

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 12 SEPTEMBER 2023

**PLANNING APPLICATION
12D HILL STREET, MONIFIETH, DUNDEE DD5 4JQ**

GRID REF: 349402 : 732310

REPORT BY SERVICE LEAD – PLANNING & SUSTAINABLE GROWTH

Abstract: This report deals with application [23/00401/FULL](#) by Millstream Grove Ltd for the Change of use from residential property to short term let at 12D Hill Street, Monifieth, Dundee DD5 4JQ. The application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

3. INTRODUCTION

3.1 The applicant seeks full planning permission for the use of a first floor flat as a short term let. It is understood that the use commenced in October 2022 and the application is retrospective. A plan showing the location of the application site is provided at Appendix 1.

3.2 The property in question is two storeys in height, divided into four residential flats. The two ground floor flats are accessed from individual doors to the rear of the building, and the upper floor flats are served by a shared external door to the rear of the building, and a communal internal stairwell leading to two individual internal access doors. The flat has a floorspace of 51sqm and provides an open plan kitchen/ living room, a shower room, and two bedrooms.

3.3 A single access provides pedestrian and vehicular access to Hill Street, and a gravel drive allows parking for four vehicles to the west of the building.

3.4 The application has not been subject of variation.

3.5 The application has been subject of statutory neighbour notification and was advertised in the press as required by legislation.

4. RELEVANT PLANNING HISTORY

A complaint was received in February 2023 alleging that the property was being used as short-term let accommodation. Following investigation, the applicant was advised that planning permission was required, and that the use should not continue unless planning permission was granted. This application was subsequently submitted in June 2023.

5. APPLICANT'S CASE

The applicant has provided supporting information on the operation of the short term let and that is available to view on the [Public Access](#) system and is summarised at Appendix 2.

6. CONSULTATIONS

- 6.1 **Angus Council – Roads** – no objection.
- 6.2 **Community Council** – no comment received.
- 6.3 **Scottish Water** – no objection.
- 6.4 **Angus Council – Environmental Health** – no objection.

7. REPRESENTATIONS

- 7.1 Ten letters of representation have been received from nine individuals. Eight raise objection and two offer support. Those letters are provided at Appendix 3 and are available to view on the council's [Public Access](#) website.
- 7.2 The following matters have been raised as objections: -
 - The area is largely occupied by mature and elderly people who value their security and safety.
 - Adverse impact on amenity due to noise as a consequence of wooden floors and loud washing machine.
 - Loss of amenity, privacy, and security from use of shared access, parking and communal garden areas.
 - Traffic and noise from strangers impact enjoyment of adjacent homes and gardens.
 - Parking is already an issue in Hill Street, and the proposal will potentially increase the inconvenience for existing residents.
- 7.3 The following matters have been raised in support: -
 - The current owner is responsible and proactive in respect of mutual repairs.
 - There is no concern about noise or antisocial behaviour from flat D.
 - Objections are based on suppositions rather than specific examples of disrespectful guests or unruly behaviour.
 - The management company has only had correspondence from the resident of flat 12A and relate to the actions of specific individuals rather than the use of the property as a short term let.
 - Should the management company encounter a property that consistently attracted the “wrong type of guests” they would take immediate action and advise the owner to consider alternative use.

7.4 Relevant planning matters are discussed in the planning considerations section of this report, but the following matters are addressed directly: -

- The short term let has been operating without the required planning permission – *while operating without planning permission is regrettable, planning legislation makes specific provision for the submission of retrospective planning applications. The fact the application is retrospective is not material to the determination of the application.*
- ‘people wanting to get a nice break away to enjoy the Monifieth/Angus area should not be exposed to such despicable neighbours’ – *this relates to the identity and character of individuals and is not a material planning consideration.*
- When unoccupied, particularly during the winter months, a lack of maintenance is a concern – *the property could be unoccupied for periods of time irrespective of its lawful use. However, available information indicates it would be under supervision of a property management company and it is not in the interests of the owner to allow the property to deteriorate.*

8. PLANNING CONSIDERATIONS

8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

8.2 In this case the development plan comprises:

- [National Planning Framework 4](#) (NPF4) (Adopted 2023)
- [Angus Local Development Plan](#) (ALDP) (Adopted 2016)

8.3 The development plan policies relevant to the determination of the planning application are reproduced at Appendix 4 and have been taken into account in preparing this report.

