



Strategic Place Planning

Report of Handling by Development Management Manager

Site Address:	42 Elmfield Avenue, Aberdeen, AB24 3PB
Application Description:	Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people
Application Ref:	241060/DPP
Application Type:	Detailed Planning Permission
Application Date:	16 September 2024
Applicant:	Mr & Mrs A Dada
Ward:	George Street/Harbour
Community Council:	Froghall, Powis and Sunnybank

DECISION

Refuse

APPLICATION BACKGROUND

Site Description

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

Relevant Planning History

None

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought 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 two-bedroom STL would be four persons at any one time, with a minimum stay duration of two nights. The property would be operated as an STL on a permanent basis. There is unrestricted parking on Elmfield Avenue and it is also close to areas of controlled on-street parking (permit holders only).

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=SJMZGYBZJF000>

- STL Checklist.

CONSULTATIONS

ACC - Roads Development Management Team – No objection to the proposal. The property is outwith a controlled parking zone and there is available parking. The current and proposed uses have similar parking requirements and the site is accessible via public transport.

ACC - Waste and Recycling – No objection. The proposed development is classified as commercial and will therefore receive a business waste collection. Customers of the STL could continue to utilise existing communal domestic general waste and recycling bins until the commercial status can be determined.

Froghall, Powis and Sunnybank 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.

Development Plan

National Planning Framework 4

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 30 (Tourism)

Aberdeen Local Development Plan (2023)

- Policy H1 (Residential Areas)
- Policy H8 (Houses in Multiple Occupation and Overprovision)
- 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
- Houses in Multiple Occupation and Overprovision

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

Provision of Short Term Let accommodation and impacts on character & amenity

Policy 30 (Tourism), paragraph (e) of National Planning Framework 4 (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*

Policy H1 (Residential Areas) of the ALDP states:

Within existing residential areas, 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.*

Impact on character and amenity of the area

The main determining factor for this application is the impact the proposed short term let would have on the residential character of the surrounding area due to the existing high concentration of HMO properties, further harming community cohesion as a result of the introduction of transient visitors to the area. The application property is situated within a residential area as zoned in the

ALDP Proposals Map. It is considered that an over-concentration of accommodation types that are not mainstream housing, such as HMOs and STLs, can lead to detrimental changes to the residential character of an area and can have negative impacts on community cohesion as a result of transient tenants/occupiers within such areas. The site is located within the Small Data Zone 2 of Froghall, Powis and Sunnybank: an area of high concentration with 12.6% of the total number of residential properties in HMO use. The Houses in Multiple Occupation and Overprovision APG outlines that the Council considers that the number of licensed HMOs should generally not exceed 12% of the total residential properties in any single Small Data Zone. This ratio is considered to represent a suitable balance between protecting the established residential character and amenity from adverse impacts resulting from high numbers of HMOs whilst also acknowledging the significant role of HMOs in meeting the housing needs of students and other sectors of the population and also outlines where further HMO provision is therefore unlikely to be accepted.

Whilst the proposal is not for an HMO, the use of a property as a short term let (STL) would have a similar impact on residential character and amenity, and likely to a greater extent, as an HMO would be occupied in most cases by the same residents for a number of months or years, whereas an STL would accommodate regularly changing guests, further diluting the number of permanent residential properties which contribute to the character of the area, and further contributing to the deficiency of community cohesion. The proposed use is therefore considered to harm the residential character of the area by contributing to the loss of properties in residential use within an area which has been identified to have an existing unacceptable ratio of non-residential to residential accommodation, directly conflicting with Policy H1 of the ALDP.

In terms of impacts on amenity, the two properties have their own access into the building. The rear garden is shared and accessed via a shared side access lane as well as from a rear door from the application property. It is considered that the use of flatted properties as STLs could potentially result in increased harm to the amenity of the neighbouring properties within tenement buildings, beyond that which would typically be expected from a property in mainstream residential use, particularly due to the following:

- 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.

The application property shares a rear garden with the one other flat in the building which is enclosed within the rear curtilage of the site and private in character. The rear garden measures 25m in length, including a shared drying green which takes up the rear 7m of the garden to the east and the remainder is split in ownership, lengthways through the garden. There is also an area of patio to the rear, accessed via the rear door to the application property, on which sits a table. It is therefore expected that guests may likely use the rear garden as it is directly accessed from the property, with areas available to sit out in. The nature of sharing a single space such as this with only one other property results in a greater sense of encroachment when in use by unknown guests for the permanent residents on the first floor. A group of four guests in this shared area would therefore impose a harmful amenity impact on the neighbouring property and potentially deter them from using this amenity area. Due to the layout of the garden and its shared areas, if measures were put in place to subdivide the garden by erecting a fence and providing a private area of garden ground for guests, they would still need to pass through the shared areas of garden ground and the paths. As such, there are not considered to be any amendments which would be able to mitigate this amenity impact to the shared rear garden.

There is an additional overlooking concern for the neighbouring residents as the lounge window looks into the centre of the shared garden which could introduce overlooking and harm to the privacy afforded to the permanent residents when using the garden. However, this overlooking would be similar to the existing situation and were it to remain as a residential property, residents would be overlooking the neighbours within the garden. As such, this overlooking impact would not be substantially worsened from the use of the property by transient guests.

