

ABERDEEN CITY COUNCIL

COMMITTEE Planning Development Management Committee

DATE 29 October 2013

LEAD HEAD OF SERVICE
Margaret Bochel

DIRECTOR
Gordon McIntosh

TITLE OF REPORT Planning Digest

1. PURPOSE OF REPORT

- 1.1 To advise members about the use of a condition regarding the planning application approved for serviced apartments and business unit at Oldmill Road, Bon Accord Crescent (reference no. 130743) by the Committee on 23 August 2013.

2. RECOMMENDATION

- 2.1 That the Committee note that condition 12 will not be attached to any consent and that the use of the apartments as serviced apartments will be ensured through the legal agreement that will be secured before planning consent is issued and that will be binding in perpetuity on the owner and operator of the serviced apartments.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising.

4. OTHER IMPLICATIONS

- 4.1 The report is for information and does not have any implications for any legal, resource, personnel, property, equipment, sustainability and environmental, health and safety and/or policy implications and risks.

5. BACKGROUND/MAIN ISSUES

Oldmill Road, Bon Accord Crescent
Serviced apartments and business unit
App.Ref: 130743

Reference is made to this planning application that was considered by the Planning Development Management Committee of 23 August 2013. The Committee indicated a willingness to approve the application subject to conditions; with consent withheld pending a legal agreement being secured to retain the building in single ownership. As

yet the legal agreement has not been secured and, therefore, the application has yet to be concluded

The report to Committee, on 23 August 2013, recommended that a condition be attached to the consent as follows:

12. Not any one of the serviced apartments hereby approved shall be occupied for a period in excess of 90 days in any one calendar year by any one family, individual or group. - The development has insufficient amenity space for permanent occupancy as a residential unit and no parking provision, and has not been assessed as residential development. It is therefore considered expedient to control occupancy.

On re-examination it is considered that this condition is not required in circumstances, such as exist in relation to this application, in which a legal agreement is to be secured that could be tailored to have much more force and effectiveness in controlling the occupancy of the apartments to ensure that they do not become permanent residential properties.

Also the purpose of the condition is to ensure that the apartments function as serviced apartments rather than as permanent residential properties which have different requirements regarding parking and amenity space. In this context a legal agreement would achieve the same purposes whilst allowing a level of flexibility to ensure that the apartments cater for the particular requirements of the Aberdeen market that cannot be specified or built into a planning condition which is by its nature is inflexible (for instance a condition with a 30 day time limit would not enable occupation by for oil and gas employees on temporary contracts of 9 months or less).

It will also be difficult for the Council to enforce such a condition. The Council does not have the ability to continually monitor the occupancy of the apartments both in terms of the resource required and the practicability of accurate monitoring and enforcement on day to day basis. It is considered that this would be better dealt with through a legal agreement that would place a legal obligation to comply its terms with the owner and operator of the serviced apartments.

Taking into account the foregoing, the Committee are asked to note that it is proposed that the condition is not attached to any consent and that the use of the apartments as serviced apartments is ensured through the legal agreement that will be secured before planning consent is issued and that will be binding in perpetuity on the owner and operator of the serviced apartments.

6. IMPACT

The Scottish Government has stated that an effective planning service is fundamental to achieving its central purpose of sustainable economic growth. As such the information in this report relates to a number of Single Outcome Agreement Outcomes:

- 1 - We live in a Scotland that is the most attractive place for doing business in Europe;
- 2 - We realise our full economic potential with more and better

employment opportunities for our people;

10 - We live in well-designed, sustainable places where we are able to access the amenities and services we need;

12 - We value and enjoy our built and natural environment and protect it and enhance it for future generations;

13 - We take pride in a strong, fair and inclusive national identity; and

15 - Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Public - The report may be of interest to the development community and certain matters referred to in the report may be of interest to the wider community.

7. BACKGROUND PAPERS

None.

8. REPORT AUTHOR DETAILS

Margaret Bochel
Head of Planning and Sustainable Development
Mbochel@aberdeencity.gov.uk
01224 523133