

LRB-2024-03

23/01423/FLL - Change of use of flat to form short-term let accommodation unit (in retrospect), Upper South Flat, Annesley Cottage, Burnside, Aberfeldy, PH15 2AU

FURTHER INFORMATION

- Further Information from Planning Officer, as requested by the LRB Members on 18 March 2024
- Comments by the applicant on the further information

Planning Officer comments

LRB-2024-03 - Planning Application 23/01423/FLL - Change of use of flat to form short-term let accommodation unit (in retrospect) at Upper South Flat, Annesley Cottage, Burnside, Aberfeldy PH15 2AU.

The above planning application was refused on October 31st 2023 on the following grounds:

- 1 *The proposed retrospective change of use is contrary to Policy 30(e): Tourism of National Planning Framework 4 (2023) as the proposal results in:*
 - i) *An unacceptable impact on local amenity and character of the area, and*
 - ii) *The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.*

- 2 *The proposal is contrary to National Planning Framework 4 (2023) Policy 14(c): Design, Quality and Place and Perth and Kinross Local Development Plan 2 (2019), Policies 1A and 1B: Placemaking and Policy 17: (d) Residential Areas as the short-term let accommodation adversely impacts on the amenity of neighbouring residents and the short-term let use is not compatible with the amenity and character of the surrounding predominantly residential area.*

Since the original refusal decision was made, Non-statutory Planning Guidance for the Change of Use of Residential Property to Short-Term Let (STL Guidance) has been produced due to concerns expressed over the impact of STLs on services, local business staffing and expansion, as well as housing affordability. The STL Guidance was formally adopted by the Council on 1 November 2023 following consultation during Summer 2023.

The STL Guidance acknowledges that while short-term lets can bring economic benefits to the host and local areas, this must be balanced against the impact the loss of that residential property has on the availability of housing for local people, affordable housing in particular, and the potential for adverse impacts on residential amenity where an increased proportion of the housing stock becomes short-term lets.

Six considerations have been outlined within the STL Guidance to assist in the application of the policy framework set out in NPF4. The considerations include location, larger residential properties, refurbishment of long-term empty properties, local amenity and character, business diversification, and the relationship between loss of residential accommodation and local economic benefits. The location consideration contains reference to three area types: city and town centres; mixed-use areas within settlements; and predominantly residential areas.

The adopted STL Guidance forms the most up-to-date indication of Council policy intent on the matter, and as such is a material consideration in addition to other policy factors and supplementary guidance in the assessment of the proposals.

In this instance, the application site is in a predominantly residential area approximately 82 metres north of the boundary of Aberfeldy Town Centre. The effect of the proposal on local amenity and character of this area should therefore be considered, in addition to the loss of residential accommodation and local economic benefits which may accrue from the proposal.

In respect of criterion (i) of NPF4 Policy 30(e), the following excerpt from the original officer Report of Handling remains valid following the adoption of the November 2023 STL Guidance:

“... the high turnover of guests is likely to be higher than typical private rented or owner-occupied accommodation, and this could have an impact on noise and disturbance to neighbours. Whereas such impacts may be offset in town centre or mixed-use areas, the same cannot be said for this building which comprises four residential flats outwith the Town Centre.”

In addition, the following statement in the Residential Amenity section of the Report of Handling also remains valid:

“... the proposal fails to accord with the intent of NPF4 Policy 14(c) and LDP2 Policies 1A and 17 in respect of residential amenity, by virtue of its location in a predominantly residential area.”

Turning to criterion (ii) of NPF4 Policy 30(e), this retrospective proposal has resulted in the loss of a flat to short term let accommodation in an urban location. It is also acknowledged that the Council's Housing Strategy have undertaken consultation in respect of the introduction of a Short Term Let Control Area, however no such Control Area has yet been formally designated. Whilst the assessment of this policy criterion for the application as originally submitted referred to a postcode district level of saturation of potential short-term lets, it has since been considered that a more up to date analysis of the proliferation of short-term lets in the area, including but not limited to recent licensing data, requires to be undertaken before the Council as Planning Authority decide whether to progress with the designation of a Short Term Let Control Area. It is also acknowledged that economic benefits can derive from small-scale short-term let accommodation which provides access to a range of attractions and activities for business and leisure guests alike. As such, the loss of this one-bedroom flat in Aberfeldy to short term let accommodation is not considered at this point in time to have a significant impact on the availability of residential accommodation in the local area. As such, had this proposal been considered by the Council as Planning Authority after November 1st 2023, the proposed loss of a residential flat to short-term let accommodation would not have been considered in conflict with criterion (ii) of NPF4 30(e): Tourism. As such, Refusal Reason 1 should remove reference to NPF4 Policy 30(e)(ii).

