

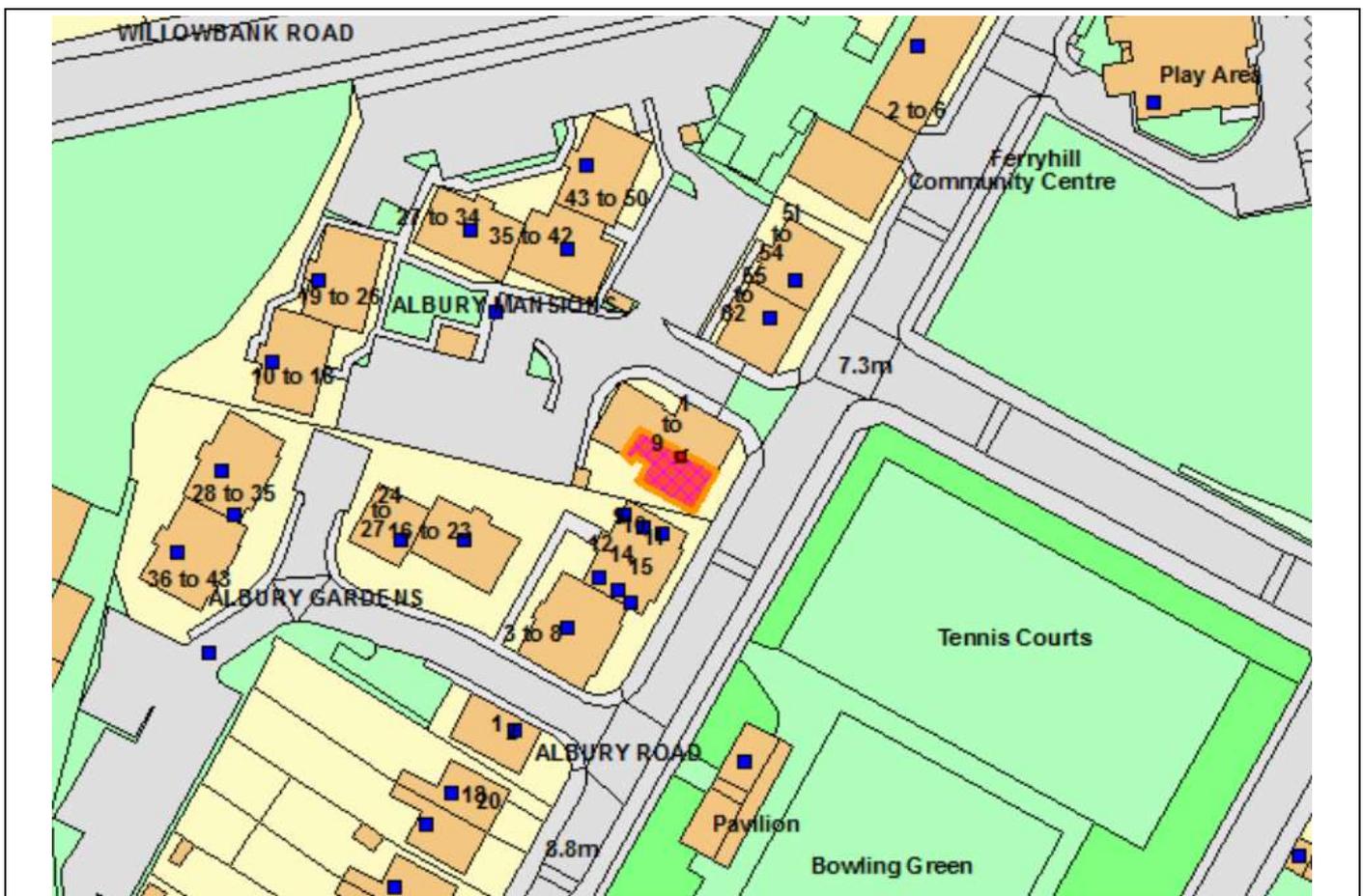


Planning Development Management Committee

Report by Development Management Manager

Committee Date:

Site Address:	8 Albury Mansions, Aberdeen, AB11 6TJ,
Application Description:	Change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people (Retrospective)
Application Ref:	231157/DPP
Application Type	Detailed Planning Permission
Application Date:	18 September 2023
Applicant:	Investment
Ward:	Torry/Ferryhill
Community Council:	Ferryhill And Ruthrieston
Case Officer:	Sam Smith



