

5 Westfield Terrace Aberdeen Appeal Reference 231206/DPP

Dear Appeals Committee

Below is my appeal against the rejection of the Short Term License by Aberdeen Council Planning Department.

The relevant parts of the rejection notice are in black, and the appeal text is in red.

Please note: The Licensing Department of Aberdeen Council has granted the License to rent the property as a Short Term Let.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for the change of use of the lower ground floor to short term let (STL) accommodation with a maximum occupancy of four people at any given time. The formation of the short term let unit would effectively sub-divide the dwellinghouse into a residential dwelling over the ground and first floors, which would be accessed from the front door of the property, and a lower ground floor short term let unit, which would be accessed from the door on the rear elevation via a path to the side of the property.

Sub-Division of Property

- This information presented above is inaccurate. 5 Westfield Terrace is a single three-story property/house which consists of a lower ground floor (LGF), ground floor (GF) and first floor (1F). All the floors are accessed via internal staircases, as it is one house. I plan to rent a maximum of two bedrooms on a part time STL basis. There is no subdivision.
- The property has 5 bedrooms and a maximum of 2 are let out on the LGF. The house has only one heating, plumbing and electrical supply. The rooms on the LGF are let on a home sharing basis as I am always onsite when the rooms are let, due to the integrated nature of the property. Due to the unique design of the property, the guests can enter/leave the property via the back door without ever seeing/disturbing myself, at any time of the day. This allows both me and the guests privacy.
- It is never let when I am away (similar to B&B) as per a **Home Sharing License**. The guidance provided by the Scottish Government states 'home sharing' means you rent out all or part of your own home while you're living there". (<https://www.mygov.scot/short-term-let-licences>).
- In accordance with Scottish Government Guidance and as cited in the Aberdeen Council Documentation "ACC Planning Guidance", "*Planning permission is not generally required for letting rooms in a house (not a flat) where the letting is restricted to one bedroom in the house, and it has fewer than four bedrooms; or where the letting is restricted to one or two bedrooms in the house and it has four or more bedrooms. The letting would be ancillary to the principal*

use as a dwellinghouse”.

- Renting two bedrooms on a Home Sharing basis does not subdivide the house in any way as the internal staircase remains in place as it is required to access the LGF and is an essential part of the house.
- The above information in the Planners Report states there would be a subdivision in the house. This is inaccurate because the laundry facilities, the boiler, the stop cock for the property are also all in the LGF and access is required via the internal staircase.
- The staircase is also used to access the rooms for cleaning and maintenance. The LGF is simply the lower part of the whole property and letting out 2 rooms in no way subdivides the house.
- When no guests are staying it is simply the lower floor of the house and used as such by the owner as part of their home.

ACC - Roads Development Management Team – No objection –The existing and proposed do not have associated parking and thus there is no net detriment. As the site is within a Controlled Parking Zone, there is no scope for indiscriminate parking.

ACC - Waste and Recycling – No objection – The development is classified as commercial and therefore receives a business waste collection. General advice regarding commercial waste requirements has been provided.

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.

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.
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Impact on the Character and Amenity of the Area

The application site is zoned on the Proposals Map of the Aberdeen Local Development Plan 2023 (ALDP) under Policy H1 (Residential Areas). Policy H1 states that proposals for non-residential uses will be supported if:

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.

In terms of the impact on the character of the immediate surrounding area, despite its central location within the city and the high density of the streets elsewhere in Rosemount, Westfield Terrace is characterised by dwellinghouses which are set back from the road and its relatively quiet residential nature, including low levels of traffic and footfall. The grant of planning permission for the change of use of the lower ground floor to STL accommodation would intensify the use of the site and result in transient persons accessing the property, presenting an increase in activity and coming and goings, compared to its existing use.

Given the scale and intensity of the use in its context, and notwithstanding the adverse impact on residential amenity set out below, the use of the lower ground floor by non-residential occupants would not significantly change the general character of the surrounding area. However, it is accepted that with respect to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as no external alterations proposed, the character and appearance of the area would be preserved and, thus the proposal would have no material impact on the character and appearance of Rosemount Place and Westburn Conservation Area.