With respect to the use of the flat by guests, each flat has its own access and as such, there are no internal communal areas which would be impacted by the presence of guests to the application property. The property sits at ground floor level and as such, noise transmissions could be heard from the neighbouring property directly above. Due to the small-scale nature of the flat, it is highly unlikely that it 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 within the property during the more sensitive late night and early morning periods. Such activities could nevertheless take place in the property if operated as mainstream residential accommodation. The impact on the upper floor flat would therefore likely be minimal in terms of noise coming from inside the property.

In summary, the use of the property as a short term let would contribute to the further loss of residential character in an area where there is an existing level of harm to its residential character resulting from an overprovision of HMO properties and the proposed use would thus harm the character of the surrounding area and community cohesion. The presence of four unknown guests within the shared rear garden and property would also adversely impact the privacy and enjoyment of this amenity area for the neighbouring property. This is contrary to Policy 30(e)(i) of NPF4 and it has not been demonstrated that the proposed use would be “*complementary to residential use*” or “*that the use doesn’t cause conflict with, or any nuisance to, the enjoyment of existing residential amenity*” therefore the proposals are also contrary to 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 offers 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 a festival or 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.'

Given the proposal would comprise a tourism facility that would not be in the city centre, the proposal would have some tension 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 Kittybrewster Retail Park and approximately 1km from the city centre boundary which would involve a 15 minute walk, in part through George Street, which itself contains a neighbourhood centre with numerous amenities and shops. There is also a bus route that goes along Bedford Road to access the city centre as well as an additional bus route 400m to the west at the end of Bedford Road to travel to the airport. The application site also sits c. 400m from the edge of the Old Aberdeen Higher Education area and as such, is walkable to the Aberdeen University campus and associated services. The property could therefore be used by visitors to the university. The site thus benefits from sustainable and active transport links to the city centre and is in close proximity to neighbourhood centres and a commercial centre comprising local shops and businesses. In this context, an STL use in this location would be suitable on a limited scale, in relation to the aims of Policy VC2. Acknowledging its sustainable location and accessibility from the city centre, and the small scale of the proposal, on balance the proposed STL use would not conflict 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. However, under section (e)(ii) of NPF4 Policy 30 (Tourism), the loss of residential accommodation to the detriment of the area's residential character would not be outweighed by the minimal local economic benefits.

Housing

Although housing is in need in Aberdeen, there is not currently understood to be any significant pressure placed on local housing need from the amount of STL's in Aberdeen, as is experienced elsewhere in Scotland (for example Edinburgh and the Highlands & Islands in particular), therefore it is considered that the loss of residential accommodation resulting from the use of the property as an STL would not have any significant impact on local housing need – ensuring that the proposals are generally compliant with the aims of Policy 30(e)(ii) of NPF4.

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 any issued at the time of writing. Furthermore, there is no guidance regarding if the forthcoming action plan would have any implications on such proposals. 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 states the following:

'Nevertheless, it is recognised that housing need and demand can be subject to significant change over time, and Housing Need and Demand Assessments 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 grant of planning permission for the use of the property as an STL on a permanent basis would result in the permanent loss of residential accommodation in a sustainable location. As such, were the proposals to be approved, it would be for a time-limited period of five years, which is the time period between the publication of Housing Need and Demand Assessments:

- 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 the property's use as an STL at the time of any further planning application.

Transport & Accessibility

Policy 13 (Sustainable Transport) on NPF4 and Policy 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 is supportive of low or no car development in suitable locations where there is adequate access to active travel and public transport options.

The application property is situated in a residential area which is 1km from the periphery of the city centre boundary and accessible to the city centre via a bus route on Bedford Road. The application site is within close walking distance to Aberdeen University for visitors to the university as well as local business and services at the Kittybrewster Retail Park and George Street. The property is therefore accessible via active and sustainable modes of transports to local tourist hotspots and the city centre. On-street parking is available for use by customers of the STL and it is considered that the STL would likely generate a similar level of car parking demand as if the property were to remain / revert to mainstream residential use. Nevertheless it is anticipated that

the majority of customers staying at the property on a short-term basis would likely be tourists or business travellers, the majority of whom could reasonably be expected to arrive in the city by plane, train or bus and access the property sustainably, not generating any traffic or requiring any car parking. The proposals are therefore compliant with Policies 13 of NPF4 and T2 and T3 of the ALDP.

Waste Management

Policy 12 (Zero Waste) of NPF4 and Policy 5 (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. The property would be a business and would therefore not pay Council Tax, and as such commercial waste would be required for the property.

The Council's Waste & Recycling Service have advised that the customers of the property could utilise the existing domestic bins, subject to the applicant paying 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. 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 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) 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 such that it would not make any material difference to the global climate and nature crises nor to climate mitigation and adaptation, nor are there any opportunities to minimise greenhouse gas emissions given the nature of the proposals. 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 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

1. The use of the property as a short term let (STL) would contribute to the loss of residential character in an area where there is an existing level of harm from an overprovision of House of Multiple Occupation (HMO) properties. The STL use would exacerbate the adverse impacts on the residential character of the surrounding area, and the deficiency in community cohesion as a result of the loss of residential accommodation for use by frequently changing transient visitors/occupiers. The proposal would therefore be in conflict with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP)

and Policy 30 (Tourism), paragraph (e) part i) and ii) of National Planning Framework 4 (NPF4) which seek to avoid adverse impacts to the character and residential amenity of the area.

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