It is further noted, on reflection, that LDP2 Policy 1B: Placemaking is not of relevance to a proposal for a change of use of an existing building and mention of it should be removed from Refusal Reason 2. This has been reflected in recent Local Review Body decisions where LDP2 Policy 1B has been removed from decision notices where reviews have been dismissed.

Notwithstanding this and as set out above, the proposal by virtue of its location in a predominantly residential area still conflicts with NPF4 Policy 30(e)(i): Tourism, and the intent of LDP2 Policies 1A: Placemaking and 17: Residential Areas. The principle in this instance therefore remains unacceptable and would attract a **refusal** recommendation if it were considered by Development Management today.

Refusal Reasons

In light of the above analysis, the two extant refusal reasons could be truncated as follows if the Local Review Body are minded to concur with the analysis of this document and dismiss the review of planning decision 23/01423/FLL:

- 1 *The proposed retrospective change of use is contrary to Policy 30(e): Tourism of National Planning Framework 4 (2023) as the proposal results in:
 - i) *An unacceptable impact on local amenity and character of the area.**
- 2 *The proposal is contrary to National Planning Framework 4 (2023) Policy 14(c): Design, Quality and Place and Perth and Kinross Local Development Plan 2 (2019), Policy 1A: Placemaking and Policy 17: (d) Residential Areas as the short-term let accommodation adversely impacts on the amenity of neighbouring residents and the short-term let use is not compatible with the amenity and character of the surrounding predominantly residential area.*

Alternatively, the two truncated refusal reasons could be combined into a single refusal reason as follows:

- 1 *The proposal is contrary to National Planning Framework 4 (2023) Policies 14(c): Design, Quality and Place and 30(e)(i): Tourism, and Perth and Kinross Local Development Plan 2 (2019) Policies 1A: Placemaking and Policy 17(d): Residential Areas as the short-term let accommodation adversely impacts on the amenity of neighbouring residents and the short-term let use is not compatible with the amenity and character of the surrounding predominantly residential area.*

For the avoidance of doubt, if Local Review Body are minded to dismiss the Review and refuse planning permission, two different options for the wording of refusal reasons have been suggested by Development Management to be attached to the decision notice.

Kind regards,

John Cooney BAI MA MRTPI
Planning Officer
13th May 2024

CDS Planning Local Review Body

From: Jan Birse [REDACTED]
Sent: 27 May 2024 22:35
To: CDS Planning Local Review Body
Subject: RE: LRB-2024-03

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Dear Ms Simpson

Please see below my comments on the latest submission received from the Planning Officer. These comments should be read in conjunction with my Appeal submitted in January 2024.

1.

i) **An unacceptable impact on local amenity and character of the area**

Our flat is in a block of four, two of which are second homes, which sit empty 85% of the year, the only resident lives below us. We have hosted 87 guests over the last 2.5 years and we have received no complaints from our neighbours or locals. Aberfeldy does not attract Hen or Stag nights the majority of our bookings are from couples or groups of adults in the area to enjoy the outdoors. Our flat has its own entrance and driveway. We carry out the changeovers ourselves which allows us to keep a close eye on matters. We check in with our downstairs neighbour on a regular basis.

The Objection received by Planning was from a lady who did not appreciate the application was in retrospect so she did not realise we had already been operating as a STHL for 2.5 years which proves my point above ie no noise or disruption.

Burnside is made up of a mixture of residential and commercial properties. We have a Builder's Yard immediately opposite, a joiner's workshop 70m away, a Garage 100m away and a Funeral Directors 100m away. Most of the noise in the area comes from the Builder's Yard directly opposite.

Since purchasing the flat in 2021 we have improved the external appearance significantly with further work planned.

I would say holiday rentals tend to be maintained to a higher standard than residential properties as the hosts need good reviews. I have Superhost status with a 5 star rating which demonstrates how much we care about looking after our property, its surroundings and promoting the local area and businesses.

ii) **The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits**

Our flat is ideal as a holiday home as most people eat out but not so ideal as a home as it has a very small Kitchenette with no space for a washing machine, dishwasher or freezer. See Plan. Over the 2.5 years we have been operating we have had 87 guests the majority of whom eat out in the local area and visit local attractions boosting the local economy.

We provide affordable holiday accommodation for your average individual which is becoming a rare thing in desirable areas like Aberfeldy, Kenmore, Braemar etc.

2. The proposal is contrary to National Planning Framework 4.....

The guidance mentions “the impact the loss of that residential property has on the availability of housing for local people”. It is highly unlikely should we have to rent or sell our flat that a local person will get it. The other big problem in desirable areas like this is that incomers can outbid locals. The local Community Facebook page has incomers looking for property posting almost every week.

Can you please acknowledge receipt of this email

Yours Sincerely

Jan Birse

