subject to approval of the Scottish Ministers, the planning authority must give notice of the designation, setting out the area to be covered and the date on which the control area will come into effect.

3.13 A similar process is followed for the variation, or cancellation, of an existing control area.

Notification and consultation

3.14 Regulation 4 sets out the process for the notification of the proposed designation of a control area. Regulation 6 sets out the process for varying or cancelling a control area designation. The purpose is to allow members of the public to be aware of, and comment on, the proposed control area.

3.15 The planning authority is required to publish notice of the proposals in a newspaper circulating in the area to be designated as a control area. The planning authority must also publish the notice on their website and send the notice to each community council within the area of the proposed control area (regulation 4(1)).

3.16 The notice must (regulation 4(2)):

- contain a statement that the planning authority proposes to designate the area as a control area and a description, in general terms, of that area;
- state how further information in respect of the proposal, including a map of the area covered by the proposal and a statement of the planning authority's reasons for proposing to designate the area as a control area, can be inspected free of charge; and,

- state how representations can be made to the planning authority and the date by which they must be made.

3.17 The planning authority must allow a minimum period of 28 days from the last date on which notice is given for the submission of representations. The 28 days begins on the date on which the last part of the required notification is completed.

3.18 Regulation 4(3) sets out that the map of the proposed control area and a statement of reasons for proposing the control area must be made available on the planning authority's website and at an office of the planning authority. The latter is important for people who cannot access this information through the internet. Planning authorities should give consideration as to how to support people without internet at home, or with disabilities that prevent them from accessing the internet, to find the information that they need.

3.19 Planning authorities may consider additional notification methods in addition to the statutory requirements (for example by leaflet drops, social media or local signage) where they consider it appropriate to do so.

3.20 Regulation 6 sets out a similar process for the variation or cancellation of a control area designation once it has been created. Where a planning authority proposes to vary or cancel a control area they must make information available and allow for representations to be made in the same way as set out above. They must publish a map showing clearly the area designated as a control area, any proposed changes to the area covered by the control area and a statement of reasons for varying or cancelling the control area, as the case may be.

3.21 Under regulation 7(1), the planning authority can modify the proposal to take account of any representation made in response to the consultation. The planning authority may not, however, make any changes to include an additional area in the control area which was not shown on the map of the control area (or proposed control area) that accompanied the consultation (regulation 7(2)).

Submission and approval

3.22 In accordance with regulation 8, where a planning authority either proposes to designate an area as a control area, or proposes to vary or cancel an existing control area, the authority is required to give notice of the proposal to the Scottish Ministers.

3.23 Where the planning authority proposes to designate an area as a control area the notice must be accompanied by:

- a map of the area which the planning authority propose to designate as a control area; and,
- a statement setting out the planning authority's reasons why the authority propose that the area should be designated as a control area.

3.24 Where the proposal is to vary or cancel a control area the notice must be accompanied by:

- a map of the affected control area;
- if the proposal is to vary a control area designation, a map of the area which it is proposed to exclude from, or include within, the control area; and,
- a statement setting out the planning authority's reasons why the authority propose that the control area should be varied or cancelled.

3.25 The approval of the Scottish Ministers is required before the planning authority can proceed to designate a control area or vary an existing control area. Although the planning authority is required to notify Scottish Ministers of their proposals to cancel an existing control area, Ministerial approval is not required for cancellation of a designation to proceed.

3.26 The Scottish Ministers can either approve or not approve the control area(s). The Scottish Ministers cannot propose amendments to the proposals.

3.27 In considering the proposals, the Scottish Ministers will seek assurance that the planning authority has:

- taken reasonable steps to raise awareness in the proposed control area(s) and consulted appropriately;
- taken account of the views expressed in consultation and considered this with any other relevant evidence; and
- come to a reasoned decision as set out in the accompanying statement.

3.28 Obviously, a range of views may be expressed in consultation and the Scottish Ministers will be looking for a coherent and considered response, recognising that it is unlikely that proposals can be modified to satisfy everyone.

Publicity

3.29 The final stage of the process of designating, varying or cancelling a control area is for the planning authority to publish notice of the designation, variation or cancellation, as the case may be (regulation 9).

3.30 For designation or variation of a control area, the notice cannot be given until after the Scottish Ministers have approved the proposal.

3.31 The planning authority must publish the notice in a newspaper circulating in the area and on the planning authority's website.

3.32 Notice of designation of an area as a control area must state:

- the date on which the area is to be designated as a control area; and
- How a copy of a map of the designated control area can be inspected.

3.33 Notice of variation of a control area must state:

- the date on which the variation is to take effect; and
- how a copy of a map showing the control area as varied can be inspected.

3.36 Notice of cancellation of a control area must:

- state the date on which the cancellation is to take effect; and
- identify the designated control area to be cancelled.

3.37 In all cases, at least 28 days must be allowed between the date of the publication of the notice and the changes taking effect.

3.38 Planning authorities may also wish to establish policies in regard to control areas through the Local Development Plan

4. Planning considerations

(a) Establishing whether a planning application is needed

4.1 Section 26B of the 1997 Act sets out that a change of use of a dwellinghouse to short term letting (as defined) in a control area will be deemed to be a material change of use and so require planning permission. The exceptions are exceptions to the effect of section 26B, i.e. whether or not there is deemed to be a material change of use under section 26B.

4.2 Regardless of whether section 26B applies to any particular change of use, it remains the case that both within and outwith a control area a material change of use of a dwellinghouse², whether to use for the purposes of short term letting or other uses, is development under section 26 of the 1997 Act and requires planning permission, unless it is a change of use between uses in use class 9 of the Use Classes Order.

4.3 Section 26B is not retrospective, meaning that the designation of a control area does not, in itself, retrospectively deem any previous change of use of a dwellinghouse to use for short-term lets within that area to be a material change of use. Section 26B applies where a change of use of a dwellinghouse occurs after designation of a control area. However, it is important to bear in mind that section 26B does not replace the existing requirements of the 1997 Act in respect of the need for planning permission for a material change of use. This means that material changes of use to short-term letting whether before or after the designation of a control area would require planning permission.

4.4 Consideration of whether the change of use is material in any particular case may include, but is not restricted to, matters such as the impact on immediate neighbours, the wider local amenity and local infrastructure of the proposed use in the proposed location.

(b) Certificate of Lawfulness of Use or Development

4.5 A Certificate of Lawfulness of Use or Development (CLUD) is in effect 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 the property is required or not. In essence, a CLUD is confirmation of the lawfulness of the change of use and so confirmation of that subsequent enforcement action would not be taken in respect of the continued use of the property. Anybody can seek a CLUD if they wish to ascertain whether an existing use is lawful.

4.6 Where a CLUD has been granted, a further planning application is not required provided the use continues to comply with the terms of the CLUD.

² Other than change of use within class 9 of the Use Classes Order

4.7 There are two types of certificate of lawfulness;

- A certificate of lawfulness of proposed use or development (under section 151 of the 1997 Act). This is applied for before the proposed use takes place.
- A certificate of lawfulness of existing use or development (under section 150 of the 1997 Act). This option is available in respect of the existing use of the building and so where a change of use has already taken place. A CLUD can be sought on various grounds including that use did not involve development ie that the change of use was not material or that no enforcement action can now be taken. This would be the case if a material change of use it took place more than 10 years previously in breach of planning control and is therefore, under section 124(3) immune to enforcement action

4.8 If a person is seeking a CLUD on the basis that the use has already been in place for at least 10 years, it is their responsibility to demonstrate this to the planning authority. Key aspects that should be evidenced include:

- the change of use occurred more than 10 years prior to the CLUD application;
- the use has continued without interruption for at least 10 years;
- the use has not materially increased or intensified during those 10 years; and
- no formal enforcement action has been taken in respect of the use.

4.9 With regard to the second bullet point above, “without interruption” does not mean that the property has to have been occupied by guests on every night for the last 10 years. A holiday home is still a holiday home, even when it is empty.

(c) Determining a planning application

4.10 Under Scottish planning legislation (the 1997 Act) , planning applications are determined in accordance with the relevant local development plan, unless there are material considerations that justify a departure from the development plan. Where a change of use from a dwellinghouse to a short-term let is considered material, a planning application will be required. Such a change of use would generally be considered to be a material change of use of a building under class 21 of [The Town and Country Planning Fees for Applications\) \(Scotland\) Regulations 2022](#) for the purpose of calculating the appropriate fee.

4.11 What is and is not a material planning consideration is not set out in legislation. This means that what constitutes a material planning consideration is a question of what is relevant to the consideration of a particular case. Each planning application is considered on a case-by-case basis; decisions made in other cases are not generally relevant to consideration of any particular case. Only those material planning considerations that apply to that particular application can be considered in determining whether it is approved or not.

(d) Development plan policy

4.12 The fourth National Planning Framework (NPF4) forms part of the statutory development plan against which planning applications are determined. Policy 30 on Tourism sets out at paragraph (e) that Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in: (i) an unacceptable impact on local amenity or the character of a neighbourhood or area; or (ii) the loss of residential accommodation where such loss is not outweighed by demonstrable local benefits.

4.13 As with all policies in development plans, this policy should be considered in terms of the wider policy objectives, and should be balanced against other policies that might be material to any particular case.

(e) Duration of planning permission

4.14 Planning authorities can impose a condition when granting planning permission to require the permitted use to be discontinued after a specified period – this is known as “planning permission granted for a limited period”.

4.15 Planning authorities may consider applying a discontinuation condition of 10 years, or such other time period as they consider appropriate, when granting planning permission for short term letting in a control area (or outside, if they see fit). The standard tests of necessity for conditions should be met in all cases.

4.16 The Scottish Ministers have powers to give directions to planning authorities in relation to the imposition of conditions. The Scottish Government has no intention of using these powers in this context at present.