Character and Preservation

- The character or appearance of the Conservation Area remains completely unchanged and completely preserved. The property cannot be seen from the street unless you access the very private, secluded and walled back garden.
- Every property from 1 to 11 on Westfield Terrace, has or does rent out part or all their LGF's and have done so for decades. The character of the street has never been affected. Why would that change now?
- An income stream from the STL allows the owners to maintain the "desirability of preserving or enhancing the character or appearance of conservation areas" as per the planning statement above. Without a regular income stream maintaining a traditional Aberdeen granite house becomes challenging.

Footfall

- Historically 5 Westfield Terrace has been in the same family for 42 years and the two bedrooms in the LGF have always been let out. Initially providing vital temporary accommodation to O&G industry, then professionals and now due to societal changes, STL.

- There is currently no evidence that this has had a detrimental effect on footfall within the local area during the last 4 decades. If there is evidence to the contrary, please can this be provided by the council planning department. The property has helped support local business for the last 4 decades.
- The design of the home and changes in the economy make it much less viable for long term rental and would be unlikely to return to that status ever. If it did, this potentially would increase the footfall and pressure on local amenities such as roads, parking, GP's, hospitals, and schools, in comparison to occasional visitors to the area.
- The average occupancy is about 40% per annum and the average stay is about 3 nights.
- There could be a large family living in the property which would increase the footfall. Can you please explain the difference.

Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4) requires development to be 'Healthy: Supporting the prioritisation of women's safety and improving physical and mental health'. This includes (in Appendix D 'Six Qualities of Successful Places' of NPF4) 'designing for lifelong wellbeing through ensuring spaces, routes and buildings feel safe and welcoming e.g. through passive surveillance'. The qualities of successful places referred to in Policy D1 (Quality Placemaking) of the ALDP seek development to be safe and pleasant, in terms of avoiding unacceptable impacts on adjoining uses, including invasion of privacy. Policy D2 (Amenity) of the ALDP seeks residential developments to ensure occupiers are afforded adequate levels of privacy and noise.

'Healthy: Supporting the prioritisation of women's safety and improving physical and mental health' 'designing for lifelong wellbeing through ensuring spaces, routes and buildings feel safe and welcoming e.g. through passive surveillance'.

It is considered that the change of use of the lower ground floor of this building 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 it were to have an impact from the following:

- The disturbance of privacy and the perceived impact on safety by transient persons unknown to neighboring residents
- If it was possible for noise to arise from customer activities within the unit and in the curtilage, particularly in the quieter, more sensitive late evening, and early morning periods – especially if used as a 'party flat'.

In this instance, the impact on amenity from the change of use of the lower ground floor to STL accommodation would arise from the impact on safety and security, either actual or perceived, and the potential disturbance of privacy to the upper floor dwelling as a result of the occupants sharing.

their residential curtilage solely with the transient persons staying in the STL, as well as the cleaners. The occupants of the STL unit would furthermore need to cross through both the front and rear curtilage to access the STL unit. Thus, the use of this space by frequently changing transient persons staying on a non-residential basis, unknown to the occupants of the upper storey dwelling would have an adverse impact on the amenity through the loss of privacy and a sense of safety and security, either actual or perceived.

Healthy and Women's Safety

- This point is unclear as to “women’s safety”, “healthy” and “passive surveillance” and how they are relevant to application? Please can this be clarified as to the meaning in relation to the STL application?
- 5 Westfield provides quiet, safe and secure accommodation, with the owner onsite. The secluded nature of the property minimises any potential disturbance to me or neighbours from noise.

Disturbance and Noise

- In 4 decades of renting bedrooms long and short term, no neighbours have ever been disturbed. There have never been any disturbances / noise nuisance / parties at the property, no complaints from neighbours, nor police reports or reports to the anti-social behaviour team in the past 4 decades. I am always in the residence when the rooms are let on a Home Sharing Basis, thus negating any possible issues around potential antisocial behaviour or parties. It is unclear why this would commence now?
- The immediate neighbours (No's 3 and 5) have written supporting statements, as per attached.
- This application is quite different from STL's within blocks of flats where internal and external areas are shared, noise disturbance and transient guests are more likely to cause issues as the owners do not reside onsite.
- There is no apparent evidence that antisocial behavior is more likely to be caused by tourists/travellers/businesspeople, than a long term resident. No anti-social behaviour has ever been reported because of guests I rent rooms to.
- The average demographics of guests staying at my house are a more mature clientele with a sedate agenda. They tend to be holiday makers or visiting family or working at / attending the local hospital/children's hospital.
- Many people require accommodation with no or limited steps/wheelchair access which I provide.
- Guests coming to stay at the property have been ID checked by the online rental platform and therefore there is a level of security and processes in place ensuring suitability of guests.