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site relates to a second (top) floor flat within a three-storey detached tenement building of modern construction, within the wider development at Albury Mansions, which is understood to have been constructed in the late 1990s. The principal elevation of the building fronts east onto Albury Road and forms the main portion of the building, with an extended section of the building to the west, with a central stairwell separating the flats within the two parts of the building. To the rear of the site sits the carpark shared with the wider residential development. The application building is bound by the access road into Albury Mansions to the north and bordered to the south by the residential development at Albury Gardens. The property is accessed of a communal landing shared with flats 7 and 9, and is accessed through two doors from the landing into the hallway of the flat. The property comprises two double bedrooms to the rear looking towards the car park, a lounge and kitchen to the east looking towards Albury Road and the tennis courts beyond and a central bathroom and storage cupboard. No other flats in the building are known to operate as Short Term Lets at present.

Relevant Planning History

None

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 two-bedroom STL would be 4 persons at any one time, with a minimum stay duration of 5 nights. The property would be operated as an STL on a permanent basis and according to the applicant, has already been operating as an STL since January 2018. Customers of the property would have access to one parking space in the communal parking area to the rear of the site as well as controlled paid parking along Albury Road and the property would be cleaned after each stay.

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=S1664UBZFP00>

- STL Checklist
- Supporting Letter
- Supporting Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because ten 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 to the proposal. The site is located within controlled parking zone H and in the inner city boundary. The existing and proposed use have similar parking requirements and the site has 1 parking space which is to remain.

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 within the car park. Further information is included as an Advisory Note for the applicant to be aware of.

Ferryhill and Ruthrieston Community Council – No comments received.

REPRESENTATIONS

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

1. Safety/security - if the property is used as a short term let multiple guest would have access to key fobs and the security code which would be given to seven sets of residents per week. There is the additional potential for guests to keep the fobs instead of taking them back for future use.
2. Potential noise and precedent – The development is quiet at present and if this short term let was permitted, it would set a dangerous precedent and present emotional distress. One application may not present significant risk to the development, but a precedent could be set changing the character of the development and affect future resale values.
3. Application property – Residents in the block on the other side of Albury Mansions to the north have noted disturbance by previous tenants gathering outside the communal block at night and sitting on the wall outside of the neighbouring block, chatting loudly, drinking, smoking and taking phone calls.
4. Upkeep – The large throughput of guests would create extra cost/repair delays due to guests not having a vested interest in the communal areas as well as insurance premiums.
5. Parking – potential issues with guests using the car park and potentially having larger work vehicles.
6. Occupancy – The apartments are best suited for couples or young families and the property may not be a suitable size for four occupants.
7. Societal benefit – longer term renters and permanent residents add value to social fabric of the development which short term renters would not do this.
8. The application should be marked as retrospective.
9. Title deeds – a short term let would be in breach of the title deeds and should not be used as a business.

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.

- 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 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

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.

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 application property is situated within a residential area as zoned in the ALDP Proposals Map, with an overall quiet suburban character of a residential street, with the exception of the Albury Community Sports Hub on the other side of Albury Road. The city centre boundary sits c. 120m to the north and business and shops along Holburn Street 500m to the west. There are also a number of existing guest houses to the south along Bon-Accord Street and other areas of Ferryhill. Given the small-scale nature of the property, comprising a two-bed unit with a proposed maximum occupancy of four 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 a significant impact on the character of the area. Additionally, no external alterations are proposed, therefore it is considered that the character of the area would be preserved.

In terms of impacts on amenity, the property shares an entrance door and stairwell with eight other properties, all of which are in use as mainstream residential flats. In general, it is considered 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.

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 two other properties on the top floor. As direct neighbours the comings and goings on the landing may be noted over and above the movement of residents on the floor below. The modern construction of the concrete staircase combined with the double door entrance into each property means that the movement in the building would not be excessively noisy and the building contains nine flats, presenting an existing high level of movement from residents within the stairwell. Further to this, the minimum stay for guests would be five days, presenting a low frequency of new guests arriving and leaving with luggage. The noise transmission within the building would thus likely only be heard when in use by guests from the flats directly to the side and below, with no properties sitting above. In this instance, the proposed STL is a two-bedroom flat with a stated maximum occupancy of four people and minimum stay for guests being five 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 the building rules which will be required to adhere to and a procedure to deal with complaints. Such activities could nevertheless take place in the property if operated as mainstream residential accommodation and the use of this property as an STL is not considered to present significant noise transmission above what can be expected from its use as a mainstream residential property.