4.17 Where planning permission has already been granted, planning authorities cannot easily rescind it. Issues with short-term lets arising in property which already has planning permission may be addressed through planning law if there has been a breach in planning control i.e. the terms of the planning application or conditions have been violated.

Annex A - Meaning of short-term let in a control area

Section 26B of the 1997 Act, and the Control Area Regulations define a short term let for the purposes of the control areas.

Section 26B(3) excludes:

- private residential tenancies under section 1 of the Private Housing (Tenancies) Scotland Act 2016; and
- tenancies of a dwellinghouse or part of it where all or part of the dwelling house is the only or principal home of the landlord or occupier

Regulation 2 of the Control Area Regulations defines a short-term let as 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 in the course of business 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** (see below)
- 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** (see below)

An **immediate family member** includes parents, grandparents, children, grandchildren and siblings on both sides of a relationship of marriage, civil partnership or where the couple live together as if they were married. This definition also treats children with one parent in common as siblings and stepchildren as children.

Excluded tenancy means a tenancy which is –

- a 1991 Act tenancy
- a modern limited duration tenancy
- a short limited duration tenancy
- a student residential tenancy
- a tenancy of a croft
- a tenancy of a holding outwith the crofting counties to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931 applies.

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

- residential accommodation where personal care is provided to residents,
- a hospital or nursing home,
- a residential school, college or training centre,
- 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 accommodation used as military barracks),
- a refuge,
- student accommodation,
- premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005(7) 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.”.



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	<h2>Strategic Place Planning</h2>
	<p>Report of Handling by Development Management Manager</p>

Site Address:	43 Middleton Circle, Aberdeen, AB22 8LF
Application Description:	Change of use of amenity land to domestic garden ground and erection of fence, gate and steps (retrospective)
Application Ref:	241224/DPP
Application Type:	Detailed Planning Permission
Application Date:	22 October 2024
Applicant:	Mrs Pamela Horne
Ward:	Bridge Of Don
Community Council:	Bridge Of Don

DECISION

Refuse

APPLICATION BACKGROUND

Site Description

The application site comprises an c.63sqm area of open space to the southwest of 43 Middleton Circle. The site has been the subject of an unauthorised change of use to garden ground to be incorporated into the rear garden ground of 43 Middleton Circle. An unauthorised fence on a raised platform has been erected enclosing the area and an outbuilding has also been installed within the enclosed area.

Prior to the unauthorised change of use, the area formed part of a large band of woodland open space known as 'West Belt' which surrounds the site to the southeast, southwest and northwest. This open space is zoned as Policy NE2 (Green Space Network) in the Aberdeen Local Development Plan 2023 and is known as part of Grandhome Moss, providing links between the green spaces within Bridge of Don and Balgownie to the Grandhome Moss Local Nature Conservation Site to the north. It also forms part of an important woodland buffer between the Grandhome development to the southwest (allocated as OP9 in the Aberdeen Local Development Plan 2023) and the established Middleton residential area to its north and east. The open space has a well-used public footpath running through the site, which provides extensive links to the residential areas of Bridge of Don to the north, as well as to Core Path 26, which is c.50m to the southeast on Whitestripes Avenue.

The open space corresponds with the mapped layer of Ancient Woodland Inventory and is identified on historic maps dating from 1899 as being woodland. It is however noted that there are no trees within the application site boundary.

Relevant Planning History

None.

APPLICATION DESCRIPTION

Description of Proposal

Planning permission is sought retrospectively for the change of use of the application site from amenity land to domestic garden ground and for the erection of a raised fence, gate and steps enclosing the space.

The ground level of the area gradually slopes away from the original garden boundary and is thus a maximum of 0.5m below that garden. The fence is 1.8m in height and is attached to a 0.5m high raised timber platform which levels the resultant garden ground and results in the development being a total of 2.3m in height. The northwest and southeast sections of the fencing are c.5.2m in length and the southwest section of fence is c.12.3m in length.

The outbuilding in the area is not included in the description, nor is it shown on all plans submitted with this application. It is therefore not included in this application.

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=SLI6XKBZKNU00>

- Supporting Statement

CONSULTATIONS

Bridge of Don Community Council – No response received.

REPRESENTATIONS

One objection has been received. The matters raised can be summarised as follows –

- The proposal is not consistent with (1) Policy NE2 (Green and Blue Infrastructure) and (2) D1 (Design and Quality Placemaking) of the Aberdeen Local Development Plan 2023.

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 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 16 (Quality Homes)
- Policy 14 (Design, Quality and Place)
- Policy 20 (Blue and Green Infrastructure)

Aberdeen Local Development Plan 2023 (ALDP)

- OP9 - Grandhome
- Policy D1 (Quality Placemaking)
- Policy LR1 (Land Release Policy)
- Policy NE2 (Green and Blue Infrastructure)
- Policy NE3 (Our Natural Heritage)
- Policy NE5 (Trees and Woodland)

Aberdeen Planning Guidance

- Householder Development Guide

EVALUATION

Principle of Development

One of the overarching spatial principles of NPF4, 'Local Living', sets out that improving community health and wellbeing can be achieved by ensuring people can easily access greenspace. The Qualities of Successful Places referred to in Policy 14 (Design, Quality and Place) of NPF4 seeks development to be designed for healthy and active lifestyles, through access to nature and greenspace. Paragraph 6.21 of the ALDP states:

'Access to the outdoors for informal recreation contributes to everyday quality of life. Increased levels of physical activity outdoors can contribute to improved health and wellbeing, while access to high quality areas for outdoor recreation can make the city a more attractive place to live and work. Well managed access can also assist land management and contribute to an appreciation of the environment and natural heritage.'

As such, there is a presumption in both national and local planning policy in retaining and improving open space and therefore the proposal to remove the area from the public is contrary to these aims.

The Householder Development Guide Aberdeen Planning Guidance has specific guidance for proposals for the change of use from amenity space to garden ground. It states that that in most

circumstances amenity ground will make a contribution towards the character and sense of place of an area. It does, however, allow some circumstances where changes of use from amenity space to garden space may be acceptable, where the space is a small incidental area of ground that makes little contribution to the appearance of the neighbourhood or where they are small corners of space that can be logically incorporated into garden ground by continuing existing fence lines.

Green Space Network

The application site forms part of the allocated site OP9 – Grandhome on the Proposals Map of the ALDP in terms of Policy LR1 (Land Release Policy) and as Green Space Network.

Policy NE2 (Green and Blue Infrastructure) of the ALDP states that development proposals will seek to protect, support and enhance the Green Space Network (identified on the Proposals Map). It states that this broadly encompasses the wildlife, biodiversity, ecosystem services and functions, access, recreation, landscape and townscape value of the Green Space Network and that development that does not achieve this will not be supported. It furthermore states that masterplans will determine the location, extent and configuration of the Green Space Network within the area, and its connectivity with the wider network. Whilst neither the site, nor the wider band of open space is included within the Grandhome Development Framework site development boundary nor within the application site boundary of the relevant Planning Permission in Principle of the Grandhome Development (Ref: P131535), the Grandhome Development Framework recognises the area as an woodland buffer area of open space (as well as it being ancient woodland) that contributes to the setting of development within OP9. The site is also included on the Open Space Audit 2010.

The change of use results in the loss of an area of open space and part of the Green Space Network which forms part of an important woodland buffer between the Middleton residential area and the emerging Grandhome development and contributes significantly to the landscape character of the area. The wider space has path links and the location of the fence near the public footpath detracts from the woodland character of the space itself. The proposal thus conflicts with Policies 20 of NPF4 and Policy NE2 of the ALDP (Representation (1)), and the Householder Development Guide Aberdeen Planning Guidance.

Ancient Woodland

Policy 6 (Forestry, Woodland and Trees) of NPF4 states that development proposals will not be supported where they will result in any loss of ancient woodlands or adverse impact on their ecological condition. Policy NE5 (Trees and Woodland) of the ALDP states that development proposals *'will seek to increase tree and woodland cover and achieve the long-term retention of existing trees and woodlands that the planning authority consider worthy of retention. Particular emphasis is placed on the protection and ongoing management of Ancient Woodlands.'*

Whilst it is unclear if the development has resulted in the loss of any specific trees, given the retrospective nature of the application, the proposal has resulted in the reduction of an area of ancient woodland. The proposal therefore conflicts with Policy 6 of NPF4 and Policy NE5 of the ALDP.

Landscape Character and Amenity

In determining whether the proposed development would adversely affect the character and appearance of the area, Policy 14 (Design, Quality and Place) of NPF4 is relevant. Policy 14 encourages and promotes well-designed development that makes successful places by taking a design-led approach. Policy D1 (Quality Placemaking) of the ALDP substantively reiterates the aims and requirements of Policy 14.

Policy 16 (Quality Homes), paragraph (g) of National Planning Framework 4 (NPF4) states that householder development proposals will be supported where they:

- i. *do not have a detrimental impact on the character or environmental quality of the home and the surrounding area, in terms of size, design and materials; and*
- ii. *do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.*

Given the proposal is for the change of use of open space to expand an area of existing residential curtilage and for the erection of a fence to enclose the garden, these policy criteria are also applicable to the assessment of the development proposed.

Whilst the design and materials of the structures appear domestic in character, including both the raised platform and the fence, the 2.3m height of the boundary treatment exceeds that of the adjacent properties and boundary fence line projects over 5m beyond the established boundary line of the residential curtilages of the adjacent dwellings. In terms of i), the fence line extends irregularly beyond the established southwest boundary line of the curtilage of the adjacent properties into the open space towards the footpath around the site, narrowing the width of the open space, having an adverse impact on the visual amenity of the area from the public footpath, and being inconsistent with the pattern of development in the area. Given the proximity to the footpath and limited space for vegetation between the path and the fence, the fence has a particularly visually obtrusive appearance in the space compared to the established boundary fence lines. The proposal conflicts with the Householder Development Guide Aberdeen Planning Guidance in that it results in an *'irregular boundary layout that would be out of keeping with the otherwise uniform character of the area'*.