8.4 The ALDP was adopted in September 2016 while NPF4 was adopted in February 2023. Planning legislation indicates that where there is any incompatibility between the provision of the national planning framework and the provision of a local development plan, whichever of them is the later in date is to prevail.

8.5 The site is located in the development boundary for Monifieth and is not allocated or otherwise identified for development in the ALDP. Policy DS1 in the ALDP states that proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

8.6 NPF4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. It indicates that 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.

8.7 ALDP Policy TC16 indicates that proposals for new or improved tourism related facilities and tourist accommodation will be directed to sites within development boundaries. Such facilities will be supported in these locations where the development is of an appropriate scale and nature and is in keeping with the townscape and pattern of development. The aim of this Policy is to encourage and

support opportunities for new or improved tourist related facilities and accommodation within Angus in order to satisfy visitor aspirations. In particular, it is important that Angus provides a range and quality of tourist accommodation to maintain and extend the length of the tourist season.

- 8.8 The site is located in a predominantly residential area and within easy walking distance of the town centre and associated facilities. The use would increase the opportunity for visitors to experience and enjoy Angus. No specific information has been provided to demonstrate the local economic benefit associated with this development, but available evidence confirms that visitors and visitor accommodation make significant contribution to the local economy and tourism is a priority sector in Angus. While the flat would not be available as mainstream residential accommodation when in use, there is no evidence to indicate that loss of this property from such use would be a significant issue within an urban area. In any case, the property could easily revert to mainstream residential use in the future. The proposal would not raise any significant tension with the aims of NPF4 Policy 30 or ALDP Policy TC16. If the property reverted to mainstream residential accommodation in the future that would be acceptable, and there is therefore no need to prevent its permanent residential occupation.
- 8.9 There are other relevant considerations set out in the NPF4 and ALDP and in summary these relate to amenity and quality of living environment; impact on the built, cultural and natural environment; road safety; and infrastructure.
- 8.10 In terms of the identified policy matters, the key consideration is whether impacts associated with use of the property as short-term letting accommodation would be significantly different from those associated with its continued use as mainstream residential accommodation. The Scottish Government has provided draft planning guidance for hosts and operators of short term lets in Scotland, which highlights material considerations. These considerations are of particular relevance to flatted properties because use of flats for short-term let purposes can give rise to materially different impacts on others that live in the area, particularly other residents of the same block. It is for this reason that planning applications are generally sought for the use of flats as short term lets, to allow these potential impacts to be assessed in full.
- 8.11 In this case, the property is of modest size with only two bedrooms, and it is likely to be most suitable for couples or small families/ groups. It is indicated the property could accommodate four persons and this scale of use would be comparable with use of the property as a mainstream dwelling.
- 8.12 Access to the property utilises an external door to the rear of the property, shared with the other upper floor flat. Visitors have to pass the doors to the two ground floor flats outside of the building to enter this shared door. The access is a gravel surface. All the external access doors are at the rear of the property. The stairwell is shared with the other upper floor flat, but the door to 12D is reached without having to directly pass the door to 12C.
- 8.13 Guests arriving by private car have access to a shared parking area, which is also a gravel surface, adjacent to the ground floor flat 12A. This serves all four properties. Unrestricted on-street parking is available in the immediate area and the property is well served by public transport. Demand for parking is unlikely to be materially different as a consequence of the development and the roads service has offered no objection.

