



Strategic Place Planning

Report of Handling by Development Management Manager

Site Address:	57 Spital, Aberdeen, AB24 3HX
Application Description:	Change of use from dwellinghouse to short term let accommodation with maximum occupancy of 12 people
Application Ref:	240093/DPP
Application Type:	Detailed Planning Permission
Application Date:	12 February 2024
Applicant:	Mr Craig McPetrie
Ward:	George Street/Harbour
Community Council:	Old Aberdeen

DECISION

Refuse

APPLICATION BACKGROUND

Site Description

The application site comprises a 2½ storey semi-detached dwellinghouse and its rear curtilage in a mixed use area within the Old Aberdeen Conservation Area. The property comprises six bedrooms, a living room, kitchen, three bathrooms, a hallway and stairwell and a garage (of insufficient dimensions to park a car and thus functions as a store). The rear curtilage solely serves the application property.

The building adjoins two residential flats to its south, 53 and 55 Spital. 55 Spital is a double-upper flat and is currently the subject of a separate pending planning application (Ref: 240410/DPP) for the change of use to a House in Multiple Occupation (HMO) (and it formerly had a license to be used as such). 53 Spital is a ground floor mainstream residential flat. The building fronts, and is accessed from, Spital. Residential flats 65-67 Spital and even numbered addresses 40-54 Spital to the east.

Relevant Planning History

A planning application (Ref: 240410/DPP) is pending for the change of use of 55 Spital to an HMO.

APPLICATION DESCRIPTION

Description of Proposal

Detailed Planning Permission is sought for the change of use of the property from a dwellinghouse to short term let accommodation with a maximum occupancy of twelve people at any given time. The property would be cleaned after each stay. No waste storage details have been provided.

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=S80JKPBZJK700>

- Short Term Let Planning Checklist

CONSULTATIONS

ACC - Roads Development Management Team – No objection - For residential dwellings in the inner-city boundary, ACC Parking Standards are for 1.5 spaces per dwelling. There is no parking provision associated with this site and none proposed. Therefore, the existing shortfall would remain unchanged. Whilst the proposed maximum occupancy of twelve is high, there are existing restrictions on Spital which would prevent any obstructive parking. Just north of the site is CPZ RR where parking controls and restrictions are in place. Where there are no parking controls on the Spital, there is unrestricted kerbside parking. Whilst an increase of vehicles associated with this development may disadvantage residents, unrestricted kerbside parking is not allocated to any property or resident and therefore there is currently no guarantee of residents being able to park outside their homes. It is anecdotally understood that this area has a relatively high parking turnover which is likely attributed to it being one of the nearest locations to the university outwith the CPZ and is likely utilised by students and staff.

The site is fronted by a good standard of adopted footways and there is a garage which can be used to store bikes. The garage is below the minimum dimensions to be classed as a car parking space. There is also a bus service which runs along the Spital which makes it accessible by public transport.

They note that the maximum occupancy would be high. However, as the site already has a shortfall as per Aberdeen City Council Parking Standards, that would not change with this proposal and there are existing parking controls which would prevent obstructive parking.

ACC - Environmental Health – No comments or observations.

ACC - Waste And Recycling – Objection - As there is a private waste collection contract, all guests need to be made aware that they are not authorised to use the domestic bins on the street for any refuse, recycling or food waste.

As the number of permitted guests is high, there needs to be adequate waste, recycling and food waste storage on the site for the whole duration of a stay or between cleans by the contractor.

Old Aberdeen Community Council – Concerns raised with respect to the scale of the proposed provision, accommodating up to twelve people in an area with perpetually overfilled parking – noting for instance that the bus stop immediately in front of the property is frequently taken up with parked cars and overfilled bins.

On a wider scale, they are concerned with community erosion given the ongoing conversion of residential stock to HMOs and short term lets. Given the Aberdeen Planning Guidance does not establish limits for short term lets, they suggest that these should at least fall jointly within limits established for HMOs.

