

Perth and Kinross Council  
Planning and Placemaking Committee – 22 March 2023  
Report of Handling by Head of Planning & Development  
(Report No. 23/92)

<b>PROPOSAL:</b>	Change of use from residential flat to short term let accommodation unit
<b>LOCATION:</b>	Flat 1, Merlin House, Perth Road, Birnam, Dunkeld, PH8 0AA

Ref. No: [22/01905/FLL](#)  
Ward No: P5- Strathtay

### **Summary**

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

### **BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 The application is for a change of use of a two-bedroom residential flat to form a short term let.
- 2 The application site is the upper flat in a two-storey new build comprising of two flats with one other flat located at ground floor level accessed via a separate entrance. The upper flat is accessed by a private entrance and associated flight of stairs. The floor plan shows an open plan kitchen and living room, a bathroom and 2 bedrooms with one en-suite. There is a designated parking space outside the entrance and a private drying area is located to the side (east) of the building.
- 3 The building forms part of a new courtyard development of 6 flats in 3 two-storey buildings on an old garage site on the northern side of Perth Road, Birnam. The application site is in a building to the rear of the courtyard with two buildings fronting Perth Road. The site plan highlights 8 parking spaces for the development which includes one designated visitor space.
- 4 A garage/workshop is located to the west of the site and residential properties surround the site, to the north and east.

### **Pre-Application Consultation**

- 5 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland)

Regulations 2009, therefore the applicant was not required to undertake any formal pre-application consultation with the local community.

## **DEVELOPMENT PLAN**

- 6 The Development Plan for the area comprises National Planning Framework 4 (NPF4) and the Perth and Kinross Local Development Plan 2 (2019) (LDP2).

### **National Planning Framework 4**

- 7 The National Planning Framework 4 (NPF4) is the Scottish Government's long-term spatial strategy with a comprehensive set of national planning policies. This strategy sets out how to improve people's lives by making sustainable, liveable and productive spaces.
- 8 NPF4 was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan.
- 9 The Council's assessment of this application has considered the following policies of NPF4:
- 10 Policy 14: Design, quality and place
  - Policy 30e: Tourism

### **Perth and Kinross Local Development Plan 2019**

- 11 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, "Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth." It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 12 The principal relevant policies are, in summary:
- Policy 1A: Placemaking
  - Policy 1B: Placemaking
  - Policy 17: Residential Areas
  - Policy 56: Noise Pollution
  - Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

### **Statutory Supplementary Guidance**

- 13 [Supplementary Guidance - Placemaking](#) (adopted in 2020)

## **NATIONAL GUIDANCE**

- 14 The Scottish Government expresses its planning policies and guidance through The National Planning Frameworks, Planning Advice Notes, Creating

Places, Designing Streets, National Roads Development Guide and a series of Circulars.

### **Site History**

- 15 19/00814/FLL Erection of 4 flats, formation of parking areas, landscaping and associated works 13 August 2019 - Application Refused
- 16 20/00277/FLL Erection of 4 flats and associated works 20 October 2020 - Application Approved Subject to Conditions
- 17 21/01232/FLL Erection of 2 flats and associated works 3 November 2021 – Application Approved Subject to conditions
- 18 22/02101/FLL Change of use of residential flat to short term let accommodation unit 5 December 2022 – Duplicate application returned
- 19 23/00039/FLL Flat 2 Merlin House, Erection of a garden studio (in retrospect) – Pending Consideration

### **CONSULTATIONS**

- 20 As part of the planning application process the following were consulted:

#### **Internal**

- 21 **Environmental Health (Noise Odour)** - no objections to the application. Recommend an informative be included on any consent granted in respect of the requirement to obtain a licence to operate a short-term let.

#### **Representations**

- 22 8 representations were received. The main issues raised within the representations are:
  - Not enough housing for local people due to housing being let out to visitors
  - Noise and disruption for residents
  - Safety and security concerns
  - Impact on parking
  - Road safety
  - Title Deeds restrict use
  - Detrimental impact on house prices
  - Too many short term lets in the area
  - Detrimental effect on residential amenity
  - Out of character with the area
- 23 These issues are addressed in the Appraisal section of the report.
- 24 The following matters are not a material planning consideration -

- Title Deeds restrict use – this is a private legal matter and not relevant to planning.
- Detrimental impact on house prices – the effect a development might have on property values is not relevant to planning.

## **ADDITIONAL STATEMENTS**

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Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not applicable
Appropriate Assessment under Habitats Regulations	Habitats Regulations Appraisal AA Not Required
Design Statement or Design and Access Statement	Not Required
Report on Impact or Potential Impact eg Flood Risk Assessment	Applicant's Supporting Statement

## **APPRAISAL**

- 26 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The Development Plan comprises NPF4 and the Perth and Kinross Local Development Plan 2019. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance.