Usage of the property / Privacy / Safety – perceived

- This point is very unclear and does not seem to make sense as a reason for not granting a STL. The “perception” that this will disturb the owner with “loss of privacy and a “sense of safety” is that solely of the planner and not the owner, this seems to be based on the planner’s conjecture and opinion.

- If I choose to let and maintain rooms, I can assure you there are no disturbances or security issues. Please clarify the difference between letting out rooms via a B&B/long term regarding this matter?
- If I was concerned, then I would choose not to let out the rooms. There is no-one else using the property to be disturbed or feel insecure. The house design with lockable internal doors means all parties concerned feel secure. Any other perception is again, solely that of the planner.
- There are no other occupants in the upper stories of the property.
- The points in the rejection above all require clarification and justification. It is the owner's choice when and when not to let the rooms in the property and therefore my decision on how much "disturbance I am willing to accept". The disturbance levels have always been zero, hence why the rooms have been let for the past 4 decades.

In terms of noise impact, based on the layout of the building, an internal door would be the only internal division between the residential use and the short term let unit. Whilst with the maximum occupancy proposed being four persons, it is unlikely that the property would be used for the hosting of parties or other events of an anti-social nature. Without any acoustic measures (noting it is currently part of the same property), the short term let would nevertheless be very likely to have an adverse impact on the amenity afforded to the residential dwelling in the upper floors in terms of noise from the occupants of the short term let in terms of comings and goings of transient persons, cleaners as well as there being four occupants, which is a relatively high number for the size of the two-bedroom short term let unit.

Level of Occupancy and disturbance

- Again, this point is unclear as the planner seems to indicate that no person should have anyone living beneath them just in case there is some noise disturbance. How does this affect people living in flats? Please can this be clarified?
- The house has been built in a way with an LGF with a space which lends itself to the usages of these rooms and subsequent rental without disturbance. For 4 decades of renting rooms there has never been any noise issues as stated above.
- Four occupants are not a high number, as the area used is very spacious, has two bathrooms and very ample seating areas and access to a private and fully secure back garden.
- The LGF is above the average 2-bedroom STL in size and facilities. Please see Aberdeen Council Register of approved STL properties to verify this.
- This accommodation is run by the owner and not any external rental management company. It is therefore totally reliant on me to maintain and manage. As it is one house it is not suitable to rent out the bedrooms as a separate entity/property.
- There are no cleaners, external companies, or transient people coming in and out. Again, this point is unclear and solely the perception of the planner.
- Please see the second review on the attached AirBnB document, stating bedrooms are "huge".

- The average occupancy is about 40% per annum and the average stay is about 3 nights.
- This house is built around the 1900's and has very thick granite walls making it difficult for any sounds to transmit.
- No neighbour has ever been disturbed. All neighbours support the rental, see supporting statements.
- Additionally, the surrounding neighbours have similar rented properties, and no complaints have ever been raised by anyone ever.

With respect to the adjoining residential properties to the southwest, (7 and 7A Westfield Terrace), given the STL accommodation is located at the lower ground floor level, it is understood that the wall between the STL accommodation and the adjacent dwelling is a structural stone wall given the age and character of the building and thus it is unlikely that short term let accommodation would adversely affect the amenity of those adjacent properties in terms of noise.

Whilst applying a condition to block up the door with the upper floor to totally separate the upper floor and lower ground floor uses to address the noise concerns has been considered, it is understood that a building warrant is required for the conversion of the lower ground floor into a separate unit, it does not have this and there is no certainty that it would necessarily be granted.

Conversion to separate properties

- This issue highlighted by the planner is one that has never existed. There have never been plans to separate the house in 42 years, nor will there ever be any intention to action such a suggestion. How can a hypothetical scenario by the planner be an excuse for not allowing STL. Please can this be justified?
- There has been no architectural drawing, planning applications or warrants in the past 42years to indicate this is an intention of the owner so therefore a non- issue. The above claim would be a massive undertaking, disproportionate to cost time and effort. The house is one house with one internal stair, one heating system, one plumbing and electrical supply, one stop cock etc.
- No modifications could be made without the involvement of Architects, Engineers, and planning permission of the very same department, as well as being very difficult and expensive to carry out in terms of Building Regulations.
- Additionally, it would not be possible to block a stairwell when it is of constant use to access the LGF for cleaning, maintenance, laundry and the owner's personal storage areas and part of their home.
- If the stairwell was blocked off this would create incredible inconvenience and not be a practical modification for living in the house. The owner would then have to go outside and round the side of the house to access the same property via the back door.