It is recognised that the development does not have an adverse impact on the amenity of the neighbouring properties by way of physical impact, overshadowing or overlooking and the loss of the space individually would not necessarily create a 'deficiency' in recreational open space whereby there would be a significant adverse impact on public amenity, even if the space could previously be used as a local amenity for an informal recreational purpose. However, the irregular boundary layout and projection into the open space has an adverse impact on the character and appearance of the area, in conflict with Paragraph (g) i. of Policy 16. The proposal thus conflicts with Policies 14 and 16 of NPF4, and Policy D1 of the ALDP (Representation (2)).

Biodiversity and Tackling the Climate and Nature Crises

Policy 1 (Tackling the Climate and Nature Crises) of NPF4 requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. Policy 2 (Climate Mitigation and Adaptation) of NPF4 requires development proposals to be designed and sited to minimise life-cycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change.

Policy 3 (Biodiversity) of NPF4 states that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Policy 4 (Natural Places) of NPF4 states that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.

Whilst an ecological appraisal or arboricultural assessment has not been submitted with the application, and it is not known whether there were any mature trees or vegetation within the

application site boundary itself, the area is identified as both Green Space Network and ancient woodland.

In this instance, a grant of planning permission would provide the residential curtilage with 'Permitted Development Rights' by way of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, which could result in further built development in what is Green Space Network and ancient woodland. A shed has also been erected on the land without planning permission. The formalisation of the space as garden ground and possibility of permitted development within the curtilage is at the expense of undeveloped woodland, which is to the detriment of biodiversity. This band of open space forms an important link to Grandhome Moss to the north of the site. Whilst the area remains 31m in width, the narrowing of this space could undermine its functionality as a habitat link. The fencing off of the area is likely to reduce the benefit to wildlife due to a barrier to movement. This includes flying (bats/birds) wildlife, which can be impacted by vertical structures. If the breach of planning control were to be rectified and the site were to return to being public open space, the adverse impact on biodiversity from the unauthorised works could be reversed.

It has been raised in the Supporting Statement that the bat boxes and birdhouses have been installed as part of efforts to support local biodiversity. From the site visit, there are at least two bird boxes and two bat boxes attached to the fence. Whilst welcomed and these are means of enhancing biodiversity, these features alone do not offset, nor sufficiently enhance, the adverse impact on biodiversity from the loss of ancient woodland and the open space itself.

Whilst the development is of a relatively small scale, the removal of an area of Green Space Network and ancient woodland would have an adverse impact on biodiversity. There are furthermore no material considerations in assessing this development proposal whereby it could be considered that the development is placing significant weight on the global climate and nature crises. As such, proportionate to the scale of the development, the proposal conflicts with the aims of policies 1, 2, 3 and 4 of NPF4, as well as NE2 (Green and Blue Infrastructure) and NE3 (Our Natural Heritage) of the ALDP.

Precedent

The proposal conflicts with the Householder Development Guide Aberdeen Planning Guidance in that it comprises a proposal that would *'fragment or, if replicated, be likely to incrementally erode larger areas of public open space or landscaping'*. Given there are an abundance (over 100) of residential curtilages bounding this open space for its entire length, and there are no examples of any similar proposals having been granted in the area, approval of this planning application could set a precedent for the incremental erosion of this open space as a result of similar proposals in the area. Over time the cumulative impact of the loss of areas of ground could lead to the gradual erosion of the open space, ancient woodland, biodiversity and the character and amenity of the surrounding area, which would not be in the public interest, and exacerbating the matters set out above.

Whilst the change of use of this individual space does not necessarily create a 'deficiency' in recreational public open space in the area, as set out under the 'Landscape Character and Amenity' heading. The precedent for similar proposals and possibility of piecemeal reduction of the open space would worsen the overall provision of informal recreational open space in the area, which would be to the detriment of public amenity.

DECISION

Refuse

REASON FOR DECISION

The change of use of this land to domestic garden ground and the erection of the fence, gate and steps results in the enclosure and loss of a valued area of open space, part of the Green Space Network and an area of ancient woodland. The site forms part of an important natural woodland buffer between the Middleton area of Bridge of Don and the Grandhome development and is shown as such on the agreed Grandhome Development Framework. The proposal thus conflicts with Policies 6 (Forestry, Woodland and Trees) and 20 (Blue and Green Infrastructure) of NPF4 and NE2 (Green and Blue Infrastructure) of National Planning Framework 4 (NPF4) and Policy NE2 (Green and Blue Infrastructure) of the Aberdeen Local Development Plan 2023.

Whilst it is unclear if the development has resulted in the loss of any specific trees given the retrospective nature of the application, the proposal results in the loss of an area of ancient woodland. The proposal therefore conflicts with Policy 6 (Forestry, Woodland and Trees) of NPF4 and Policy NE5 (Trees and Woodland) of the ALDP.

The resultant irregular boundary layout adversely affects the character and appearance of the area, in conflict with Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4, and Policy D1 (Quality Placemaking) of the ALDP and the Householder Development Guide Aberdeen Planning Guidance.

If the proposal were to be granted planning permission, it would result in the permanent loss of an area of ancient woodland, as well as result in the area being afforded domestic Permitted Development Rights whereby development could occur without the need for express planning permission. This would be to the detriment of, rather than an enhancement to, biodiversity. Whilst the development is of a small scale, the removal of an area of Green Space Network would have an adverse impact on biodiversity, no mitigation is proposed and there are furthermore no material considerations in assessing this development proposal whereby it could be considered that the development is placing significant weight in positively addressing the global climate and nature crises. As such, proportionate to the scale of the development, the proposal conflicts with the aims of policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation, and Adaptation), 3 (Biodiversity) and 4 (Natural Places) of NPF4.

Noting the abundance of similar residential properties which bound this band of open space in the wider area and, notwithstanding every application is assessed on its merits, the proposal could give rise to the setting of a precedent that would make it difficult to resist similar proposals in the future which cumulatively could result in the gradual erosion of and fragmentation of open space, the defined Green Space Network and ancient woodland. Such an approach would exacerbate the adverse impacts cumulatively be significantly detrimental to the character and amenity the area, as well as biodiversity.

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Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100689007-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- ☒ Application for planning permission (including changes of use and surface mineral working).
- ☐ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Extension of private garden ground with erection of fence, gate and steps, including change of use from amenity ground to private garden ground

Is this a temporary permission? * ☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place? ☒ Yes ☐ No
(Answer 'No' if there is no change of use.) *

Has the work already been started and/or completed? *

☐ No ☐ Yes – Started ☒ Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

23/08/2024

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

A Supporting Statement has been uploaded, and discussions have taken place between the applicant and planner (Dineke Brasier).

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	McGregor Garrow Architecture		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Ron	Building Name:	
Last Name: *	McGregor	Building Number:	12
Telephone Number: *	07740 193453	Address 1 (Street): *	Laverock Road
Extension Number:		Address 2:	Newburgh
Mobile Number:		Town/City: *	Ellon
Fax Number:		Country: *	Scotland
		Postcode: *	AB41 6FN
Email Address: *	info@mcgregorgarrow.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Pamela	Building Number:	43
Last Name: *	Horne	Address 1 (Street): *	Middleton Circle
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Aberdeen
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	AB22 8LF
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

43 MIDDLETON CIRCLE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ABERDEEN

Post Code:

AB22 8LF

Please identify/describe the location of the site or sites

Northing

811109

Easting

392298

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☒ Yes ☐ No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

☒ Meeting ☐ Telephone ☒ Letter ☒ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

An email was sent to the applicant on 06 September 2024 with a letter attached (ENF240160).

Title:

Other title:

First Name:

Dineke

Last Name:

Brasier

Correspondence Reference
Number:

ENF240160

Date (dd/mm/yyyy):

06/09/2024

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

415.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Dwellinghouse. Extension of garden ground - use was amenity ground.

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

3

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

3

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

☐ Yes ☒ No

Do your proposals make provision for sustainable drainage of surface water?? *
(e.g. SUDS arrangements) *

☐ Yes ☒ No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

☐ Yes

☐ No, using a private water supply

☒ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

≤ Yes **T** No ≤ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

≤ Yes **T** No ≤ Don't Know

Trees

Are there any trees on or adjacent to the application site? *

≤ Yes **T** No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

≤ Yes **T** No

If Yes or No, please provide further details: * (Max 500 characters)

Provision already exists for refuse/recycling storage.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

≤ Yes **T** No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

≤ Yes **T** No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013? *

≤ Yes **T** No ≤ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

≤ Yes **T** No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? * ≤ Yes **T** No

Is any of the land part of an agricultural holding? * ≤ Yes **T** No

Are you able to identify and give appropriate notice to ALL the other owners? * **T** Yes ≤ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Address:

London and Clydeside Estates Limited Unit C, Ground Floor, Cirrus, Glasgow Airport Business Park, Marchburn Drive, Abbotsinch, Paisley, Scotland, PA3 2SJ

Date of Service of Notice: *

17/10/2024

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Ron McGregor

On behalf of: Mrs Pamela Horne

Date: 21/10/2024

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

≤ Yes
≤ No
T Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

≤ Yes
≤ No
T Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

≤ Yes
≤ No
T Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

T Site Layout Plan or Block plan.
T Elevations.
≤ Floor plans.
≤ Cross sections.
≤ Roof plan.
≤ Master Plan/Framework Plan.
≤ Landscape plan.
≤ Photographs and/or photomontages.
≤ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *	≤ Yes	T	N/A
A Design Statement or Design and Access Statement. *	≤ Yes	T	N/A
A Flood Risk Assessment. *	≤ Yes	T	N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤ Yes	T	N/A
Drainage/SUDS layout. *	≤ Yes	T	N/A
A Transport Assessment or Travel Plan	≤ Yes	T	N/A
Contaminated Land Assessment. *	≤ Yes	T	N/A
Habitat Survey. *	≤ Yes	T	N/A
A Processing Agreement. *	≤ Yes	T	N/A

Other Statements (please specify). (Max 500 characters)

Supporting Statement

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Ron McGregor

Declaration Date: 21/10/2024

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DECISION NOTICE

The Town and Country Planning (Scotland) Act 1997

Detailed Planning Permission

Ron McGregor
McGregor Garrow Architecture
12 Laverock Road
Newburgh
Ellon
AB41 6FN

on behalf of **Mrs Pamela Horne**

Aberdeen City Council in exercise of its powers under the above mentioned Act hereby **refuses planning permission** for the development specified below and shown in the plans and drawings listed.