REPRESENTATIONS

Two representations, both objections, have been received. The matters raised can be summarised as follows –

- There are already numerous HMOs and student flats in the vicinity. The introduction of this short term let with up to twelve transient tenants would further erode the amenity of the area.
- Short term tenants who are not invested in the neighbourhood are likely to have a negative impact on the character of the Old Aberdeen Conservation Area.
- The potential disturbance from noise and antisocial activities would have an adverse effect on the permanent residents and undermine their sense of security and belonging to their neighbourhood.
- The proposal would exacerbate waste disposal problems.
- The proposal would exacerbate parking problems.
- The dwellinghouse appears to be far too small to accommodate twelve people.
- The proposal is not consistent with Policies H1 (Residential Areas), D2 (Amenity), WB3 (Noise), T3 (Parking) 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.

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 (NPF4)

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

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 7 (Historic Assets and Places)
- Policy 13 (Sustainable Transport)
- Policy 14 (Design, Quality and Place)
- Policy 30 (Tourism)

Aberdeen Local Development Plan 2023 (ALDP)

- Policy H2 (Mixed Use Areas)
- Policy D1 (Quality Placemaking)
- Policy D2 (Amenity)
- Policy D6 (Historic Environment)
- Policy R5 (Waste Management Requirements for New Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)

Aberdeen Planning Guidance

- Short-term Lets
- Transport and Accessibility

Other National Policy and Guidance

- Historic Environment Policy for Scotland

EVALUATION

Key Considerations

The determining material consideration in the assessment of this planning application is whether the change of use of the property to short term let (STL) accommodation would result in unacceptable harm to the amenity of the area – particularly the neighbouring residential dwellings. This matter and all other material considerations are assessed in the context of the relevant policies of the Development Plan.

Provision of Short Term Let Accommodation and Impacts on Character and Amenity

Paragraph (e) of Policy 30 (Tourism) 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:

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

Impact on Character and Amenity of the Area

In terms of Paragraph (e) of Policy 30 and amenity, Policy H2 of the ALDP states that applications for development or change of use within Mixed Use Areas (H2 on the Proposals Map) must take into account the existing uses and character of the surrounding area and avoid direct conflict with the adjacent land uses and amenity. It furthermore states that where new commercial uses are deemed appropriate, development should not adversely affect the amenity of people living and working in the area.

The qualities of successful places referred to in Policy D1 (Quality Placemaking) of the ALDP seeks development to be safe and pleasant, in terms of avoiding unacceptable impacts on adjoining uses, including invasion of privacy and noise. Policy D2 (Amenity) of the ALDP seeks residential developments to ensure occupiers are afforded adequate levels of privacy.

In terms of impacts on amenity, the properties which bound 57 Spital are in residential use. With respect to the adjoining properties to the south, 53 Spital is a mainstream residential flat and 55 Spital was known to be in use as an HMO until 2021 and there is currently a pending application for its use as such.

The Planning Service identifies that the change of use from a dwellinghouse to STL accommodation could result in increased harm to the amenity of the neighbouring properties beyond that which would typically be expected from a property in mainstream residential use if the impact from the following issues would be significant:

- The potential for noise from customer activities within the property and in the rear garden, particularly in the quiet and sensitive late evening and early morning periods – especially if used as a ‘party house’.
- The potential for the disturbance of privacy and the perceived impact on safety resulting from the use of the property by transient persons unknown to the permanent residents of the adjacent residential properties.

In this case, it is considered that the impacts on amenity from the use of the application property as an STL would most likely arise from the increased probability of noise emissions affecting the occupants of the adjacent residential properties from the use of the property through the walls and in the residential curtilage as well as the actual or perceived impact on safety and security from the comings and goings of the significant number of transient occupants and their use of the rear garden.

It has been stated that a maximum of twelve occupants would stay in this property. Given the property has a total of six bedrooms, it is considered that the number of occupants would be significantly greater than if it were to be in mainstream residential use as a dwellinghouse, a use which requires all occupants to be related to each other.