### **Principle**

- 27 As noted previously in the report, NPF4 was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan. Whether an LDP has been adopted prior to or after the adoption and publication of NPF4, legislation states that in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); section 24(3)).
- 28 In this instance, in the absence of any specific policy on short term lets in the Local Development Plan, NPF4 Policy 30e Tourism is relevant and states –
- 29 Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:
- An unacceptable impact on local amenity or the character of a neighbourhood or area; or
  - The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

- 30 With regard to Criterion (i), the proposal is for a change of use of a 2-bedroom flat, the upper flat in a building of 2 flats in a recently completed courtyard development of 6 flats. The flat is accessed through a private entrance door and an internal flight of stairs. There is a designated parking space in the courtyard for the flat and a small private external drying area. The applicant's supporting statement notes the property is in family ownership and will be used by family members visiting family and friends in the area as well as visitors. It is the owner's intention to have a local representative to meet and greet all short term let clients and be a point of contact should any concerns or issues arise. The flat will be marketed by an agency for minimum 3-night stays with 7 nights in the height of season. It will be made clear that no bookings will be considered for hen/stag type events, guests under the age of 25 years and the maximum number of guests will be no more than four. The applicants intend to stay at the flat a minimum of four visits per year.
- 31 The short term let would provide 2 bedrooms and will accommodate a similar number of guests to the existing use as a flat. The proposed use of the property as a short term let would result in footfall associated with guests staying at the property and using the parking and outdoor space. However, the footfall would not be significantly different from the footfall associated with the existing use as a residential flat. The flat is accessed through a private entrance and flight of stairs and noise from the use of the property as a short term let is not considered to be significantly different from its use as a residential flat. The use of the parking and outdoor space would be in keeping with the existing use. The proposal will not have a significant impact on the amenity of existing residents. The proposal would retain the residential nature of the property and not result in a significant impact on the character and amenity of the existing residential development.
- 32 Further, matters relating to behaviour related noise is considered under the Council's Short Term Lets Licensing Policy. There is a requirement to meet the criteria of the Council's Licensing Policy Statement to operate this type of accommodation. Monitoring and enforcement will be undertaken during the lifetime of the licence, typically 3 years.
- 33 With regard to Criterion (ii), the proposal would result in the loss of one residential flat to a short term let flat as part of a new build development of 6 residential flats. The proposal would not have a significant impact on the availability of residential accommodation in the local area.
- 34 The LDP highlights that tourism is important in Birnam for employment and maintaining the viability of services. There are economic benefits to the provision of small-scale holiday let accommodation in locations which provide access to a range of tourist attractions and activities.
- 35 The proposal satisfies Policy 30e Tourism of the National Planning Framework 4.

## **Residential Amenity**

- 36 NPF4 Policy 14 Design, Quality and Place, Policy 1: Placemaking and Policy 17: Residential Areas, support proposals which are compatible with the amenity and character of the area.
- 37 The short term let would provide 2 bedrooms and will accommodate a similar number of guests as residents to the existing use as a flat. The proposed use of the property as a short term let would result in footfall associated with guests staying at the property and using the parking and outdoor space. However, the footfall would not be significantly different from the footfall associated with the existing use as a residential flat. The flat is accessed through a private entrance and flight of stairs and noise from the use of the property as a short term let is not considered to be significantly different from its use as a residential flat. The use of the parking and outdoor space would be in keeping with the existing use. The proposal will not have a significant impact on the amenity of existing residents.
- 38 The proposal would retain the residential nature of the property and not result in a significant impact on the character and amenity of the existing residential development.
- 39 The proposal satisfies NPF4 Policy 14 Design, Quality and Place, Policy 1: Placemaking and Policy 17: Residential Areas of the Perth and Kinross Local Development Plan 2.

## **Roads and Access**

- 40 The vehicular access was approved as part of the flat development and no changes to this are proposed. There is one designated parking space for the flat which will be utilised as part of the proposal. No matters of concern have been raised by Transportation and Development.
- 41 The proposal satisfies Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals of the Perth and Kinross Local Development Plan 2.

## **Economic**

- 42 The Development Plan recognises that tourism is important for employment and maintaining the viability of services in Birnam. The proposed use would add to the mix of holiday accommodation in the area and support local services.

## **DIRECTION BY SCOTTISH MINISTERS**

- 43 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 44 To conclude, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with NPF4, and the adopted Local Development Plan 2 (2019). Account has been taken account of the relevant material considerations and none has been found that would justify overriding the Development Plan.
- 45 Accordingly, the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **Approve the application**

### **Conditions and Reasons for Recommendation**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been lawfully started within that period.

Reason: This is a Planning Permission in terms of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of the Planning (Scotland) Act 2019.

2. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason: To ensure the development is carried out in accordance with the approved drawings and documents.

## **B JUSTIFICATION**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C INFORMATIVES**

1. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
2. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.

3. The applicant is advised that under The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, a licence is required to operate a short-term let. More information can be found at <https://www.pkc.gov.uk/shorttermlets>

Background Papers: 8 letters of representation

Contact Officer: Claire Myles

Date: 10 March 2023

**DAVID LITTLEJOHN**  
**HEAD OF PLANNING & DEVELOPMENT**

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