

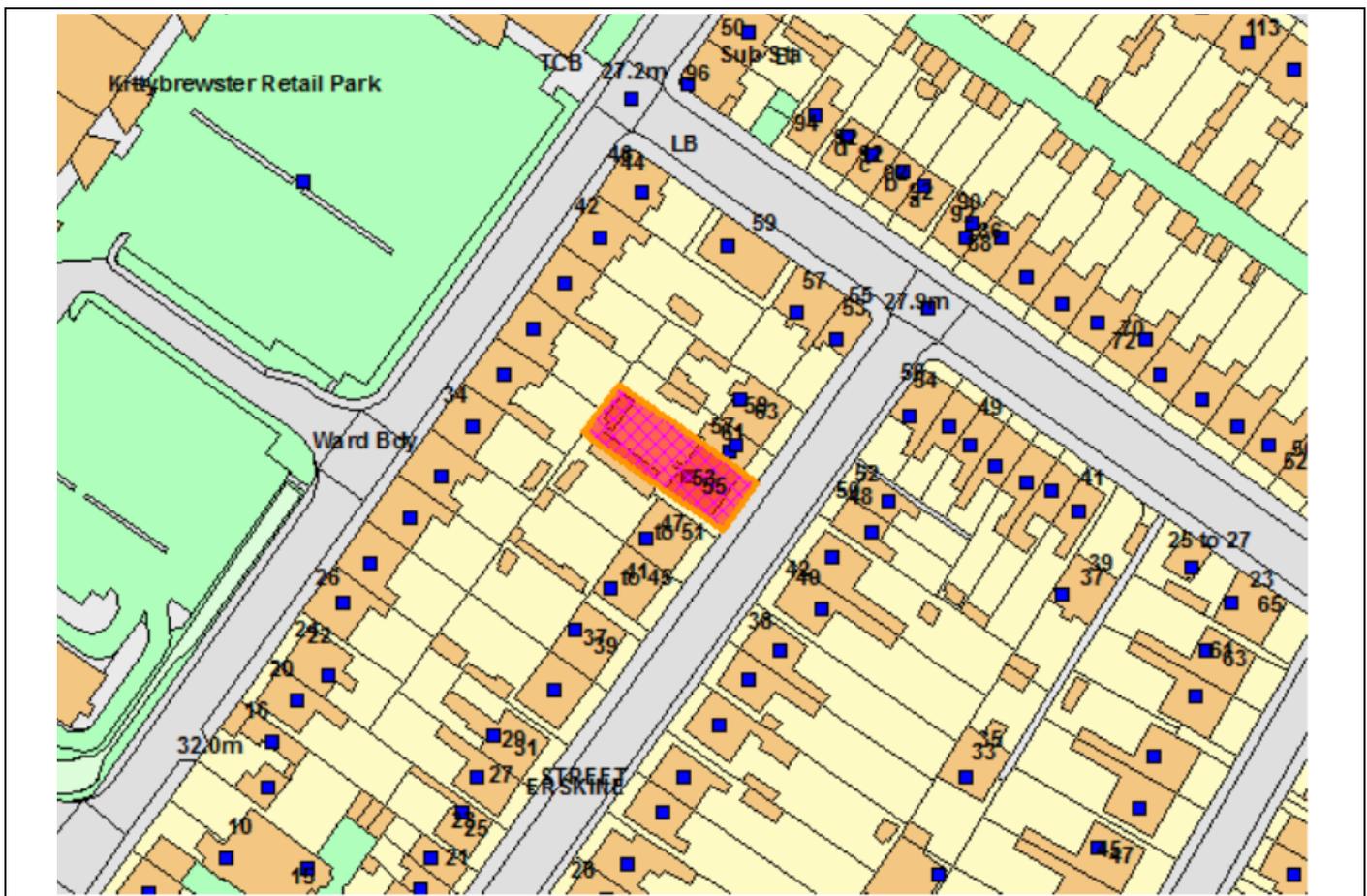


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 24 August 2023

<b>Site Address:</b>	Ground Floor Right, 53 Erskine Street, Aberdeen, AB24 3NR
<b>Application Description:</b>	Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 2 people
<b>Application Ref:</b>	230582/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	15 May 2023
<b>Applicant:</b>	Mrs Sophie Morrison
<b>Ward:</b>	George Street/Harbour
<b>Community Council:</b>	Froghall, Powis and Sunnybank
<b>Case Officer:</b>	Alex Ferguson



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## RECOMMENDATION

Approve Conditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site comprises a flatted property situated at ground-floor level within a traditional end-terraced residential tenement containing a total of eight properties situated on the northern side of Erskine Street. Although the building contains a total of eight properties, the two basement level flats (both addressed number 55 Erskine Street) are accessed via a separate entrance door, therefore the communal entrance door serving the application property serves a total of six properties, with two each on the ground, first and second floor levels. The application property, originally designed and used as a mainstream residential flat, has, from information provided by the applicant, been in use as Short Term Let (STL) accommodation since 2020. The property has one double bedroom and is dual-aspect, with windows on the building's front and rear elevations, facing south onto the street and north over the tenement's communal rear garden area. The remaining seven properties in the building are understood to all be in mainstream residential use.

