

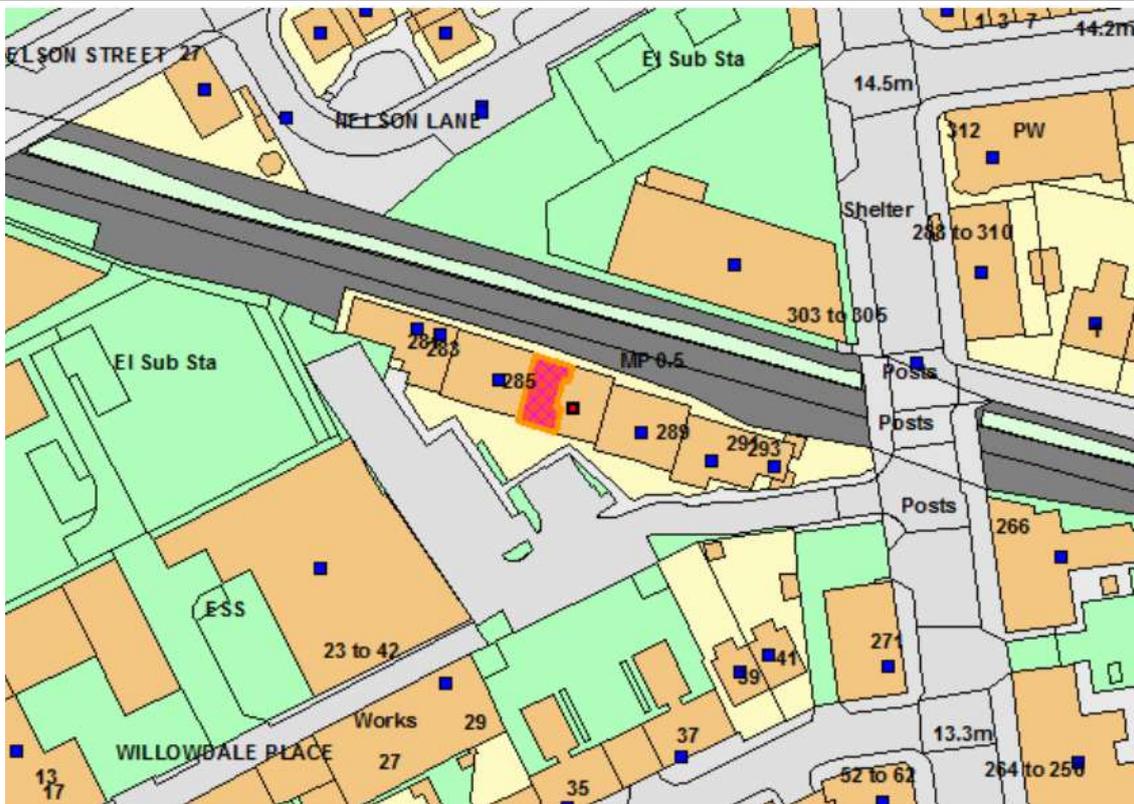


Planning Development Management Committee

Report by Development Management Manager

Committee Date:

Site Address:	Flat H, 287 King Street, Aberdeen, AB24 5AN
Application Description:	Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people
Application Ref:	231064/DPP
Application Type	Detailed Planning Permission
Application Date:	29 August 2023
Applicant:	Hellena Ltd
Ward:	George Street/Harbour
Community Council:	Castlehill And Pittodrie
Case Officer:	Sam Smith



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site comprises a third (top) floor flatted property within a modern block of apartments. The site comprises a wider development of seven blocks, from 281 – 293, which are attached to the application block, to the east and west. The site runs parallel with part of the Aberdeen-Inverness and Kittybrewster railway line to the north. To the west sits an electrical substation which received planning permission in 2023 for upgrades and an enlargement of the existing structure. To the south sits the carpark for the development, with a mix of residential and commercial properties beyond. The property is accessed off a hallway serving flats G and H on the top floor of the building, and is comprised of two bedrooms which face north towards trees along the railway, a central bathroom, and a lounge/kitchen with a terrace balcony and window facing south towards the car park and substation, with the neighbouring balconies visible from the terrace. The carpark is accessed by a road with a parking barrier which leads onto King Street to the east. There is an ongoing planning application for one other property (Flat A) in this block for a change of use to a Short Term Let at present, although it is noted that this application has not yet been determined and as such, this proposal is required to be assessed based on its own merit. The outdoor communal space comprises allocated parking, bin storage adjacent to the parking area, a bike store to the northwest and small sections of grass surrounding the footpaths to each block.

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 one-bedroom STL would be 4 persons at any one time, with a minimum stay duration of 7 nights. The property would be operated as an STL on a permanent basis. Customers of the property would have access to one allocated parking space and the property would be cleaned every second day.