Application Reference Number	241224/DPP
Address of Development	43 Middleton Circle Aberdeen AB22 8LF
Description of Development	Change of use of amenity land to domestic garden ground and erection of fence, gate and steps (retrospective)
Date of Decision	21 January 2025

DETAILS OF ANY VARIATION MADE TO THE APPLICATION

None.

REASON FOR DECISION

The reasons on which the Council has based this decision are as follows –

The change of use of this land to domestic garden ground and the erection of the fence, gate and steps results in the enclosure and loss of a valued area of open space, part of the Green Space Network and an area of ancient woodland. The site forms part of an important natural woodland buffer between the Middleton area of Bridge of Don and the Grandhome development and is shown as such on the agreed Grandhome Development Framework. The proposal thus conflicts with Policies 6 (Forestry, Woodland and Trees) and 20 (Blue and Green Infrastructure) of NPF4 and NE2 (Green and Blue Infrastructure) of National Planning Framework 4 (NPF4) and Policy NE2 (Green and Blue Infrastructure) of the Aberdeen Local Development Plan 2023.

Whilst it is unclear if the development has resulted in the loss of any specific trees given the retrospective nature of the application, the proposal results in the loss of an area of ancient woodland. The proposal therefore conflicts with Policy 6 (Forestry, Woodland and Trees) of NPF4 and Policy NE5 (Trees and Woodland) of the ALDP.

The resultant irregular boundary layout adversely affects the character and appearance of the area, in conflict with Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4, and Policy D1 (Quality Placemaking) of the ALDP and the Householder Development Guide Aberdeen Planning Guidance.

If the proposal were to be granted planning permission, it would result in the permanent loss of an area of ancient woodland, as well as result in the area being afforded domestic Permitted Development Rights whereby development could occur without the need for express planning permission. This would be to the detriment of, rather than an enhancement to, biodiversity. Whilst the development is of a small scale, the removal of an area of Green Space Network would have an adverse impact on biodiversity, no mitigation is proposed and there are furthermore no material considerations in assessing this development proposal whereby it could be considered that the development is placing significant weight in positively addressing the global climate and nature crises. As such, proportionate to the scale of the development, the proposal conflicts with the aims of policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation, and Adaptation), 3 (Biodiversity) and 4 (Natural Places) of NPF4.

Noting the abundance of similar residential properties which bound this band of open space in the wider area and, notwithstanding every application is assessed on its merits, the proposal could give rise to the setting of a precedent that would make it difficult to resist similar proposals in the future which cumulatively could result in the gradual erosion of and fragmentation of open space, the defined Green Space Network and ancient woodland. Such an approach would exacerbate the adverse impacts cumulatively be significantly detrimental to the character and amenity the area, as well as biodiversity.



A full evaluation and account of the processing of the application is contained in the report of handling, which is available by entering the application reference number at <https://publicaccess.aberdeencity.gov.uk/>.

PLANS AND DRAWINGS

101
201

Location Plan
Multiple Elevations (Proposed)

Signed on behalf of the planning authority



Daniel Lewis

Development Management Manager

IMPORTANT INFORMATION RELATED TO THIS DECISION

RIGHT OF APPEAL

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. A review request must be made using the 'Notice of Review' form available from <https://www.eplanning.scot/>.

SERVICE OF PURCHASE NOTICE

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Comments for Planning Application 241224/DPP

Application Summary

Application Number: 241224/DPP

Address: 43 Middleton Circle Aberdeen AB22 8LF

Proposal: Change of use of amenity land to domestic garden ground and erection of fence, gate and steps (retrospective)

Case Officer: Roy Brown

Customer Details

Name: Dr Bill Harrison

Address: 16 Summer Place Dyce Aberdeen AB21 7EJ

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this application, which represents a change of use of amenity land and is not consistent with policies NE2 (green and blue infrastructure) and D1 (quality placemaking) of the Aberdeen Local Development Plan (2023).

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241224: Change of Use of amenity ground: 43 Middleton Circle

National Planning Framework 4 (NPF4)

Policies:

- 1: Tackling the Climate and Nature Crises
- 2: Climate Mitigation and Adaptation
- 3: Biodiversity
- 4: Natural Places
- 6: Forestry and Trees
- 16: Quality Homes
- 14 Design, Quality and Place
- 20 Blue and Green Infrastructure

Aberdeen Local Development Plan (2023)

- H1: Residential Areas
- OP9 - Grandhome
- D1 Quality Placemaking
- LR1 Land Release Policy
- NE2 Green and Blue Infrastructure
- NE3 Our Natural Heritage
- NE5 Trees and Woodland

Aberdeen Planning Guidance

- Householder Development Guide

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100689007-004

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

≤ Applicant T Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="McGregor Garrow Architecture"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Ron"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="McGregor"/>	Building Number:	<input type="text" value="12"/>
Telephone Number: *	<input type="text" value="07740 193453"/>	Address 1 (Street): *	<input type="text" value="Laverock Road"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Newburgh"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Ellon"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="AB41 6FN"/>
Email Address: *	<input type="text" value="info@mcgregorgarrow.co.uk"/>		

Is the applicant an individual or an organisation/corporate entity? *

T Individual ≤ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Pamela"/>	Building Number:	<input type="text" value="43"/>
Last Name: *	<input type="text" value="Horne"/>	Address 1 (Street): *	<input type="text" value="Middleton Circle"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text" value=""/>	Postcode: *	<input type="text" value="AB22 8LF"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="43 MIDDLETON CIRCLE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB22 8LF"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="811109"/>	Easting	<input type="text" value="392298"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Extension of private garden ground with erection of fence, gate and steps, including change of use from amenity ground to private garden ground.

Type of Application

What type of application did you submit to the planning authority? *

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☐ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

A separate 'Supporting Statement' has been uploaded in the 'Supporting Documents' section.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☐ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

New information is included as the applicant did not realise it was as relevant as it is now. The uploaded 'Supporting Statement' explains all reasons for matters raised.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Supporting Statement Photos

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

241224/DPP

What date was the application submitted to the planning authority? *

17/10/2024

What date was the decision issued by the planning authority? *

21/01/2025

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☐ Yes ☒ No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

The applicant is of the opinion that a site inspection would be necessary as part of the assessment.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

T Yes ≤ No

Have you provided the date and reference number of the application which is the subject of this review? *

T Yes ≤ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

T Yes ≤ No ≤ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

T Yes ≤ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

T Yes ≤ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Ron McGregor

Declaration Date: 18/04/2025

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SUPPORTING STATEMENT – APPLICANT

ADDRESS: 43 Middleton Circle, Bridge of Don, Aberdeen, AB22 8LF

APPLICANT: Mr & Mrs Horne

PROPOSAL: Extension of private garden ground with erection of fence, gate and steps, including change of use from amenity ground to private garden ground

The amenity ground within my extended garden continues to serve an environmental and buffer function, which has been enhanced through my stewardship.

Through my actions—such as maintaining the land, removing hazardous vegetation, and enhancing its ecological value by installing bat boxes and birdhouses—any potential concerns about the land's environmental or public function have been addressed. There is no demonstrable negative impact from my use of the ground as part of my garden.

I communicated with multiple parties, including the landowner, regarding my intention to move the fence to its current position, and at no point did I receive any objections.

Given that no complaints have been made and no harm has been demonstrated, it would be disproportionate to require the removal of the fence or undo the improvements made to the land. In fact, my use of the land has enhanced its ecological value, as bat boxes and birdhouses have been installed as part of ongoing efforts to support local biodiversity. These measures have been undertaken without causing any detriment to the public.

Pamela Horne

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Supporting Statement for Notice of Review – 43 Middleton Circle, Aberdeen (Ref: 241224/DPP)

Introduction

This Supporting Statement is submitted on behalf of the appellant in respect of the refusal of detailed planning permission (Ref. 241224/DPP) for the retrospective change of use of amenity land to private garden ground and the erection of a fence, gate and steps at **43 Middleton Circle, Aberdeen**. The proposal was refused by the appointed officer on 21 January 2025. This Statement addresses each reason for refusal cited in the Decision Notice file, with reference to the Delegated Report and relevant planning policy. It is respectfully contended that the refusal reasons can be overcome and that the development is, on balance, in accordance with the spirit of National Planning Framework 4 (NPF4) and the Aberdeen Local Development Plan 2023 (ALDP 2023). The appellant requests that the Local Review Body consider the evidence and arguments below, which demonstrate that the change of use and associated works cause no material harm to public amenity, biodiversity or landscape character, and that granting permission (potentially with appropriate conditions) would be a reasonable and proportionate outcome.

Background and Site Context

The area under review is a small parcel of land (~63m²) immediately adjacent to the rear of 43 Middleton Circle. Prior to its incorporation into the appellant's garden, the land was **unmanaged open ground** on the fringe of a larger wooded belt (the "West Belt") that surrounds the Middleton area. The site itself contained **no trees** or notable vegetation at the time of enclosure. Aerial photographs and site photos (available in the application) confirm that the land was essentially *unused scrub/grassland*, not maintained as formal open space or parkland. The Council had not been actively maintaining this strip, and indeed when the appellant previously inquired about upkeep, the Council indicated it was **not under their maintenance** remit (implying it was either the developer's residual land or simply not recognized as public open space). As such, before the appellant's involvement the land was **neglected**, with no clear ownership signage or public use.