- 8.14 The submitted information indicates that there are no special provisions to restrict guest arrival or departure times such that they would not be during unsociable hours, but no such controls that could occur through use as mainstream residential accommodation. Existing residents may encounter unfamiliar persons within or in the vicinity of communal areas, but again, that could occur through use as mainstream residential accommodation. In general terms and having regard to the limited size and configuration of the property, the amenity impacts associated with its use as short-term let accommodation are unlikely to be significantly greater than those associated with its lawful use as mainstream accommodation and in any case, are not judged to be unacceptable.
- 8.15 In addition, while it is possible that the short-term let would be occupied every day of the year, such level of occupation and use is unlikely to be achieved. Information provided by the applicant suggests that the property has been occupied for short-term let purposes for around 67% of the time since the use commenced, with stays extending up to 30 days at a time. The short-term let use may give rise to different impacts on neighbours when it is occupied, but impacts are likely to be less than those associated with occupation as mainstream residential accommodation during those periods when it is vacant.
- 8.16 The property has a large garden area, which is split into four private areas, with a shared access serving them all. The private garden area associated with 12D has not been included within the application site and therefore planning permission has not been sought for its use in association with the short-term let. However, use of the property as a short-term let without access to an outdoor garden area would be acceptable. In this case, the area associated with 12D is separated from the parent property by other garden ground, and the garden area has reasonable separation distance to other dwellings. Its use as an outdoor garden area associated with short-term let use of 12D is unlikely to represent a material change of use in its own right.
- 8.17 The external appearance of the building would not be altered. Those occupying the property would utilise existing refuse collection/storage and recycling arrangements located in the garden. No alteration is required to existing water supply, foul drainage or surface water drainage arrangements. The development would not result in unacceptable impacts upon existing infrastructure.
- 8.18 The application does not give rise to any significant issue in terms of other development plan policy. As with any proposal, the application attracts support from some development plan policies and is not entirely compatible with others. However, when those matters are balanced and considered in the round, the use of the property as short-term letting accommodation is in general compliance with the development plan.
- 8.19 In terms of other material considerations, it is relevant to have regard to the representations submitted both in objection and in support of the application in so far as they raise material planning issues. It is also relevant to have regard to the controls provided through the short-term let licensing regime.
- 8.20 While third parties have suggested the area is occupied by 'mature and elderly people', the dwellings in the area are not identified as sheltered housing or as housing for particular groups. In these circumstances, the age of those making representation is not a consideration that merits significant weight. Noise associated with occupants walking on wooden floors and from a washing machine cannot be reasonably attributed to the use of the property as a short term let as opposed to a permanent residence. Similarly demand for parking is unlikely to alter significantly. As

highlighted above, the use of this small, flatted, dwelling as short-term letting accommodation is unlikely to give rise to impacts that can be considered unacceptable in comparison to its occupation as mainstream residential accommodation. Indeed, the likely intermittent use of the property as short-term let accommodation may lessen some impacts that may otherwise be experienced through occupation as a permanent dwelling.

- 8.21 Those representations offering support highlight the use of a reputable management company. However, management arrangements and ownership of the property could change in the future without the need for further planning permission, and in this respect while existing arrangements may give some comfort, they merit little, if any weight.
- 8.22 The introduction of the short-term lets licensing arrangements will also provide further oversight of the management and operation of this type of accommodation. While the licensing regime is not an alternative to proper consideration of planning matters, it does provide a further control in circumstances where planning permission is granted. The licensing regime would allow action to be taken if, for example, serious issues arose related to anti-social behaviour associated with operation of the short-term let use.
- 8.23 In conclusion, use of the property as short-term let accommodation is of a scale and nature appropriate to its location. It is compatible with the relevant policies of the development plan. There are no material planning considerations which would justify the refusal of planning permission.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of permission/consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

10. CONCLUSION

It is recommended that the application be approved for the following reason, and subject to the following condition(s):

Reason for Approval:

The use of the property as short-term let accommodation is in accordance with the development plan as it is compatible with the locational criteria identified in the plan and as it does not give rise to unacceptable impacts on amenity, natural, built and cultural environment, road safety or infrastructure. There are no material considerations that justify refusal of planning permission contrary to the provisions of

the development plan.

Conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of its grant.

Reason: In order to clarify the duration of this permission in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 (as amended) and to ensure that it will lapse if not implemented within that period.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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APPENDIX 1: LOCATION PLAN

APPENDIX 2: SUMMARY OF APPLICANTS SUPPORTING INFORMATION

APPENDIX 3: LETTERS OF REPRESENTATION

APPENDIX 4: DEVELOPMENT PLAN POLICIES