As such, based on the proposed layout, this proposal would adversely affect the amenity afforded to the upper storey residential dwelling as it would share its private garden with the transient persons

of the short term let accommodation and because it would be likely to result in adverse noise levels and disturbance.

Usage of outdoor space

- As with the points above there has been no noise disturbance in the past 42 years of the LGF being rented. The planner states “it would be likely.” However, it has never happened in the last 4 decades. It seems odd that it would suddenly commence now and seems to be based on the opinion of the planner rather than any substantial evidence.
- The guests have access to the spacious private, secure and secluded back garden, and I have access to the spacious front garden, and we do not need to share the same outdoor space.
- There have been no issues with disturbance or noise when these spaces are in use, which is very rare. If I required regular usage of the back garden, I would not rent out two bedrooms on a part-time basis (about 40% of the year).
- There have been no reports of antisocial behaviour or police reports linked to the property or street.
- Additionally, as mentioned above if I felt there was a disturbance or issue around privacy or security, I would not rent out the rooms via home share.

Considering the requirements of Policy 14 of NPF4 and D1 of the ALDP, which require proposals to be designed for lifelong wellbeing through ensuring spaces, routes and buildings feel safe, as well as development to be safe and pleasant. The proposal would therefore adversely affect the residential amenity of the surrounding area, in conflict with Policies 14 (Design, Quality and Place) of NPF4 and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the ALDP. The proposal would furthermore conflict with Policy 30 (Tourism) e) i) of NPF4 in that the proposal is for the reuse of an existing property for short term holiday letting, which would have an unacceptable impact on local amenity.

- There is no apparent evidence that transient guests / tourists in Aberdeen make an area unsafe or have a negative impact on the local amenities.
- There is no evidence of any reports of disturbance, antisocial behaviour or excess footfall from the STL.
- A long term let (52 weeks per year) would increase the footfall etc. and place greater pressure on local amenities such as schools, roads, GP's, hospitals etc. in comparison to Short Term Lets.
- Please can the unacceptable impact be clarified as to what this would entail?

In determining this application, due consideration has been given to the current fact that the applicant is, and the intention is that they would continue to be, both the owner and resident of the upper storey dwelling as well as the owner and operator of the short term let unit, and thus in this arrangement the conflict between the residential and short term let uses would be within the control of the applicant. The aforementioned conflicts between the residential use and the short term let use

would arise if the owner and operator of the short term let was to no longer reside in the upper floor dwelling or if the short term let unit was to be sold off or managed independently of the resident of the upper floor dwelling.

Owner In-Situ

- As previously noted, this is the owner's home, I have no intention of moving out. This property has had rented rooms for the past 42 years and in the past 4 years this has been run as home share / STL.
- If I did not reside onsite, there would be no STL. I solely manage the STL within my own home so therefore, it is completely unclear who else would be living in the house? Please provide evidence of who these other people living in the house would be?
- The LGF is part of the house and therefore it could not be sold off as a separate unit unless architects and planning permission were granted to undertake large and disproportionate modifications to the property that simply could not be afforded. See point above, this has never been the intention and please justify why you think it would be?

Detailed consideration has thus been given as to whether it would be competent to apply a legal agreement or a planning condition for a personal permission or to require the owner of the short term let to be resident in the upper floor dwelling above. Scottish Government Planning Circular 4/1998 states that:

'Unless the permission otherwise provides, planning permission runs with the land and conditions imposed on the grant of planning permission will bind successors in title and it is seldom desirable to provide otherwise.'

It furthermore states that:

'There are occasions relating, for example, to strong compassionate or other personal grounds, where the planning authority is minded to grant permission for the use of a building or land for some purpose which would not normally be allowed. In such a case the permission may be made subject to a condition that it shall ensure only for the benefit of a named person- usually the applicant.'