The activity from such a significant number of occupants would be highly likely to generate significant levels of noise transference to the surrounding residential dwellings from within the property and the rear garden. Given the significant number of occupants, it is highly likely that the property would be used for the hosting of parties or other events of an anti-social nature that could harm the amenity of neighbouring properties in terms of noise from activities both within the building and in the rear curtilage, which could be during the more sensitive late night and early morning periods. Whilst there is a high degree footfall during the day along Spital and the site is zoned as a Mixed Use Area, the properties immediately surrounding 57 Spital are all in residential use. Spital is not a primary thoroughfare for vehicles through the city whereby vehicles would be frequently expected to travel along the street during these sensitive periods. As such, and whilst it has not been quantified, background noise levels experienced by the neighbouring residential dwellings during these sensitive periods of the day are expected to be relatively low. The impact of noise generation on the surrounding residential properties due to the change of use and stated number of occupants would be significant.

Given the significant number of transient persons that would stay in the premises, the impact of the STL use on the actual or perceived impact on safety and security of the neighbouring

residential occupants in the area would likewise be significant. Whilst there is no direct overlooking from the property, there is a degree of indirect overlooking between the rear garden of 57 Spital and the residential properties to the north and south. Likewise, given the significant number of occupants, there would likely be a high degree of disturbance in terms of coming and goings, with its entrance being in close proximity to those of 53 and 55 Spital. The change of use to short term let accommodation with a maximum occupancy of twelve people would have a significant adverse impact on the amenity afforded to the neighbouring residential occupants in the area in terms of noise and their actual or perceived impact on safety and security and would have a direct conflict with the adjacent land uses, in conflict with Policy 30(e)(i) of NPF4 and Policies H2, D1 and D2 of the ALDP.

In terms of physical character, as no physical alterations are proposed the development would not impact on the character and appearance of the Old Aberdeen Conservation Area, in accordance with Policies 7 (Historic Assets and Places) of NPF4 and D6 (Historic Environment) of the ALDP.

In terms of the impact on the general character of the area, the area is zoned as Policy H2 – Mixed Use Areas on the Proposals Map of the Aberdeen Local Development Plan 2023. The surrounding area is mixed use, has a relatively high pedestrian footfall along Spital from students attending the university, residents, and visitors to Old Aberdeen. Around the application site itself, the prevailing character is residential in nature. This short term let would increase the comings and goings in the area relative to its use as a mainstream residential dwellinghouse both given the stated number of occupants and in terms of cleaners. Given the relatively high footfall, that it is ultimately a mixed use area (with sporadic commercial uses along the Spital), the change of use of this dwellinghouse to a short term let accommodation unit would not necessarily affect the character of the area by any significant degree.

The change of use to short term let accommodation with a maximum occupancy of twelve people would, however, have a significant adverse impact on the amenity afforded to the neighbouring residential occupants in the area in terms of noise and their actual or perceived impact on safety and security and thus would have a direct conflict with the adjacent land uses, in conflict with Policy 30(e)(i) of NPF4 and Policies H2, D1 and D2 of the ALDP.

Provision of Short Term Let Tourist Accommodation and Local Economic Benefits

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:

- offer visitors a unique tourist experience through a host's local knowledge, increasing the attractiveness of Scotland as a place to visit,*
- offer accommodation in places not served by hotels and hostels, for example, and therefore help with dispersal of visitors from "hotspot" areas,*
- offer more affordable accommodation, helping to attract tourists that may have a lower budget, and*
- 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 this application property as an STL as required by Policy 30(e)(ii) of NPF4, even more so in that it would be used as an STL some of the time, given the likely use of the property by tourists and/or business travellers, it is envisaged that customers of the property would likely spend money locally, to the benefit of the hospitality and tourism sectors. This is supported 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.'