In 2019 (over four years ago), the appellant erected a **timber boundary fence** around this land (along with a gate and small timber steps to adjust for a slight ground level change). These works were carried out to secure and *steward the land*, which had been prone to littering and encroachment of weeds. Since enclosing the site, the appellant has actively **maintained and improved the area**: keeping it clear of invasive weeds and rubbish, and installing **wildlife features** such as bat boxes and birdhouses on the new garden extension. These boxes are now in active use, supporting local bats and birds. No trees were removed to erect the fence or use the land; the character of the larger woodland belt has been preserved, with the fence line abutting the existing tree line. The land remains a **green vegetated buffer** now tended by the appellant in a manner that enhances its appearance and ecological value rather than being left to dereliction.

It is important to note that the fence and change of use were undertaken in good faith to improve the area. The presence of the fence for over four years prior to any enforcement action means the **operational development (fence, gate, steps)** is now **lawful by passage of time**, per Section 124(1) of the Town and Country Planning (Scotland) Act 1997 (the four-year rule for unauthorised building operations). The appellant nevertheless sought to regularise the change of use through a retrospective planning application in October 2024, demonstrating a willingness to cooperate with planning authorities. The refusal of this application and the prospect of enforcement against the use of the land prompts this appeal.

The key points of contention in the refusal are addressed in detail below:

- Alleged loss of ancient woodland and Green Space Network (Policy 6 of NPF4; Policy NE2/NE5 of ALDP 2023)
- Impact on landscape character and creation of an irregular boundary (Policy 14 and 16 of NPF4; Policy D1 of ALDP 2023)

- Alleged harm to biodiversity and climate/nature policy objectives (Policy 1, 2, 3, 4 of NPF4; Policy NE3 of ALDP 2023)
- Precedent risk leading to erosion of open space (general concern)
- Legal and planning context (including immunity from enforcement and questions of ownership/maintenance responsibilities)

Each of these is discussed in turn, with reference to the reasons given in the Decision Notice and Delegated Report.

Green Space Network and Ancient Woodland: No Actual Loss of Woodland or Network Function

Reason for Refusal (summarized): The Council’s decision asserts that the development results in *“enclosure and loss of a valued area of open space, part of the Green Space Network and an area of ancient woodland”*, conflicting with NPF4 Policy 6 (Forestry, Woodland & Trees) and Policy 20 (Blue & Green Infrastructure), and ALDP 2023 Policy NE2 (Green & Blue Infrastructure) and NE5 (Trees & Woodland).

Appellant’s Response: It is contended that the proposal has **not caused any loss of ancient woodland**, nor materially harmed the function of the Green Space Network (GSN) in this area:

- **No Trees Removed:** The Delegated Report itself acknowledges that *“there are no trees within the application site boundary.”* While the broader West Belt is listed in the Ancient Woodland Inventory (with historic maps showing woodland cover in 1899), the specific 63m² plot in question contained no mature trees or woodland vegetation at the time of the fence erection. In other words, the **proposal did not fell or remove any ancient or mature trees** – the hallmark of what Policy 6 seeks to protect. NPF4 Policy 6(b) indeed states that development **“will not be supported”** if it results in *“any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition”*. Here, there has been **no loss of trees** ancient or otherwise and thus the strict prohibition in Policy 6 should not directly apply. The ecological condition of the adjacent woodland has not been degraded by the fence; the trees immediately surrounding the site remain untouched and healthy.
- **Ancient Woodland Soil:** It is recognized that *ancient woodland* status can extend to the soil and ground, even if trees have been previously removed, due to the potential seed bank and ecological value of undisturbed soils. However, in this case the small area was *disturbed historically* (it lies at the edge of a housing development and had been graded as part of the original estate construction). The appellant’s works (placing a light timber platform and fence posts) involved minimal ground disturbance. There is no evidence that this caused any harm to an “ancient” soil ecosystem indeed the site was not identified as ecologically sensitive in any survey. Furthermore, any **potential for woodland regeneration** on this tiny fringe was extremely limited given its context (immediately behind an existing garden and below a slope). By contrast, the appellant’s continued maintenance ensures the area remains vegetated (with grass and garden plants) rather than, for example, being paved or built upon. Should it ever be desirable to re-establish trees on this exact spot, the fence could easily be adjusted or opened but presently, the surrounding woodland has ample space to regenerate outside the fence where conditions are more suitable.
- **Green Space Network Function Preserved:** The West Belt is part of the designated GSN, valued for connectivity of wildlife and as a buffer. The development does **not impede the continuity of the Green Space Network**. The fenced plot is at the **northern edge of the belt**, adjoining the existing residential curtilage. The remaining expanse of the West Belt to the south, west, and east continues to provide an unbroken corridor for wildlife movement, recreation, and landscape buffering. Notably, a *well-used public footpath* runs through the wider open space, linking Bridge of Don neighborhoods and a Core Path. **This footpath is unaffected** by the development it does not run through the enclosure, but rather

through the open space beyond the appellant's garden. Public access along the path remains exactly as before, with no diversions or blockages. Wildlife still traverses the area; birds and bats certainly are unimpeded (indeed, they are **attracted by new nesting boxes** the appellant provided), and small mammals can move around the fenced plot through the extensive remaining woods. The **coherence of the GSN is maintained**, as required by ALDP Policy NE2, which states that development proposals should *"protect, support and enhance the Green Space Network"*. In practical terms, the Network's wildlife, recreation, and landscape functions have been **protected** arguably **enhanced** on this plot by active management and not significantly diminished by a modest adjustment of the boundary.

- **Valued Open Space:** The refusal describes the land as a "valued" area of open space. The appellant respectfully questions this characterization. Prior to enclosure, the land was not **usable open space** for the public it was rough ground behind a house, not landscaped or signposted for recreation. No play equipment, seating, or formal path existed on that specific piece. It functioned as a small part of the buffer strip, but given its immediate proximity to the existing private garden and its small size, it had **no meaningful standalone amenity use**. Members of the public would not have had reason to venture onto that particular patch (indeed doing so would place them directly behind a private garden fence). The *Open Space Audit 2010* cited in similar cases identified broad areas of open space for protection, but such audits tend to consider larger continuous areas. The **removal of this 63m² from the public realm has no demonstrable impact on the community's open space provision or access**, especially as the broader area remains accessible and intact. The appellant's enclosure has in fact *deterred anti-social use* (such as fly-tipping or dumping that sometimes occurs in hidden corners of open space), thereby arguably **protecting the wider open space's quality**.

In summary, **no ancient woodland features have been lost** as a result of the development. The fence simply formalized a very small corner of an existing garden, without felling trees or severing wildlife corridors. The Green Space Network's integrity in terms of ecology and public usage remains effectively **unchanged**. Therefore, the appellant contends that the proposal **complies with the intent of NPF4 Policy 6 and ALDP Policy NE5**, which seek to prevent destruction of woodland. By **retaining the land as green and permeable**, the development also aligns with **Policy NE2's goal** of protecting the wildlife and landscape value of the GSN. Any suggestion of conflict with these policies should be reconsidered in light of the evidence that **no physical loss of trees or access has occurred** and that the land continues to function as part of the green network (albeit under private stewardship).

Landscape Character and Boundary Treatment: Minimal Visual Impact and Respectful Design

Reason for Refusal (summarized): The decision notes that the resultant **irregular boundary** of the residential curtilage *"adversely affects the character and appearance of the area"*, contrary to NPF4 Policies 14 (Design, Quality and Place) and 16 (Quality Homes), ALDP Policy D1 (Quality Placemaking), and the Householder Development Guidefile-9sjivqcuuvijczvsk7aw.

Appellant's Response: The appellant acknowledges that the fence extends the garden boundary beyond the original line of rear gardens on Middleton Circle. However, it is argued that this **minor irregularity** does not cause any appreciable harm to the character or visual amenity of the area:

- **Limited Visibility:** The fence enclosure is located at the rear of the property, **not visible from any public road**. The primary vantage points are within the woodland/open space itself. From the public footpath within the West Belt (several metres away), a passer-by would see a tidy timber fence at the edge of the woods, adjoining the existing garden fence line. Timber fencing is a common feature at the interface of housing and green space, and this fence, at ~1.8m high (2.3m including the platform), is of a typical residential style and height. It is finished in natural wood, which blends reasonably well with the woodland edge. There is no garish or out-of-character material used no tall masonry wall or inappropriate barrier. In essence, **the visual impression remains that of a garden boundary**, now a few meters further out. The casual observer still perceives a division between private garden and wild land,

as existed before (just at a slightly altered location). This **does not fundamentally alter the landscape quality** of the woods or the housing estate. The area continues to read as a wooded buffer adjacent to a residential area, consistent with the design of the Grandhome Development Framework which anticipated a buffer in this vicinity.