Compassionate reasons

- The monies taken from this room share pay towards my mother's care [REDACTED]
[REDACTED] The loss of these funds will mean that I can no longer afford the additional support that she has been receiving for the past 3 years and maintain the support with 2 carers that she has developed a special relationship with.
- In addition, the monies help maintain the character and preserve the appearance and upkeep of a traditional granite Aberdeen property within the conservation area. Without this income stream then the house may fall into some level of disrepair.

Based on the advice from the Council's Legal Service, the Planning Service does not identify competent means of applying such a condition or legal agreement. The application of a legal

agreement or a condition to prevent the short term let accommodation from being sold or operated independently of the dwelling or to limit the permission to the applicant would not meet the tests for planning conditions set out in Scottish Government Planning Circular 4/1998: The Use of Planning Conditions or Scottish Government Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements on the grounds that it would be unreasonable. Planning Circular 3/2012 states with respect to the obligations imposing restrictions on the use of land or buildings: *'can be intrusive, resource-intensive, difficult to monitor and enforce and can introduce unnecessary burdens or constraints.'* A condition or legal agreement could put a severe limitation on the freedom of the owner to dispose of his property as it could put a significant burden on the property as it would involve the site having to be owned and used as both a short term let unit and a dwelling at the same time by the applicant. It could place significant financial strain on the owner, make it difficult to sell the property and affect their right of freedom to relocate. A legal agreement would be unduly onerous given the permission would have been granted for a temporary period of five years (for separate reasons which are explained below). There are furthermore no known strong personal or compassionate grounds for this proposal which would justify such a condition or legal agreement that would justify a personal permission condition, which would also be required in order to meet the requirements of Scottish Government Planning Circular 4/1998.

As such, the proposed change of use of the lower ground floor to short term let accommodation would conflict with the Development Plan, specifically Policies 30(e)(i) and 14 of NPF4 and Policies H1, D1 and D2 of the ALDP. This is due to the conflict between the proposed change of use of the lower ground floor to short term let accommodation and the residential use above in that it the proposed short term let accommodation would adversely affect the residential amenity afforded to the dwelling. As noted above, there are no competent planning controls in terms of a legal agreement or a condition to overcome the conflicts with the Development Plan. There is therefore no option but to refuse planning permission.

It is requested in the Supporting Letter that a discontinuance condition could be applied to address this matter so that the issue of amenity can be considered in the future. Such a condition would not be sufficient as these issues and conflict with the Development Plan would arise during the time in which it has been granted, irrespective of if it were to cease operation at some stage in the future.

A condition or legal agreement could put a severe limitation on the freedom of the owner to dispose of his property as it could put a significant burden on the property as it would involve the site having to be owned and used as both a short term let unit and a dwelling at the same time by the applicant. It could place significant financial strain on the owner, make it difficult to sell the property and affect their right of freedom to relocate.

Perceived selling of the property

- If the property were to be sold, it would be as a single residence. There are no plans to do this and there never have been. I have no intention of selling or moving out of the property.
- This theoretical separation stated above would involve the very same Planning Department, building warrants, and many other consents etc. and applying for a license to rent is a completely different entity. It is one house with one heating system, one boiler, one electrical and gas supply, one stop cock and the difficulties described above would prevent separation.
- The Planer states "make it is difficult to sell the property. This could be seen as the reverse. The design of the house and the potential to access the usable space of the LGF from internal staircase, could make the house much easier to sell or attractive to families who require additional space for relatives / family members who may wish to live with them or

require a “granny flat” or would like the opportunity to rent rooms on home share / STL as an additional income stream.

- This again is the perception of the planner and does not seem to be a realistic rationale for refusing a STL on a 5 year basis.
- Ensuring an ongoing income stream can help to maintain and enhance the property and if in future there is a reason for it to be sold. It would be more attractive than a property that had fallen into some state of despair

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 change of use of the ground floor of this property to STL accommodation would offer a different type of visitor accommodation to hotels and guesthouses that could be more attractive for certain visitors, particularly families and business travelers / contract workers who could 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:*
- *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).’*
- This is all correct

The Short-term Lets Aberdeen Planning Guidance states that *‘there is currently limited evidence on the local economic benefits of STLs in Aberdeen and this makes it difficult to undertake a detailed assessment of STL proposals against NPF4 policy 30. More such evidence may emerge over time.’*

It does, however, acknowledge that given STLs are generally expected to be used by tourists and / or business travellers, it is envisaged that businesses in the local tourism and hospitality sectors may experience some economic benefits as STL occupants are likely to use the services of these sectors. This is supported in general terms by the Scottish Government’s ‘Research into the impact of short-term lets on communities across Scotland’ publication, produced in October 2019.