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=S03IH7BZMT000>

- STL Accommodation Checklist

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because six timeous letters of representation that express objection to the proposal have been received. As such, the application falls out with the Scheme of Delegation as per point 1. V.

CONSULTATIONS

ACC – Roads Development Management Team – No objection. The site is located within controlled parking zone J and in the inner city boundary. The property is entitled to apply for two permits and there is an existing allocated parking space on site. The location on King Street also means the site is very accessible by sustainable means such as walking, cycling and public transport.

ACC – Environmental Health – No concerns or observations.

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 located on the site, adjacent to the car park. Further information is included as an Advisory Note for the applicant to be aware of.

Castlehill and Pittodrie Community Council – No comments received.

REPRESENTATIONS

Six representations have been received in objection to the proposal. The matters raised can be summarised as follows –

1. Residents have raised concerns for noise and safety with an increased number of unknown persons entering the car park and communal block with one noting potential theft and potentially threatening behaviour.
2. There is a concern for the increased intensity and frequency of use for unsociable activities from unvetted visitors. This is a residential area where homeowners need rest and quiet.
3. The property is typically used by two residents. What is to stop more than four people entering the property presenting safety concerns.
4. Guests may use the wrong parking space and mis-use the barrier.
5. The property should have business waste collection which would need permission from all residents to have placed in the outside communal area. This waste collection should not be placed in any communal area where it only serves one property.
6. General destruction of communal areas and mis-use of other buzzers to the other flats in the block presenting a nuisance from visitors, with no responsibility for paying for any damages. These communal areas will also need cleaning more regularly.
7. The change of use would set a precedent for other business on the residential site.
8. The lockbox should not be placed on the communal wall outside of a neighbouring flat without their permission.

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

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)

- Policy H2 (Mixed Use 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

Tackling the Climate and Nature Crises, Climate mitigation and Biodiversity

Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4) requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. Policy 2 (Climate mitigation and adaptation) requires development proposals to be designed and sited to minimise lifecycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change. Policy 3 (Biodiversity) of NPF4 requires proposals for local development to include measures to conserve, restore and enhance biodiversity, proportionate to the nature and scale of development.

The 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 as a change of use. 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.

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*

The application site sits within a mixed use area. Applications for a change of use in line with Policy H2 (Mixed-Use Areas) of the ALDP, must consider the existing uses and character of the surrounding area, avoiding direct conflict with the adjacent land uses and amenity, in this case, the residential amenity of the neighbouring properties.

Impact on character and amenity of the area

The application site is located in a mixed use area as zoned in the ALDP Proposals Map and lies near to the city centre boundary. As such, the surrounding area contains a mix of uses and is more vibrant and busy opposed to a typical, quiet residential area. The site further sits off King Street; a busy main road with a high frequency bus route to the city centre as well as adjacent to larger-scale shops and a supermarket. Therefore, although the site is used for residential accommodation, a certain level of noise can be expected near this site.

The property comprises a two-bed flat which would accommodate a maximum occupancy of four people at any one time. The use of the property as an STL would likely result in a minor increase in comings and goings to the property compared to a mainstream residential use as a flat of this size would typically be rented out by two or three residents. However, the flat is of a suitable size to accommodate four occupants without overcrowding the property. Due to this and the relatively busy surrounding context, 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 seven other properties, one of which is understood to be used as an STL, with the remaining six units understood to be in mainstream residential use. In general, the Planning Service considers that the use of properties as STL's within residential flatted buildings could result in increased harm to the amenity of neighbouring properties, 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 2-bedroom flat with a stated maximum occupancy of four people and minimum stay for guests being seven days. It is thus considered 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. Further to this, the applicant has advised that guests will be given house rules which will be required to adhere to and the person managing the STL will be available and contactable by neighbours should issues arise. Such activities could nevertheless take place in the property if operated as mainstream residential accommodation.

The property is located on the top floor and would therefore result in guests using the full extent of the internal amenity space, passing each other property in the block when accessing it. The application property shares a landing with another property directly opposite. As a direct neighbour the comings and goings on the landing may be noted over and above the movement of residents on the floor below. The layout of the building with spacious landings fully separating the two flats on this level and the concrete staircase means that movement in the building would not be excessively noisy. Further, the minimum stay for guests would be seven days, presenting a low frequency of new guests arriving and leaving. The building contains eight flats which presents an existing high level of movement from residents and the use of this property as an STL is not considered to significantly intensify the use or noise of this communal stairway. The location of this property also means that there are no flats sitting above it, reducing the number of properties that could be affected by noise while the property is occupied. Thus, it is not considered that there would be any particular risk of harm to the amenity of residents resulting from noise transmission between flats beyond what can be expected from a property in mainstream residential use, due to the age and nature of the building’s construction.