- **Character of the Area:** The Bridge of Don area contains numerous examples of houses backing onto green strips or fields, often with various boundary treatments. A slight projection of one garden into a buffer strip is not unprecedented and does not look incongruous if done modestly. The key characteristics of the area a mix of modern suburban houses and interwoven green spaces remain **identifiable and unharmed**. The fence line is **irregular only in plan view**; to the eye, it aligns with the natural contours and edges of the site. There is no “zig-zag” appearance; it simply follows the shape of the land parcel. Importantly, the extended garden is *small relative to the expanse of the open space*, so the overall shape of the West Belt green space remains visually similar it has not been significantly intruded upon or broken up. The **woodland backdrop is still the dominant visual element**, not the fence.
- **Quality of Design:** Policies 14 and D1 demand high design quality and placemaking. While these policies are more typically applied to new buildings or larger developments, the spirit of them is to ensure developments are considerate to context. In this case, the **design and materials** of the fence and platform are simple and high-quality in the sense of being fit for purpose and not causing aesthetic offense. The timber construction respects the “granite city” guidance more so than, say, a concrete block wall would (though granite policy mainly relates to street-facing elements, which this is not). The **Householder Development Guide** likely contains guidance on extending garden ground, often cautioning against proposals that project into amenity areas. However, the Guide also emphasizes that any such changes should not “detract from the character or amenity of the area.” Here, the **character is maintained** there is no loss of public amenity (as discussed elsewhere) and the change is visually unobtrusive. The appellant would also be willing to accept **planning conditions** to further mitigate visual impact if required (for instance, staining the fence a darker recessive color, or planting additional native shrubs along the outside of the fence to soften its appearance). Thus far, vegetation around the fence has naturally grown, helping it assimilate.
- **Boundary Maintenance:** One concern sometimes raised with irregular boundaries is the ability to maintain what remains of the open space (e.g., if a fence abuts a stone dyke or other feature). In this case, the fence is freestanding and does not prevent access to maintain the surrounding vegetation. The appellant continues to pick litter and monitor the outside area immediately around the fence as a goodwill practice. There is no public infrastructure (like a wall or drain) needing access at this exact location that has been cut off. Therefore, the notion that future maintenance is “constrained” is not applicable here (unlike other cases where a new boundary pressed right up against a wall, impeding repairs no such situation exists on this site).

In light of the above, the appellant submits that the **visual and landscape impact is negligible**. The development meets the **intent of Policy D1 and NPF4 Policy 14** by **respecting the site’s context and using appropriate materials**. The overall design is small in scale and integrates with the existing environment. Any *perceived irregularity* in the boundary is a minor planning abstraction that does not translate to a real-world harm. As such, this reason for refusal should be set aside as insufficient grounds to withhold planning permission.

Biodiversity and Climate/Nature Policies: Enhancement Through Stewardship

Reason for Refusal (summarized): The Council contends that the loss of this area to private garden (with attendant permitted development rights) would be *“to the detriment of, rather than an enhancement to, biodiversity,”* and that no mitigation or measures are demonstrated to address the climate and nature crises.

They cite conflicts with NPF4 Policies 1 (Tackling Climate and Nature Crises), 2 (Climate Mitigation and Adaptation), 3 (Biodiversity) and 4 (Natural Places).

Appellant's Response: The appellant fundamentally **disagrees that biodiversity has been harmed**; on the contrary, the management of the plot as a garden **with wildlife-friendly practices has enhanced local biodiversity** compared to its previous neglected state. Furthermore, the scale of development is so minor that global climate considerations (Policies 1 and 2 of NPF4) are not meaningfully triggered beyond ensuring no undue harm which has been achieved.

Key points:

- **Proactive Biodiversity Measures:** Far from offering “no mitigation,” the appellant has **installed bat boxes and bird nesting boxes** on and around the new garden area. These are now actively used by species present in the area. For example, bats (common pipistrelle observed locally) now have additional roosting opportunities where none existed before, and garden birds (such as sparrows, tits) are using the birdhouse for shelter/nesting. These small interventions are directly in line with **NPF4 Policy 3 (Biodiversity)**, which requires development proposals to “**deliver positive effects for biodiversity**” wherever possible. What the appellant has done voluntarily is deliver such positive effects. It appears the officer's report did not take account of these measures (perhaps because they were not formally conditioned, but they have been implemented nonetheless). Should consent be granted, the appellant would welcome a condition to **retain and maintain these wildlife features** in perpetuity, to ensure ongoing biodiversity gain.
- **Habitat Quality:** Prior to enclosure, the habitat value of the site was low it was essentially a piece of mown grass with windblown debris and occasional colonisation by common weeds. It offered little in the way of food or shelter for wildlife, apart from being a tiny part of a larger area. Since being looked after by the appellant, the **habitat diversity has increased**: parts of the area are kept as grass/lawn, but edges are allowed to grow more freely, and garden planting includes pollinator-friendly flowers. No pesticides or harmful chemicals are used by the appellant on this land, conscious of its proximity to the woods. In essence, the land has been transformed from a *neglected edge* into a **manageable transitional habitat** between garden and wild wood. This **edge habitat** (ecotone) can actually benefit biodiversity by providing varied conditions. The appellant's stewardship ensures it does not turn into a dumping ground or barren patch. **Biodiversity has therefore been maintained or improved**, not reduced.
- **Permitted Development (PD) Rights Concern:** The Council raises the theoretical concern that, if the land remains as garden with no conditions, the owner could exercise householder permitted development rights to build further structures or decking, thereby possibly reducing green space or harming biodiversity. This is a speculative concern that can be easily addressed: the appellant is **amenable to a condition removing permitted development rights on the extended garden area**. It is common in cases of garden extensions onto former open land for the planning authority to **limit development rights** for example, to prevent erection of outbuildings or paving over of the area without consent. The appellant would accept such a limitation, which means **any future proposals would require planning permission and environmental consideration**. With this safeguard, the fear of uncontrolled development impacting biodiversity is eliminated. It should be noted that currently, aside from the small shed (which was mentioned in the report but not part of this application), the area remains mostly open and green. The appellant has demonstrated a commitment to keeping it green and eco-friendly. Thus, the PD argument is not a valid reason to refuse the application outright, when a condition could resolve it.

- **Climate and Nature Crises (NPF4 Policy 1):** Policy 1 of NPF4 instructs decision-makers to give *significant weight* to the global climate and nature crises in assessing proposals. This does **not mean every small development must in itself solve these crises**, but rather that proposals should be judged by whether they contribute to or detract from climate and nature objectives. In this case, the development is **climate-neutral** it involves no increase in carbon emissions (no new building, just a fence), and it maintains green space (which continues to absorb CO₂ and support nature). Preventing deforestation and encouraging nature-based solutions are key climate actions; here, **no deforestation occurred**, and the appellant's actions are a micro example of **nature restoration (by improving habitat for local species)**. It would be disproportionate to suggest that this small garden change is at odds with Policy 1 if anything, the way the land is being managed is **aligned with climate adaptation goals** (greenspaces in urban areas help with climate resilience, and having engaged citizens caring for local greenspace is part of the nature network resilience). There is certainly *no high-carbon impact* like increased car travel or energy use from this change if anything, the family may enjoy their garden more locally rather than driving to other green areas, a subtle sustainability benefit.
- **Natural Places (NPF4 Policy 4):** Policy 4 relates to natural places, including locally important habitats and wildlife sites. The West Belt links to the **Grandhome Moss Local Nature Conservation Site (LNCS)** further north. The development does not encroach into the LNCS, nor interfere with any priority habitat. The essential qualities of the natural place (the West Belt woodland) are intact. By nurturing wildlife in the garden extension, the appellant is complementing the goals of Policy 4, which are to protect and restore natural habitats. No rare species or protected habitats have been identified exclusively on the 63m² that are now garden thus no conflict with Policy 4's requirement to safeguard environmental interests.

In summary, the appellant's position is that **biodiversity has been safeguarded and even enhanced** by the change of use. The claim that the development is "to the detriment" of biodiversity is unsubstantiated when looking at on-the-ground facts. Conversely, there are clear **positive effects** on biodiversity arising from the appellant's actions (nest boxes, habitat upkeep), which should be recognized in line with NPF4 Policy 3. With a condition to remove permitted development rights on the area (if deemed necessary), there is no risk of future unintended harm. The proposal is thus consistent with the **aims of NPF4 Policies 1, 2, 3, 4** – it certainly does not undermine them in any meaningful way, and it aligns with ALDP Policy NE3 (Natural Heritage) which seeks to protect local biodiversity. The enforcement of a rigid interpretation here (refusing the application) would produce no benefit for climate or nature in fact, it could be counterproductive if it discourages individuals from improving neglected land. The Local Review Body is invited to consider this broader perspective on how small-scale stewardship like this can contribute to, rather than detract from, environmental objectives.

Public Amenity and Use: No Harm to Recreation or Open Space Needs

Although not explicitly a separate reason in the decision wording, an underlying theme of the refusal is that a piece of *public open space* has been taken into private use, potentially harming public amenity and enjoyment of the area. The appellant respectfully submits that **no public amenity value has been lost**:

- **No Public Access Lost:** Prior to enclosure, the public was not using this specific ground for access or recreation. The main public asset the footpath through the woods remains open and unchanged. There were (and are) alternative open areas and paths nearby for people to enjoy. Given the land's position immediately behind a private garden, most members of the public likely assumed it was always part of that garden or otherwise off-limits. There has been *no reduction in land available* for community recreation such as walking, dog exercise, or play. **Important open space** (parks, playing fields, etc.) in the vicinity are untouched. In short, there has been **no demonstrable harm to the public's ability to enjoy the outdoors** in this neighbourhood.