In relation to the outdoor communal area, there is a car park to the rear 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.

It is considered 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, the number of other properties in the block and wider development, and the surrounding context of the 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 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 nine 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.’

Given that the proposal would comprise a tourism facility that would not be in the city centre, the proposal would have tensions with Policy VC2 (Tourism and Culture) of the ALDP. In assessing the magnitude of this tension, it is acknowledged that the site sits a short distance (c. 120m) 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, as well as a 10 minute walk from the city’s main bus and railway stations. In this context, and on the basis that it would not adversely affect the character and amenity of the surrounding area, an STL use in this location would be suitable on a limited scale. Acknowledging its sustainable location and accessibility from the city centre, the small scale of the proposal and there are currently few properties in and/or proposed to be in STL use in the area, on balance, the proposed STL use would be compliant 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.

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 bus routes from Union Street and Crown Street. The property sits approximately 500m away from the nearest bus stop, however, as the property is within easy walking distance to the city centre, this route is not required for sustainable and easy access into the city. Customers would be able to utilise one space of the on-site shared parking and paid 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 R5 (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 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. *Safety/security – if the property is used as a short term let multiple guest would have access to key fobs and the security code being given to seven sets of residents per week. There is the additional potential for guests to keep the fobs instead of taking them back for future use.*

The impact on safety and security has been assessed in the report above and is anticipated to be addressed through appropriate management of the property. The management procedure of the property as a short term let is not a material planning matter and the concerns raised have therefore not formed part of the assessment of this application.

2. *Potential Noise and Precedent – The development is quiet at present and if this short term let was permitted, it would set a dangerous precedent and present emotional distress. One application may not present significant risk to the development, but a precedent could be set changing the character of the development and affect future resale values.*

It is noted that this property has been in operation as a short term let since January 2018 and the formal granting of planning permission would not have any impact on the existing conditions and noise levels of the site. In relation to setting a precedent for STLs, the cumulative impact of this type of use is assessed where there are multiple STLs in a block or area and as such, will be reviewed for any future applications in the building. The applicant has also advised that there have been no noise complaints for this property since its operation in 2018.

3. *Application Property – Residents in the block on the other side of Albury Mansions to the north have noted disturbance by previous tenants gathering outside the communal block at night and sitting on the wall outside of the neighbouring block, chatting loudly, drinking, smoking and taking phone calls.*

There is a potential for noise transmissions and concerns to safety and security of the site with transient guests. This consideration has been assessed above and can be addressed through appropriate management of the property.

4. *Upkeep – The large throughput of guests would create extra cost/repair delays due to guests not having a vested interest in the communal areas as well as insurance premiums.*

The management of the property is not a material planning matter and has therefore not formed part of the assessment of this application.

- 5. Parking – potential issues with guests using the car park and potentially having larger work vehicles.*

It is anticipated that visitors to the property will use the parking space in the same way any other resident would use it. The use of the car park and communal facilities has been assessed in the report above.

- 6. Occupancy – The apartments are best suited for couples or young families and the property may not be a suitable size for four occupants.*

The property is considered to be of a sufficient size to accommodate four occupants without overcrowding the property and it is further anticipated that when operated as a STL, it would not always be booked out at full capacity.

- 7. Societal benefit – longer term renters and permanent residents add value to social fabric of the development which short term renters would not do this.*

The impact of transient guests coming and going from the property has been assessed above in the report. As the site is shared by the wider development of approximately 61 properties, the presence of transient guests for this property is not considered to adversely impact the character of the site. The cumulative impact of multiple STLs within a block would be assessed through any potential forthcoming applications.

- 8. The application should be marked as retrospective.*

The application description has been amended to mark the application as retrospective.

- 9. Title Deeds – a short term let would be in breach of the title deeds and should not be used as a business.*

Matters relating to land ownership and title deed restrictions do not constitute material planning considerations thus we cannot take them into account in the assessment of the 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 nine properties in a block of modern construction. 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 to 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 site is considered on balance to be sustainably accessible, the location outside of the city centre boundary does pose some tension with Policy VC2 (Tourism) of the ALDP which seeks to steer this development to the centre. However, on balance with other planning matters this is not considered to weigh sufficiently against the proposal, given the properties close proximity to the city centre boundary. 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