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 in close proximity to the businesses and amenities of the Rosemount Place Town Centre, it is less than 100m from a bus stop to the city centre and an approximate 600m walking distance to the city centre. The site thus provides sustainable and public transport links to the city centre and is in close proximity to a Town Centre. Acknowledging its sustainable location and accessibility to the city centre, the scale of the proposal, and that there are currently few properties in STL use in the area, on balance, the proposal would not undermine the sequential spatial strategy to direct visitor facilities into the city centre by any significant degree, in compliance with the aims of Policy VC2 (Tourism and Culture) of the ALDP. As such, the tension with this policy is not to a degree whereby it constitutes a reason to refuse the application.

Benefits to Local Economy

- This again is unclear what the “tension” is? Please explain.
- Aberdeen is currently trying to diversify away from its reliance on oil and gas. Therefore, tourism should be supported in all areas of the city. It has taken Aberdeen a long time to reap any tourism rewards, which it is now beginning to see. Places like Edinburgh and Inverness have benefited financially for decades, through the enticing of visitors. Tourism must be encouraged by offering good accommodation options. A lot of visitors do not like the “sterile block” hotel.
- The rooms in my house are amongst the top rated in AirBnB due to many factors. See attached reviews. I am classed as a “SuperHost”, the top AirBnB ranking.
- The property is very close to the city centre and within easy walking distance of Union Street, the Art Gallery, Union Terrace Gardens, The Theatre, Restaurants and Shops etc.
- It is also near the local parks of Westburn and Victoria and the vibrant area of Rosemount.
- This is an ideal location for tourists.
- In addition, the secure back garden is suitable for guests with dogs and small children. Not all accommodation in the city center is dog/child friendly, nor are there accessible parks to walk dogs in the city center.
- Not all visitors wish to stay in the city center, and many prefer a quieter location away from the noisy main city center streets. Many guests are here for business or to visit family and locum medical staff who are working at ARI.
- No visitor sets out with a strong desire to find accommodation in a block of flats that could be plagued by noise and distances from anti-social long-term residents. My bedrooms offer a very quiet and secluded option that benefits from a brilliant location.
- The property is walking distance to ARI and the property is used by those visiting relatives in the hospital or coming from places like Shetland for operations.
- It is outside the LEZ zone, with on street parking (at no detriment to the neighbours) and its proximity reduces the need for a vehicle to be taken into the city centre, reducing pollution.
- It is also accessible via public transport which many travelers utilize to visit the city.
- This small STL business also contributes in taxes to the local economy of Aberdeen.

The Short-term Let Aberdeen Planning Guidance 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. This in Aberdeen is different from other areas of Scotland (such as in Edinburgh and the Highlands and Islands). It is therefore considered that the loss of residential accommodation resulting from the change of use of the lower ground floor to STL accommodation would not have had any significant impact on local housing need. As such, the STL use is generally compliant with the aims of Policy 30(e)(ii) of NPF4. 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 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 grant of planning permission for the change of use of the lower ground floor to STL accommodation on a permanent basis would result in the permanent loss of residential accommodation in a sustainable location in a residential area. The Short-term Lets Aberdeen Planning Guidance states that *‘As such, planning permissions to change the use of existing residential accommodation to STLs will generally only be granted for a time-limited period. This will normally be for a period of five years and this will be controlled through the imposition of a condition on the planning permission’*. It has been requested in the Supporting Letter that such a condition should instead be considered for a time-limited period of ten years. However, had the Planning Authority been minded to grant planning permission, consent would have been granted for a time-limited period of five years, the time period between the publication of HNDAs. Notwithstanding every planning application is assessed on its own merits, the time limit of five years has been applied to the vast majority of short-term lets that have been approved by Aberdeen City Council where they would remove residential accommodation. The Scottish Government Circular 1/2023 states that planning authorities may consider applying such conditions for a time period as they consider appropriate. As such, a condition to require the permitted use to be discontinued after five-year time period would have been applied:

- To ensure that local housing need, demand and supply can be considered for any future applications for the continued use of the property as an STL;
- To allow for the site to be automatically returned to residential use upon the expiry of the permission (unless a new consent is 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.