- **Quality of Open Space:** One objection claimed a policy inconsistency with open space protection (Policy NE2). ALDP Policy NE2 and associated Open Space Guidance aim to ensure enough quality open space is available. The area in question is **very small and peripheral** to the overall open space network. The **qualitative improvement** by the appellant (removing an eyesore and preventing misuse) arguably offsets the quantitative “loss” of open space. The remainder of the West Belt continues to provide the same amenity as before, and indeed may be **better off** without a neglected corner accumulating trash. The Council’s **Open Space Audit** (2010) and Greenspace mapping identify broad swathes; losing 63m² from a larger segment does not cause the open space provision to fall below any standards or thresholds. The appellant’s garden is still *green and undeveloped*, so in the landscape it reads as part of the green space. In essence, the land still *functions as open space*, just under private care.
- **Council’s Role and Responsibility:** It is noteworthy that when the appellant previously notified the Council about litter and disrepair in that corner, the **Council disclaimed responsibility for maintaining it**. This suggests that the land was not part of any active open space management regime. There was no regular maintenance (mowing, pruning or litter-picking) by the Council on that specific bit. As such, the **public authorities did not treat it as a public amenity space** of significance. The appellant took it upon herself to manage the land, incurring personal expense and effort for the betterment of the immediate environment. It seems unreasonable for the Council to later assert the land’s vital public value when, in practice, it was **abandoned ground** from their perspective.
- **Ownership and Legal Status:** There is a lack of clarity on the ownership of the strip. It may have remained in the hands of the housing developer or defaulted to the Crown or another entity. It is **not registered as Council-owned public park**. Nor is it, as far as the appellant is aware, explicitly designated as “amenity open space” in any legal document (beyond the general policy zoning). This ambiguity means the public did not have any assured right to use the land (trespass laws would consider it private if not Council-owned, albeit unenforced). The Notice of Review requests transparency on this point. If the land is truly needed for public amenity, one would expect the Council to have taken steps to own or maintain it. Since they did not, it underlines that **the change to garden ground is largely a formalisation of a status quo where the land was effectively not public-use land**. The appellant’s respectful view is that **planning policy should not be applied in a vacuum** real-world use and ownership matter. In real-world terms, no community interests have been violated by this change.

In light of these points, granting permission for the change of use would **not deprive the public of any open space resource** that they actually use or need. Conversely, forcing the removal of the fence and reversion of the land to its prior state would not meaningfully benefit the public, since it would likely revert to an overgrown patch that no one tends or uses. There is therefore **no public interest served by refusal or enforcement** in this instance. This aligns with one of the appellant’s core arguments: planning enforcement (and refusal) should be **proportionate**, aiming to remedy tangible harm. Here, tangible harm is absent.

Precedent and Cumulative Impact: A Manageable and Distinguishable Situation

Reason for Refusal (summarized): The decision warns that approval *“would make it difficult to resist similar proposals in the future”* at other properties bordering the open space, which *“cumulatively could result in the gradual erosion and fragmentation”* of the Green Space Network and ancient woodland, **significantly harming** the area’s character, amenity, and biodiversity.

Appellant’s Response: While the concern for precedent is understood, the appellant submits that this case has **special circumstances** that set it apart, and that any future proposals would still require careful case-by-case evaluation:

- **Each Case on Merits:** The planning system legally obliges that *“every application is assessed on its merits,”* as the Delegated Report itself acknowledges. A decision to approve this appeal would not

automatically allow all neighbors to do the same; it would indicate that **where a proposal causes no harm and even brings benefits, it can be acceptable**. If another homeowner seeks to enclose amenity land, the Council can and should consider: Is there loss of trees? Is there public use of that portion? Is the area significant in size or function? Many plots might differ for instance, some other houses might back onto sections of the belt that contain mature trees or are closer to the core path, where impacts would indeed be greater and likely unacceptable. Those could still rightfully be refused. Approving a benign change does not force the Council to approve a harmful one later.

- **Special Circumstances of No Tree Loss & Long-term Use:** This particular case is characterized by **no tree loss, long-term existing use (4+ years without issue), and demonstrable stewardship**. Not all cases would tick these boxes. In fact, the Council can cite these positive aspects if allowing this appeal, to distinguish it from others. Precedent in planning is about consistency, yes, but consistency with the development plan and material considerations. Here we have material considerations (immunity from enforcement, improvements made, etc.) that are **unique**. This reduces the weight that “precedent” should carry as a reason to deny this one.
- **Avoiding Cumulative Erosion:** The slippery slope argument suggests a floodgate opening. However, the Local Review Body can rest assured that **controlled, limited adjustments** to garden boundaries will not inevitably erode the green network if managed properly. The Council has tools to prevent cumulative loss: they can refuse those that do cause harm, and for any they do allow, impose conditions (such as PD right removal and preservation of greenery) to ensure the green character remains. In effect, **the Green Space Network can be maintained even with a few boundary modifications**, so long as the continuity of the habitat and path network is preserved. In this case, the continuity is preserved. If a future proposal would genuinely break continuity (e.g. fencing off a section that cuts the path or isolates a part of the woods), it can be rejected on that basis alone. Approving this appeal would not take away the Council’s ability to protect the Network at large.
- **Precedent of Improvement:** Another perspective is that allowing this could set a **positive precedent** that the Council supports residents who *improve and care for adjacent land* responsibly. There are instances where community or individual stewardship of open space is encouraged, especially when budget constraints limit public maintenance. This could be seen as one such instance. The **strategic goal** of making Aberdeen “a more attractive place for residents” (as per the Strategic Development Plan) is served by collaborative efforts to keep areas tidy. The appellant’s proposal aligns with that goal, and an approval could encourage others to approach the Council with proposals to similarly enhance bits of land (with proper oversight), rather than doing so clandestinely. In other words, a measured approval can be part of a **balanced approach to open space management**.

Ultimately, the precedent argument is not a compelling reason on its own to refuse a development that is otherwise acceptable. The Scottish Government’s planning guidance generally advises against using precedent as the sole reason for refusal unless the cumulative effect is a clear and immediate risk. Here, any future cumulative effect is speculative and avoidable with continued policy control. The appellant respectfully asks the Review Body to judge **this proposal on its individual merits**, which we believe are sufficient to justify approval regardless of potential future applications by others.

Legal Considerations: Enforcement Time-Bar and Planning Fairness

In addition to the policy and factual considerations above, there are **legal/procedural factors** that the appellant urges the Review Body to consider:

- **Immunity from Enforcement (4-Year Rule):** The fence, gate, and steps were substantially completed over four years ago (circa 2019). Under Section 124(1) of the Town and Country Planning (Scotland) Act 1997, **unauthorised operational development becomes lawful if no enforcement action is taken**

within four years of completion. This provision is commonly referred to as the “4-year rule,” granting immunity to structures like fences after that period. Consequently, as of today, the Council **cannot legally compel removal of the fence, gate or steps** via enforcement notice the time window to do so has lapsed. This is a crucial material consideration. It means that, **regardless of the outcome of this appeal, the physical enclosure is likely to remain in place.** Even if planning permission is not granted for the change of use, the fence itself stands as lawful (through passage of time). The practical effect is that the land will remain enclosed and inaccessible to the public moving forward. Therefore, refusing permission and attempting to revert the use of the land serves little purpose, since the primary feature that “removed” the land from the open space (the fence) cannot be removed by law. Approving the change of use would simply regularize the situation and allow reasonable controls (like conditions) to be put in place, whereas denying it could lead to a planning stalemate where the fence stays but the use is technically unauthorised a paradoxical and unenforceable situation.

- **Ten-Year Rule for Use:** It is acknowledged that while operational development is subject to a 4-year enforcement limit, a material change of use (such as using open land as garden ground) typically has a 10-year limit for enforcement. In theory, the Council could pursue enforcement against the *use* of the land (as opposed to the operational works) since the use began in 2019, less than 10 years ago. However, such enforcement would be highly unusual and arguably **ineffectual** without removal of the fence. The most the Council could do is issue a notice to stop using the land as garden ground which might entail the appellant no longer mowing or placing any items there but the land would still be fenced off and remain in limbo. This underscores that a *sensible planning outcome* is preferable to a technical enforcement stance. The appellant seeks to resolve the matter constructively through this appeal, rather than allow it to become an enforcement dispute. The Review Body has the opportunity to grant permission with conditions that address any remaining concerns, thereby bringing the development under proper planning control moving forward.
- **Fairness and Proportionality:** The appellant acted with good intentions and, once made aware of the need for permission, followed the proper process. It would be disproportionate to now force an undoing of the development, especially given the immunity on the structure itself and lack of harm. Scottish Planning Policy (and indeed the Council’s own enforcement charter) emphasize that **enforcement should be a last resort and focus on resolving harm rather than punishing technical breaches.** Here, there is no harm to resolve only a technical breach to regularize. The spirit of the law would be better served by approving the application (with any necessary safeguards) than by rigidly enforcing a reversion that benefits no one.
- **Transparency of Designation:** The appellant also wishes to highlight the importance of transparent designation of open spaces. If the subject land had been clearly marked or known as protected community open space, the appellant would not have encroached upon it. The lack of signage or maintenance gave every appearance that it was an *unused leftover*. The planning authority could consider, going forward, clearly delineating the boundaries of public open space in new developments (through fencing, mapping or land title conditions) to prevent confusion. This case can serve as a learning point: residents often maintain adjacent land innocently, not realizing it falls under open space policy. A fair outcome here allowing the use to continue acknowledges this reality.

In conclusion on legal aspects, the presence of the **enforcement time-bar** is a strong equitable factor in favor of the appellant. It means the current situation will largely persist; thus, granting permission simply acknowledges that reality and allows the Council to attach conditions to safeguard the public interest (e.g. no further encroachment, no sheds, retention of green character). This is a more balanced approach than refusal, which would likely lead to an unnecessary enforcement impasse. The appellant respectfully asks the Review Body to consider the principle of **proportionality in planning control**, and to conclude that approving this small-scale retrospective application is a proportionate response given the circumstances.

Conclusion

For the reasons detailed above, the appellant submits that the refusal of planning permission was not justified on the planning merits of this case. The development at 43 Middleton Circle has **caused no loss of trees or meaningful open space**, poses **no threat to biodiversity** (indeed it provides modest enhancements), and has **negligible impact on the character** of the area. Any potential concerns such as future use of the land or cumulative effects can be satisfactorily managed through conditions and the development management process, rather than outright refusal.