### **Relevant Planning History**

**230364/DPP** – Detailed planning permission was approved conditionally for the change of use of the Ground Floor Right flat at 59 Erskine Street from mainstream residential use to a Short Term Let (one bedroom - maximum occupancy 2 people) on 26 April 2023. The application was approved subject to a time-limit condition which permits the use of the property as a Short Term Let for a period of five years, after which the use of the property shall revert to mainstream residential, unless a further permission has been granted in the meantime.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

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

The applicant advises that the maximum occupancy for the STL is 2 persons at any one time, with a minimum stay duration of 4 days. The property is operated as an STL on a permanent basis and customers of the property utilise existing parking and on-street waste and recycling bins outside the property on Erskine Street.

### **Amendments**

The floor plan was amended to correct an error in the layout.

### **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=RUI1ONBZJGU00>

- Short Term Let Checklist

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because

the Froghall, Powis and Sunnybank Community Council have objected to the application.

## **CONSULTATIONS**

**ACC - Waste and Recycling** – No objection. The development is classified as commercial and therefore receives a business waste collection. Further information is included as an Advisory Note for the applicant to be aware of.

**ACC - Roads Development Management Team** – No objection. The site is located outwith any controlled parking zone. Parking in this area is typically provided on-street and the change of use should not have any impact on parking requirements compared to the authorised use as a mainstream residential flat.

**Froghall, Powis and Sunnybank Community Council** – Object, noting the following concerns:

- The drawing provided is ambiguous and appears to show two doors of entry/exit, we therefore query if this is a "flat";
- Bedroom size is 9.46 square metres (as stated in drawing) which is below permitted national regulations for 2 people;
- The available parking claimed is overstated by the applicant. On-street parking only is available;
- The surrounding area already suffers from overprovision of HMO's. Change of use from residential to business will erode the already fragile balance between residential community and a transient one.
- Approval will set a precedent.

## **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 (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. The relevant provisions of NPF4 that require consideration in terms of this application are –

- 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 (ALDP)

The following policies are relevant –

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

### **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**

Although the application property is situated within a residential area as zoned in the ALDP Proposals Map, there are a significant number of properties on the street and in the surrounding area in use as rental accommodation, which is known to be popular with students due to its proximity to the University of Aberdeen campus. As a result, combined with the nearby Kittybrewster Retail Park, the surrounding area contains a mix of uses and has a level of activity somewhat more intensive than that of a typical suburban residential area, although Erskine Street itself is wholly residential. Given the small-scale nature of the property, comprising a 1-bed unit with a proposed

maximum occupancy of two people at any one time, its use as an STL would be unlikely to result in a significant increase in activity or coming and goings, compared to mainstream residential use, therefore the proposal is unlikely to have any significant impact on the character of the area. Additionally, no external alterations are proposed, therefore the Planning Service considers that the character of the area would be preserved.

In terms of impacts on amenity, the property shares an entrance door and stairwell with five other properties, all of which are in use as mainstream residential flats. A further two flats occupy the basement level of the building at no. 55 Erskine Street (Left and Right) and are accessed separately via the excavated front lightwell. The Planning Service considers that the use of the property as an STL could result in increased harm to the amenity of the neighbouring properties within the tenement building, beyond that which would typically be expected from a property in mainstream residential use, particularly due to the following:

- the potential for noise from increased coming and goings via the communal entrance and stairwell due to frequent customer turnovers (check-ins and check-outs) and cleaning between occupancies;
- the potential for noise from customer activities within the property, particularly in the quieter, more sensitive late evening and early morning periods – especially if used as a ‘party flat’;
- the potential for the disturbance of privacy and the perceived impact on safety resulting from the use of communal areas (including gardens) by transient persons unknown to permanent residents.

In this instance, the proposed STL is a small one-bedroom flat with one double bed and a stated maximum occupancy of two people. It is thus considered highly unlikely that the flat 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 applicant has advised that a significant proportion of customers of the STL are typically either travelling academics working at the University of Aberdeen, or family members of students studying at the university.