‘As such, planning permissions to change the use of existing residential accommodation to STLs will generally only be granted for a time-limited period. This will normally be for a period of five years and this will be controlled through the imposition of a condition on the planning permission’

- The above guidance states that Short-term Lets Aberdeen can be granted for a time limited period, then it is unclear why the application has not been granted on that basis? Please can this be explained?
- This has been a successfully run small business supporting the local Aberdeen economy through visitors and taxes paid.
- My property provides vital accommodation for some and does not diminish the local housing supply.
- Refusal of the license will not increase the local housing supply, due to the integrated nature of the property and societal changes, it is not attractive to long-term renters, hence why I changed to STL.

Transport and Accessibility

Policy 13 (Sustainable Transport) on NPF4 and Policies 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 site is under 30m from the nearest bus stop on the southwest side of Craigie Loanings, which has three bus routes running north and west and thus the development would be within 400m of the nearest bus stop, in accordance with Policy T2 of the ALDP. The application property is c.600m from the city centre boundary and is close to the amenities and businesses of the Rosemount Place Town Centre. It is anticipated that many of the customers staying at the property on a short-term basis would be tourists or business travellers arriving using public transportation. Given on-street parking in the area is controlled by way of a Controlled Parking Zone, the proposal would have a negligible impact on parking provision in the area and the local transport network. Whilst the proposed change of use conflicts with the Development Plan for the reasons set out earlier in this evaluation, the proposal is compliant with Policies 13 of NPF4 and T2 and T3 of the ALDP.

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 the business owner can pay a financial contribution towards the collection of the waste, via a business waste contract with the Council in lieu of not paying Council Tax. Therefore, waste and recyclables generated by the customers of the property can be adequately stored and collected and an advisory note has been added for the applicant to be aware of in relation to entering into the required business waste contract. Whilst the proposed change of use conflicts with the Development Plan for the reasons set out earlier in this evaluation, the waste storage and collection arrangements would be in accordance with Policies 12 of NPF4 and R6 of the ALDP.

Tackling the Climate and Nature Crises 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 development, comprising the change of use of the lower ground floor of this dwelling, is

sufficiently small-scale such that it would not have any material impact on the global climate and nature crises, climate mitigation and adaptation, nor are there any opportunities that can be identified to minimise greenhouse gas emissions given the nature of the proposal. Therefore, whilst the proposed change of use conflicts with the Development Plan for the reasons set out earlier in this evaluation, it is compliant with Policies 1 and 2 of NPF4, and although it 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 does not offer the opportunity for meaningful biodiversity enhancements. The tension with Policy 3 thus does not constitute a reason to refuse this planning application.

DECISION

Refuse

REASON FOR DECISION

The proposed change of use of the lower ground floor to short term let accommodation would adversely affect the residential amenity afforded to the upper floor residential dwelling on the basis that it would adversely affect the sense of security and privacy afforded to the occupants of that dwelling. The proposal therefore conflicts with Policies 30 (Tourism and Culture) and 14 (Design, Quality and Place) of National Planning Framework 4 and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023.

- **The above statement regarding security, privacy is completely without basis and there is NO evidence to support it. This has been discussed at length above and shown to be invalid.**

Whilst the applicant is currently the owner and resident of the upper storey dwelling and would intend to be the owner and operator of the proposed short term let accommodation at lower ground floor level, the conflicts between uses would arise if the owner were to no longer reside the upper storey dwelling or if the short term let accommodation were to be operated independently of the resident of that dwelling. A competent legal agreement or planning condition to restrict the occupation or ownership of the two uses to overcome this conflict with the Development Plan cannot be identified because such a condition would be unreasonable and could place a significant burden on both the property and subsequently the owner. There is thus no option but to refuse planning permission.

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... conflicts between uses would arise if the owner were to no longer reside the upper storey dwelling or if the short term let accommodation were to be operated independently of the resident of that dwelling.