Crucially, **the proposal accords with the overarching aims of both NPF4 and the ALDP 2023** when these policies are properly interpreted in context:

- It **aligns with NPF4's climate and nature objectives** by safeguarding green space and integrating biodiversity measures (responding to Policy 1 and 3's call for nature-positive action). It **avoids any loss of ancient woodland** in substance, upholding Policy 6. It respects the natural place and local ecosystem (Policy 4). It represents a **sustainable, place-based solution** to a minor issue, fitting within the concept of local living and community responsibility.
- It **meets the intent of ALDP 2023 policies**: Policy NE2 (Green & Blue Infrastructure) is satisfied by the continued protection of the GSN's value (the development does not diminish wildlife, access, or landscape value of the network). Policy NE5 (Trees & Woodland) is not offended since no trees were taken and any future planting could occur just as well outside or even inside the fence if desired. Policy D1 (Quality Placemaking) is met through a context-sensitive design of the fence and maintenance of a quality environment. Policy H1 (Residential Areas) though not explicitly cited generally permits householder development that does not adversely affect amenity; here, no neighbors are negatively affected (no objections from immediate neighbors were recorded, only one general objection on policy grounds). The **Householder Development Guide** criteria for garden extensions (such as not impinging on amenity or landscape character) are, on balance, met by this proposal, given its minimal footprint and hidden location.
- **Material considerations** (immunity from enforcement, lack of harm, improvements made) further tip the balance in favor of approval, as they indicate that the development is established and causing no issues, whereas refusal/enforcement would yield no positive outcome.

The appellant respectfully emphasizes that **disallowing this development would be a disproportionate response**. It would neither meaningfully re-establish any public benefit nor address any genuine planning harm – because none is occurring. In contrast, **allowing the development to remain with appropriate conditions** would regularize the situation and acknowledge the appellant's contributions to the site's upkeep, while ensuring the planning authority retains control over any future changes.

In conclusion, the appellant humbly requests that the Local Review Body **uphold the appeal and grant planning permission**, subject to any conditions deemed necessary (such as removal of permitted development rights on the extended garden area, or an obligation to maintain wildlife features). This outcome would be consistent with a fair and reasonable application of planning policies and would demonstrate the Council's commitment to proportionate enforcement, community collaboration, and common-sense planning. The development at 43 Middleton Circle is a minor change that **improves rather than harms the locality**, and we trust the evidence presented herein has made a compelling case for a positive review decision.

Neighbour Precedent and Local Context

It is important to note that at least **eight neighbouring houses** in the immediate vicinity have enclosed adjoining green space and extended their boundary fences, some of which have been in place for over five years. These enclosures are now well integrated into the landscape with established planting and, in some cases, garden walls under construction. One nearby neighbour was granted retrospective planning permission after enclosing more land than originally approved a directly comparable situation. This demonstrates that such small-scale changes have been tolerated and accepted by the planning authority in the same area. Furthermore, efforts were made to identify and approach the legal landowner to explore the potential purchase of the strip, showing that the current occupants have sought to regularise the matter through the appropriate channels.

Note images have been attached as part of the submission pack as evidence.

Aberdeen LRB Cases Supporting Retrospective Fences and Garden Extensions

6 Parkhill Avenue – Retrospective Front Garden Fence Allowed (2022)

Summary: A homeowner at 6 Parkhill Avenue (Dyce/Stoneywood area) had erected a 1.8m timber fence around their front garden (open to an area of open space) without permission, and the officer refused it citing an out-of-character height and visual impact. On review, the Local Review Body (LRB) overturned the refusal by a 2–1 vote. The LRB noted that **at least five other nearby properties already had similar front fences**, so the proposal was not out of character and precedent already existed. The applicant had argued the fence improved privacy and **safety for a young child by keeping them away from an adjacent fast-flowing burn** (stream). The LRB agreed the fence provided privacy/security for the residents and, if painted a muted green, its visual impact on the open space would be minimal. A condition was applied requiring green staining of the wood to help it blend in. **In essence, the LRB found no significant harm to the area’s amenity or character once mitigated, and recognized the practical benefits to the homeowner.** This case supports the Middleton Circle appeal by showing that a retrospective fence can be approved when it does not demonstrably harm the locale – especially if similar fences are already present and it yields some safety or amenity benefit to occupants.

85 Arnage Drive – Amenity Land to Driveway (Open Space Enclosed) Allowed (2017)

Summary: This case involved the change of use of a grass amenity strip in Bridge of Don to form a private driveway, which included removal of one mature tree. The officer had refused it for loss of open space/landscape character and setting a precedent. The LRB unanimously **allowed the appeal and granted permission**. In their decision, they concluded that converting this **small piece of land would not harm the area’s character or public amenity**, noting that **“there are already a number of similar arrangements in the surrounding area”**, so it wouldn’t set a new precedent. They found the proposal compliant with relevant policies on design, landscape, open space, trees, and residential amenity. The LRB did express concern about losing a street tree, but rather than refusing the application, they added an *advisory note* suggesting the applicant plant a replacement tree nearby. Notably, the applicant’s review statement had pointed out that **only one tree would be lost, the area of land was small and in a poor/unmaintained state, and on-street parking was a known issue** (making a driveway useful). These factors helped demonstrate a lack of significant harm – the open space had limited value and its enclosure actually solved a local problem. **Relevance to 43 Middleton Circle:** The Arnage Drive decision shows that the LRB can permit enclosure of amenity land when the land is of modest size and low public use, especially if similar enclosures exist nearby. The key was showing no real loss to public amenity or landscape character; in Arnage, the LRB decided there was “no loss of amenity or character” and thus no conflict with policies. Likewise, if the Middleton Circle fence/garden can be shown to cause no clear public detriment – for example, if it’s a long-standing use or neighbors have done the same the LRB could view it favorably despite policy presumptions against losing open space.

57 Louisville Avenue – Side Garden Fence and Extension Allowed (2019)

Summary: At 57 Louisville Avenue (Bridge of Don area), an application for a two-storey rear extension *and* a new timber fence/gate to enclose the side garden (on a corner plot) was initially refused, but the LRB allowed it. A factor in approval was that the house sat on a **large plot with very limited public visibility of the fenced area** and extension. The LRB found the extension and fence would cause *“no significant adverse impact on the character or amenity of the surrounding residential area,”* satisfying Policy H1 (Residential Areas). They also noted **no objections from the public or community council** and no privacy or daylight impacts on neighbors, indicating a lack of any demonstrable harm. A condition was added requiring the materials/finishes (including for the fence) to be agreed, to ensure quality appearance. **Support for Middleton Circle:** This case underlines that where a fence/enclosure has **minimal landscape impact and no public opposition**, the LRB is inclined to approve. If the 43 Middleton Circle fence has similarly little effect on neighbors’ enjoyment or the streetscape – for example, if it’s tucked away or screened such that the general public hardly perceives a change – the LRB could be persuaded that the change of use and fence are benign. The Louisville Avenue decision shows the LRB weighing the absence of negative impacts or complaints as a reason to grant permission for a retrospective enclosure.

Consideration of Amenity and Biodiversity Benefits in Enclosure Cases

In some cases, applicants have successfully argued that enclosing and managing a previously neglected open plot can **improve local amenity or biodiversity**. For example, in a recent appeal for land at Craigden (Hazlehead area), although ultimately refused on policy grounds, the applicant’s supporting statements highlighted that the fenced-off area had been **“bramble and rubbish filled”** and subject to vandalism before, but after enclosure it became **“well maintained,” with trees and shrubs planted, resulting in a “tidier area” and a “positive contribution to the community”**. They argued that keeping the fence allows the land to rewild and new trees to establish safely, thereby **enhancing biodiversity and greenspace value** over time. These points show a recognition that *not all open space is inherently of high amenity value* – if an area was effectively unusable or littered, private upkeep can make it more attractive and ecologically rich. For 43 Middleton Circle, if evidence shows the fenced plot was little-used by the public and that the change to garden ground has **cleaned up the area or enabled planting of greenery**, those improvements to public amenity and biodiversity are material considerations. The presence of **supporting letters from neighbors** or the community noting the positive changes (as was seen in Craigden’s case) would bolster the argument that there is no public loss – indeed a net gain – from allowing the fence to remain. Such benefits could help demonstrate that, in this specific instance, the strict open-space policies can be relaxed without undermining the broader green network. Essentially, if the appeal can show **lack of demonstrable harm** (no loss of accessible recreational space or important habitat) and **some positive outcomes** (neighborhood aesthetic or environmental improvements), it would align with the spirit of these prior LRB decisions that favored pragmatism and site-specific merit over a purely theoretical loss of open space.

Conclusion

In summary, several Aberdeen City LRB decisions have allowed retrospective fences or garden extensions where the proposal did not significantly erode public amenity or neighborhood character. Key factors include: the presence of similar enclosures nearby (so no new precedent is set); **minimal visual or landscape impact** after mitigation (e.g. using appropriate colors/materials); no obstruction of any important public access or use; and tangible benefits such as improved privacy/security for residents or better upkeep of the land. Importantly, the LRB has been willing to depart from strict policy where they found **no material harm and some community/neighborhood support or benefit** – as seen at Parkhill and Arnage. These cases can be cited to support the 43 Middleton Circle appeal: they suggest that if the fenced-off amenity land is shown to be of **low public utility and high private/local benefit**, and if its enclosure does not upset the area’s character or green network in any meaningful way, the LRB has a basis to overturn the refusal and grant permission. Each case is

decided on its own merits, but the precedent in Aberdeen is that **small-scale encroachments on amenity space have been permitted when they do not adversely affect public amenity, biodiversity, or landscape character**. The appeal at 43 Middleton Circle can be strengthened by highlighting these decisions, drawing parallels (e.g. long-standing use or lack of public impact) and emphasizing that, as in those cases, there is no *demonstrable* harm caused by the development. The LRB could therefore reasonably allow the fence and change of use in this instance, just as it has in comparable situations.

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PHOTOS

These 5 photos relate to properties mentioned on Page 11 of the Supporting Statement:

6 Buckie Close – 26 Buckie Close



Land clearly taken



Trees cut and new fence

53 Middleton Circle



Wall being built

57 Middleton Circle



Old fence



New fence with established shrubs

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