Although the customers of the property would have access to the communal garden area to the rear of the building, it is not anticipated that customers staying at the property on a short-term basis would be likely to use the garden area for any significant periods of time, if at all, particularly if the property is used by tourists or business travellers, who would be more likely to be out sightseeing or working during the day. The site also lies in close proximity to a range of public parks and areas of open space, such as Westburn Park and Seaton Park (both within c. 1.5km of the property), that may be more attractive to visitors.

The application property is situated on the ground floor level of the tenement building, with its front door a short distance internally from the communal entrance door to the building and as such, the travel distance for customers of the STL within the communal areas of the building would be minimal. It is therefore considered that the impacts on amenity from the use of the property as an STL would most likely arise from the increased probability of noise emissions affecting the occupants of the other flats (including the basement flats below, accessed from a separate entrance) from regular arrivals and departures by customers, via noise transmission through the floors and ceilings (particularly given the building is a historic tenement of traditional construction), and to the impact on safety and security (either actual or perceived) from the use of the communal entrance and stairwell by transient non-residents.

The Planning Service considers that the small-scale nature of the application property (with a maximum of two customers when in use and periods of time when the property will likely not be in

use) and the number of other flats in the building, combined with the context of the surrounding area, would be sufficient to ensure that its use as an STL would not cause any significant harm to the amenity of the neighbouring mainstream residential properties within the building, beyond the impacts to amenity which could occur if the property were to remain in / revert to mainstream residential use. Although a reduction in safety and security for the permanent residents in the building resulting from the use of the property as an STL could occur, it is considered that any such reduction would be relatively minor and mitigated by appropriate management of the property – ensuring that the risk of actual harm to safety and security would be low. The granting of permission for the application property would result in just one of the six properties accessed via the communal main entrance of the building serving the ground and upper floor levels being in STL use, therefore the vast majority of flats in the building would remain in mainstream residential use.

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

#### Provision of Short Term Let tourist accommodation and local economic benefits

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

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

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

The use of the property as an STL 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 Edinburgh Festival or the Open golf tournament).’*

Although it is not possible to precisely quantify or demonstrate the local economic benefits that would be derived from the use of the application property as an STL, as required by Policy 30(e)(ii) of NPF4, given the likely use of the property by tourists and/or business travellers, it is envisaged that customers of the property would be likely to spend money in the local tourism and hospitality sectors, to the benefit of those businesses. This is backed up in general terms by the Scottish

Government's 'Research into the impact of short-term lets on communities across Scotland' publication, produced in October 2019, which states in Key Findings - Chapter 5:

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

Although the application property is not within the city centre, as defined in the ALDP Proposals Map, and it is a reasonably long walk (approximately 20/25 minutes) to the city centre, the site lies within 250m of bus stops on Powis Terrace that are served by multiple regular bus services to both the city centre and the airport. The site also lies in close proximity to shops and other amenities at the nearby Kittybrewster and Berryden Retail Parks, as well as the University of Aberdeen campus. It is therefore considered that although the property would not be located within the city centre (as sequentially preferred by Policy VC2), it would be within walking distance of the city centre and other amenities and facilities, and the city centre is also easily accessible from the property by public transport, therefore the use of the property as an STL is considered to be acceptable despite not being fully compliant with the expectations of Policy VC2 of the ALDP.

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.

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 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, it is 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 :

- 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 all 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 within walking distance of the city centre, and in close proximity to multiple regular bus routes serving the city centre, the airport and the city's main bus and railway stations. No dedicated car parking is proposed for the STL but unrestricted on-street parking is available on Erskine Street. It is anticipated that the majority of customers staying at the property on a short-term basis would 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. Although the property is a business and therefore does not pay Council Tax, customers of the STL utilise existing domestic on-street general waste and recycling bins situated nearby on Erskine Street. The Council's Waste & Recycling Service have advised that the customers of the property can continue to 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 and an advisory note has been added for the applicant to be aware of in relation to entering into the required business waste contract with the Council. The proposals are therefore acceptable in accordance with Policies 12 of NPF4 and R5 of the ALDP.

### **Tackling the Climate and Nature Crises, Climate mitigation and Biodiversity**

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

The proposed development, comprising the change of use of an existing property, with no associated external alterations, is sufficiently small-scale 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 is 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.

### **Matters raised by the Community Council**

The matters raised by the Community Council in their objection addressed as follows:

- *The drawing provided is ambiguous and appears to show two doors of entry/exit, we therefore query if this is a "flat"*

Response: The initially submitted floor plan drawing was incorrect. An amended floor plan was subsequently submitted, showing the correct layout, with just one door to the property from the communal hallway.

- *Bedroom size is 9.46 square metres (as stated in drawing) which is below permitted national regulations for 2 people*

Response: There is no minimum bedroom size mandated in Planning legislation, policy or guidance.