Whilst the proposal does not comply with Policy 30 (Tourism) of NPF4 because it would have an unacceptable impact on amenity and is to be refused on this basis, the loss of residential accommodation resulting is a material consideration with respect to ii. of this policy. Whilst housing is in need in Aberdeen, there is not currently understood to be any significant pressure placed on local housing need from the number of STLs in Aberdeen, as is experienced elsewhere in Scotland (such as in Edinburgh and the Highlands and Islands). It is therefore considered that the loss of residential accommodation resulting from the use of the property when it is in use as an STL would not have any significant impact on local housing need. However, it is recognised that housing need and demand can be subject to significant change over time, as demonstrated by such matters being periodically reviewed and quantified through Housing Need and Demand Assessments and addressed through the Development Plan process. In relation to the duration of planning permissions for STL accommodation, 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).'

If the change of use were to have been granted, it would have resulted in the loss of residential accommodation in a residential area on a permanent basis. As such, had the decision been to grant planning permission it would have been considered necessary in this instance to grant planning permission for a time-limited period of five years, which is the time period between the publication of Housing Need and Demand Assessments. This would have been:

- To comply with the requirements of Policy 30(e) ii. of NPF4 and the Short-term Lets Aberdeen Planning Guidance;
- To ensure that local housing need, demand and supply could have been considered for any future applications for the continued use of the property as STL accommodation;
- To allow for the site to be automatically returned to residential use upon the expiry of the permission (unless a new consent was granted in the meantime); and
- To further consider the demonstrable local economic benefits of its use as an STL at the time of any further planning application.

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.'

Given that the proposal would comprise a tourism facility that would not be in the city centre, the proposal would have tensions with Policy VC2 (Tourism and Culture) of the ALDP. In assessing the magnitude of this tension, it is acknowledged that the site is approximately 20m from a bus stop with a route to the city centre, it is approximately 700m from the City Centre boundary (a walk in under 15 minutes) and the site is relatively close to the cycle as well as nearby cycle infrastructure leading to the city centre on King Street. On balance, the proposed STL use is compliant with the aims of Policy VC2 (Tourism and Culture) of the ALDP in that it would not undermine the sequential spatial strategy to direct visitor facilities into the city centre by any significant degree.

Whilst it does comply with this requirement of Policy VC2, the development conflicts with Policy 30 (Tourism) of NPF4 and Policies H2, D1 and D2 of the ALDP. This is because the change of use to short term let accommodation with a maximum occupancy of twelve people would have a significant adverse impact on the amenity afforded to the neighbouring residential occupants in the area.

Transport and Accessibility

Policies 13 (Sustainable Transport) on NPF4 and T2 (Sustainable Transport) of the ALDP promote and encourage the use of sustainable and active modes of travel where possible, as opposed to private vehicle trips. The nearest bus stop is directly outside the application property, which is less than 400m from the nearest bus stop, in accordance with Policy T2 of the ALDP. The site is accessible to local amenities and a short walking distance from the University of Aberdeen campus. The site is accessible using sustainable and active travel methods. As such, whilst the proposal is being refused because of the adverse impact on amenity, the site is accessible using sustainable and active travel methods.

In terms of parking, there are no Parking Standards set out in the Transport and Accessibility specifically for Short Term Lets. There are no off-street car parking spaces serving the property. Policy T3 states that in 'inner city areas, low or no car development will be supported in suitable locations where there is adequate access to active travel and public transport options.' Given a bus stop is located outside the property, it is accessible using active travel and public transport options and therefore the absence of parking would be acceptable in principle.

Based on the significant number of occupants, which would be very likely to exceed the maximum number of residents (related to each other) that would live in this property if it were to be used as a mainstream dwellinghouse, the proposed short term let could materially increase demand for on-street car parking. The 'garage' is not a size that would accommodate a car nor of a size that complies with minimum dimensions for garages in the Transport and Accessibility Aberdeen Planning Guidance.