The application property has a terrace balcony which overlooks the car park and is visible from the neighbouring balconies. However, due to the size of the balcony, it is unlikely to be used for prolonged periods of time by guests for anti-social activities or in a way which would disturb other residents. It is considered that this space would be used in a similar way as it would if occupied on a permanent basis and the presence of guests would not change the amenity of the terraced areas for the neighbouring properties.

In relation to the outdoor communal area, the car parking area and areas of grass are shared by all residents of the wider development resulting in the general existing levels of comings and goings being relatively high. The use of this space by transient customers staying at the property on a short-term basis would not be likely to have any material impact on the amenity of the residents of the development. 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 from arrivals and departures by customers, via noise transmission from the communal hallway, and to the impact on safety and security (either actual or perceived) from the use of the communal entrance and hallway by transient non-residents.

The Planning Service considers that the small-scale of the application property (with a maximum of 4 customers when in use and periods of time when the property will likely not be in use), combined with the modern construction of the building, number of other properties in the block and wider development, and the surrounding, generally busy mixed-use context of the area on the periphery of the city centre, 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 properties 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 properties as outlined in the supporting statement – 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 one flat out of eight being in STL use and therefore the 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 H2 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, it lies a short distance outside the city centre boundary and customers of the STL would be within easy walking distance of the many businesses and amenities in the city centre. It is therefore considered that the use of the property as an STL is compliant with 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, if permission is granted, for a time-limited period of five years to be applied, 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 outwith, but reasonably close to, the city centre (as defined in the ALDP Proposals Map). As such, the city centre is within walking distance of the property, as are the city's main bus and railway stations and multiple bus routes serving various areas of the city, including the airport. Customers would be able to utilise on-site allocated parking and permit holder on-street car parking but nevertheless 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 would be a business and would therefore not pay Council Tax, customers of the STL would be able to utilise existing on-street domestic general waste and mixed recycling bins situated in the communal ground adjacent to the car park. 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 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.

Representations

- 1. Residents have raised concerns for noise and safety with an increased number of unknown persons entering the car park and communal block with one noting potential theft and potentially threatening behaviour.*

The impact on noise and safety from regularly changing guests has been assessed in the evaluation of this report.

- 2. There is a concern for the increased intensity and frequency of use for unsociable activities from unvetted visitors. This is a residential area where homeowners need rest and quiet.*

The likelihood of the property being used as a party flat and its intensity of use has been assessed in the evaluation of this report. Although the site is located in a mixed use area with businesses and a busy road in close proximity, the impact on residential amenity has been considered in the report.

- 3. The property is typically used by two residents. What is to stop more than four people entering the property presenting safety concerns.*

The property is considered to be of a sufficient size to accommodate four occupants without overcrowding the property and it is further anticipated that even operated as a STL, it would not always be booked out at full capacity. In accordance with Scottish Governments Short-Term Let Licensing Scheme, operators must provide the maximum number of guests, in line with what is

approved under this planning permission. The operator will then only be able to advertise and let out the property to this number of guests to avoid over accommodating the property. The applicant has also advised that the person managing the property will be contactable to visit the property if a breach occurs.

4. Guests may use the wrong parking space and mis-use the barrier.

The car park is accessed via fob which will be given to the occupants of the flat at that time. It is anticipated that they will use the parking space in the same way any other resident would use it.

5. Waste should have business waste collection which would need permission from all residents to have placed in the outside communal area. This waste collection should not be placed in any communal area where it only serves one property.

Waste and Recycling have advised on the need for commercial waste collection to manage and dispose of waste correctly and legally.

6. General destruction of communal areas and mis-use of other buzzers to the other flats in the block presenting a nuisance from visitors, with no responsibility for paying for any damages. These communal areas will also need cleaning more regularly.

It is not anticipated that the change of people entering the flat would significantly impact the level of use of the communal space or the wear and tear of the stairwell. The applicant has also advised that any direct damage from guests would be the responsibility of the property owner/applicant (Hellena Ltd) to carry out any necessary repairs.

7. The change of use would set a precedent for other business on the residential site.

All businesses which require planning permission for a change of use have to go through a site specific assessment through a formal application. In terms of setting a precedent for STLs, the cumulative impact of this type of use is assessed where there are multiple STLs in a block and as such, will be reviewed for any future applications in the building.

8. The lockbox should not be placed on the communal wall outside of a neighbouring flat without their permission.

The installation of a lockbox on the external wall of the building is not a material consideration for planning permission and has therefore not formed part of the assessment for this application.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposed 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.

Due to the context of the surrounding area, the size of the property 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 permanent mainstream residential accommodation as the proposal would introduce one STL out of eight properties in a block of modern construction and would be operated and managed in a way which would minimise the potential presence of unsocial activities and its use as a party flat. The proposal is therefore in accordance with Policy H2 (Mixed Use 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. The STL would be sited in close proximity to the city centre, which would be readily accessible via sustainable and active modes of travel, therefore the proposed development is considered to be acceptable in accordance 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.

CONDITIONS

(01) 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