- *The available parking claimed is overstated by the applicant. On-street parking only is available*

Response: The applicant does state (erroneously) in their application form that there are 50 vehicle car parking spaces on the application site. It is understood that this reference is in relation to the approximate number of on-street car parking spaces available on Erskine Street however. The applicant notes in their completed checklist that only on-street parking is available.

- *The surrounding area already suffers from overprovision of HMO's. Change of use from residential to business will erode the already fragile balance between residential community and a transient one*

Neither NPF4, nor the ALDP or associated Interim Aberdeen Planning Guidance contain any policies or specific guidance which sets any thresholds for the amount of STL's permitted in a certain area. Nevertheless, there is only one other STL known to be in existence with planning permission on Erskine Street (Ground Floor Right, 59 Erskine Street – granted planning permission in April 2023). It is therefore considered that there is not an overprovision of STL's in the surrounding area. Although there is no policy requirement to assess the number of STL's in conjunction with the number of HMO's in a particular area, it is noted that the application site lies within an area of a low HMO percentage (3% of the total properties), and just outwith an area of 'overprovision' (14.2%), as defined on the Council's GIS mapping for HMO percentages in data zones. There are 9 HMO's known to be operational on Erskine Street.

- *Approval will set a precedent*

Response: Each planning application is assessed on its own merits, taking into consideration the nature of the proposed development and the site-specific context in each instance.

## **DECISION**

Approve Conditionally

## **REASON FOR DECISION**

Due to the size of the property, its position within the building and the stated maximum occupancy, it is considered that its use as Short Term Let (STL) accommodation would not have a significant

adverse impact on the character or amenity of the area, nor on the amenity of the immediate neighbouring properties within the application building, beyond what could typically be expected if it were to be used as mainstream residential accommodation, in accordance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP). The property's use as an STL would likely provide some local economic benefits, potentially to the tourism and hospitality sectors, without causing any significant harm to local housing need through the loss of residential accommodation, in accordance with Policy 30 (Tourism) of National Planning Framework 4 (NPF4). The development would provide tourist accommodation within walking distance of the city centre and in a sustainably accessible location with good public transport links to the city centre, the airport and the city's main bus and railway stations, in accordance with Policy 13 (Sustainable Transport) of NPF4 and Policies T2 (Sustainable Transport) and T3 (Parking) of the ALDP. Whilst the STL would not be sited within the city centre, the city centre would be readily accessible via sustainable and active modes of travel, therefore the proposed development is considered to be acceptable despite not being fully compliant with the expectations of Policy VC2 (Tourism) of the ALDP.

The development has sufficient means for the adequate storage and collection of any waste and recyclables generated, in accordance with Policy 12 (Zero Waste) of NPF4 and Policy R5 (Waste Management Requirements for New Development) of the ALDP.

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 proposed development is compliant with Policies 1 (Tackling the Climate and Nature Crises) and 2 (Climate Mitigation and Adaptation) of NPF4. There is no opportunity to enhance on-site biodiversity, therefore the proposals are acceptable, despite some minor tension with Policy 3 (Biodiversity) of NPF4.

## **CONDITIONS**

### **(1) DURATION OF PERMISSION**

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

### **(2) TIME LIMIT FOR SHORT-TERM LET USE**

The hereby approved use of the property as Short-Term Let accommodation shall expire 5 years following the date of the grant of permission as stated on this notice, unless a further planning permission has been granted for continued use of the property as Short-Term Let accommodation in the meantime. Should no further planning permission be granted then the property shall revert to mainstream residential use as a flat after the aforementioned 5-year period.

Reason: In order to allow the local housing need and demand situation and the local economic benefits derived from the use of the property as a Short Term Let to be reassessed in 5 years' time, to ensure that the loss of the property as residential accommodation would remain compliant with Policy 30 of NPF4.

## **ADVISORY NOTES FOR APPLICANT**

## (1) COMMERCIAL USE OF COMMUNAL DOMESTIC ON-STREET BINS

As Short Term Let accommodation comprises a commercial use, business rates are payable by the operator, rather than Council Tax. In the absence of a Council Tax payment which would cover the cost of the collection of waste from the on-street bins, the operator is required to enter into a contract with Aberdeen City Council's Business Waste & Recycling team, to enable the lawful use of the on-street bins by customers of the property, if they haven't done so already.

Further information is available on the Council's website at:

<https://www.aberdeencity.gov.uk/services/bins-waste-and-recycling/business-waste>

The operator can contact the Council's Business Waste & Recycling team at:

[businesswaste@aberdeencity.gov.uk](mailto:businesswaste@aberdeencity.gov.uk)