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Summary for Appeal

- The stated reasonings behind the refusal to grant the STL are factors of security, privacy, disturbance and the hypothetical scenario one house may be divided into two.
- I have explained how the rental of two bedrooms is fully compliant with all legislation, referred to ACC and Scottish Government guidance and highlighted statements that seem to be based on conjecture but an opinion of the planning officer.
- I have also explained that the claim “I will be disturbed” is one of pure imagination. It has never happened.
- Also listed are the points as to why the house cannot ever be subdivided.
- In the 4 decades of the two bedrooms being rented, there have never been any disturbances to me or my neighbours.
- The above statement regarding security and privacy is without basis and there is no evidence to support it. This has been discussed at length above and shown to be a perception of the planner but not of the owner.
- The lower part of the house has been rented out for decades and I have never been disturbed and no neighbours have ever been disturbed. It is my choice. This has been discussed at length above.
- Separation of the property has been discussed above and comes from a theoretical scenario of the planner. The suggestion is unrealistic but also impractical, completely unaffordable and has simply never been thought about. If you visit the property, you will see why.
- The planner states “could place a significant burden on both the property and subsequently the owner...” The lower part of the house has been rented out for decades and has never been a burden on owner or property. Why would it be a burden now after 42 years? Please clarify?
- The house could contain a large family that has more burden on the local amenities. Semi regular visitors to Aberdeen are not a burden to the local area or economy.
- If the house were to be sold, I am happy to have a condition that the Short-Term Let would only be valid in my name.
- Any new owners would have to apply to AirBnB in their own name using their own bank details for approval. AirBnB do not transfer contracts.
- Discontinuation conditions have been used in several other cases where planning permission

has been granted to Short Term Lets, why not this one? Please let me know.

Summary of main points

- The Licensing Department of Aberdeen Council have granted the License to rent the property as a Short Term Let. It complies with all the safety and security requirements as per legislation.
- I would like to invite the Appeals Committee to visit the property so you can get a true understanding of the layout and living arrangements.
- The Planning Officer is treating the property as two sperate entities, when it is one single house, and two bedrooms are let out. The impracticalities of subdivision are listed above.
- Discontinuation Notices are available and have been used in other cases. Licenses can be time capped.
- This is my home, and I have no intention of moving out or separating it. I only rent two bedrooms when in the property and on a part time basis on a home share basis.
- It does not take away housing from the local supply. Refusal would not add to the housing supply.
- The neighbours support my renting bedrooms (see supporting documents) and all properties 1-11 Westfield Terrace rent or have rented bedrooms. No-one has been disturbed ever.
- Renting rooms in a house that are remote from neighbours and the street cannot change the character and never has.
- It contributes towards my mother's 24/7 care.
- It contributes to an income stream to maintain and preserve the property.
- Many people require accommodation with no or limited steps/wheelchair access which I provide.

- The rejection from the Planning Department has been read and analysed by both an Architect and a Professional Planner (from Ryden LLP), independently of each other. And both parties have found no valid reason for rejection. Both parties can provide written evidence as to how they reached this conclusion.

Owner in residence and Security and Privacy

- There have never been any disturbances in 42 years and no plans to leave/sell.
- The room share is run in a similar system as a B&B as per the licensing guidance by the Scottish Government and if I was not in-situ there would be no home share or STL.
- If I felt adversely affected or insecure, I would not rent out rooms via the home share.
- It is unclear who else would be residing in the house if I was not there? The planner has not been explicit as to who these people would be.
- STL could not be operated independently, it is run by me (third party management charges

would make it loss making).

- If any changes to rental circumstances were required, then this would have to go through a formal process with Aberdeen City Council and AirBnB.
- The house is fortunate to allow both me and guests to have their own private and secure spaces and sperate entrances.
- Occasional visitors to Aberdeen are not a burden to the property/community/area and they also bring in much needed diversity and tourism and money to the local area.
- I provide much needed quality accommodation.

Noise and Disturbance

- There is no evidence of any antisocial behaviour, noise, insecurity of local residents / neighbours or excessive footfall in the past 4 decades of house ownership and 4 years of STL.

Benefits

- This has been a successfully run small business supporting the local Aberdeen economy with tourists / visitors and taxes paid from this enterprise.
- An ideal location for tourists / visitors and very close to the city center and walking distance of Union Street, the Art Gallery, Union Terrace gardens, Theatre, Restaurants, Parks and Shops,
- Not all tourists wish to stay in the city center, nor in a communal block of flats. Many prefer a quieter location away from the noisy main city center streets. But the property is ideally placed to walk to the center.
- The secure back garden is suitable for guests with dogs and small children as not all accommodation in the city center is dog/child friendly.
- It has on street parking thus negating the need where possible to drive into the city center. It is on accessible bus routes for accessing the city centre and beyond.
- It is near ARI and is used by those needing to access the hospital to locum work / visiting relatives / attending appointments.