As such, any material increase in car parking demand would result in vehicles being parked on the street. Approximately 180m to the north of the site is CPZ RR where parking controls and restrictions are in place. There are existing restrictions on Spital which would prevent any obstructive parking. It is anecdotally understood that this area has a relatively high parking turnover which is likely attributed to it being one of the nearest locations to the university outwith the CPZ, which is likely used by students and staff. Taking into account the proximity to active travel and public transport methods and the existing parking controls, the proposal would not adversely affect road safety, the local transport network and would be accessible using sustainable and active travel methods, in accordance with Policies 13 of NPF4, as well as T2 and T3 of the ALDP. The Roads Development Management Team have been consulted and do not object to the application.

Waste Storage and Collection

Policy 12 (Zero Waste) of NPF4 and Policy R6 (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. It is understood that there is a private waste collection contract. However, no waste storage area has been shown on the premises. The Waste and Recycling Team object to the application on the basis that as the number of permitted guests is high, there needs to be adequate waste, recycling and food waste storage on the site for the whole duration of a stay or between cleans by the contractor. These details have not been included on the application. However, it is considered that had this application been a recommendation to approve, it is a matter that could have been addressed by way of a planning condition to seek these details and for the implementation of any works to install waste storage be installed before the premises has been brought into use as short term let accommodation. As such, compliance with Policies 12 of NPF4 and R6 of the ALDP could have been ensured through that condition.

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. 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) 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 development, comprising the change of use of an existing property, is sufficiently small-scale and of a nature such that it does not have any material impact on the global climate and nature crises nor to climate mitigation and adaptation, nor are there any opportunities that can be identified to minimise greenhouse gas emissions given the nature of the proposals. Therefore, the proposal is compliant with Policies 1 and 2 of NPF4. Whilst this proposal would not include measures to enhance biodiversity, which would have minor tensions with Policy 3 of NPF4, the proposal is a change of use, small-scale and would not offer the opportunity for meaningful biodiversity enhancements. The tension with Policy 3 of NPF4 is thus not to a degree whereby it is a reason to refuse this application.

Matters Raised in the Representations

The matters raised relating to amenity, parking, waste disposal, noise, sense of security, the impact on the Old Aberdeen Conservation Area and assessment against the relevant policies of the Development Plan have been addressed in the evaluation.

With respect to the size of the unit being considered too small to accommodate twelve people, the matter of occupancy in terms of fire safety and other licensing matters would be considered by the Licensing Team separately in determination of a Short Term Let License. Unlike for residential uses, there are no specific space standards for short term let accommodation in the Amenity and Space Standards Aberdeen Planning Guidance as it is not a residential use.

Matters Raised by Old Aberdeen Community Council

The matters raised relating to the impact of the proposal on the character of the area, parking and waste storage have been addressed in the evaluation. Indiscriminate parking on a bus stop would be an parking offence that is not within the remit of the determination of this application.

The proposal is for change of use to a non-residential short term let, which is a materially different use to HMO, which is a residential use, and the material considerations in assessing such an application is different. The Small Data Zone HMO data in the Houses in Multiple Occupations Aberdeen Planning Guidance relates solely to HMOs and is not applicable. Each application for a change of use to short term let accommodation is assessed on its own merits based on its site-specific context. The cumulative impact of multiple short term lets in an area is a material consideration in assessing these applications. In this instance, the nearest short term let is approximately 40m from the application property (70 Spital). However, there would be no significant cumulative impact from the presence of that existing short term let on the neighbouring residents beyond what has been assessed in this evaluation.

DECISION

Refuse

REASON FOR DECISION

The change of use to short term let accommodation with a maximum occupancy of twelve people would have a significant adverse impact on the amenity afforded to the neighbouring residential occupants in the area in terms of noise and their actual or perceived impact on safety and security and would have a direct conflict with the adjacent land uses. The proposal conflicts with Policies 14 (Design, Quality and Place) of National Planning Framework 4, as well as H2 (Mixed Use Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023. There are no material considerations that would justify approval.