

## Change of Use to Short-term Let

### KEY INFORMATION

**Ward** Maryfield

**Address**

26 Thorter Row  
Dundee

**Applicant**

Mr Alan Frendo-Cumbo

**Agent**

N/A

**Registered** 13 Apr 2023

**Report by Head of  
Planning & Economic  
Development**

**Contact:** Craig Swankie



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### SUMMARY OF REPORT

- Members will recall that this application was deferred from the Planning Committee meeting in June 2023.
- Planning permission is sought for the change of use of a two-bedroom residential flat to a short-term let.
- The application accords with the requirements of the Development Plan.
- All that can be considered in the assessment of this application is whether this residential use is appropriate in this location. Matters including anti-social behaviour and occupancy limits are controlled separately through Dundee City Council's short-term let licensing scheme.
- The statutory neighbour notification process was undertaken. In total, five letters were received objecting to the proposal. These raise concerns in relation to noise disturbance, parking pressures and potential for further short-term lets.
- An objection was received from the City Centre and Harbour Community Council raising concerns that the proposed change of use would have a detrimental impact on the amenity of neighbouring residents and is contrary to the title deeds of the property.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as an objection has been received from City Centre and Harbour Community Council, and the application is recommended for approval.
- More details can be found at <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=RSLAQEGCIZZ00>

### RECOMMENDATION

**The proposal complies with the Development Plan. There are no material considerations of sufficient weight to justify refusal of planning permission. It is therefore recommended that planning permission be APPROVED subject to conditions.**

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## 1 DESCRIPTION OF PROPOSAL

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- 1.1 Planning permission is sought for a change of use of a two-bedroom flatted dwelling to short-term let accommodation.
- 1.2 No internal or external alterations are proposed, with the short-term let to provide two bedrooms, a kitchen, bathroom and living room as the existing flat. The applicant proposes to let the property to guests via a management company for periods of two or more nights.
- 1.3 Separate to the planning system, the operator of the short-term let would be required to obtain a licence through Dundee City Council's short-term let licensing scheme. The Council's Licencing Policy Statement includes several standards that operators are required to meet. These include space standards, safety, security, anti-social behaviour, and excessive noise. Should the property obtain a short-term let licence, it will be subject to random inspections and enforcement during the lifetime of the licence to ensure the Council's Licencing Policy Statement is adhered to. Further information on the licensing scheme and standards can be found via <https://www.dundee.gov.uk/service-area/neighbourhood-services/communities-safety-and-protection/dundee-city-councils-short-term-lets-licensing>.

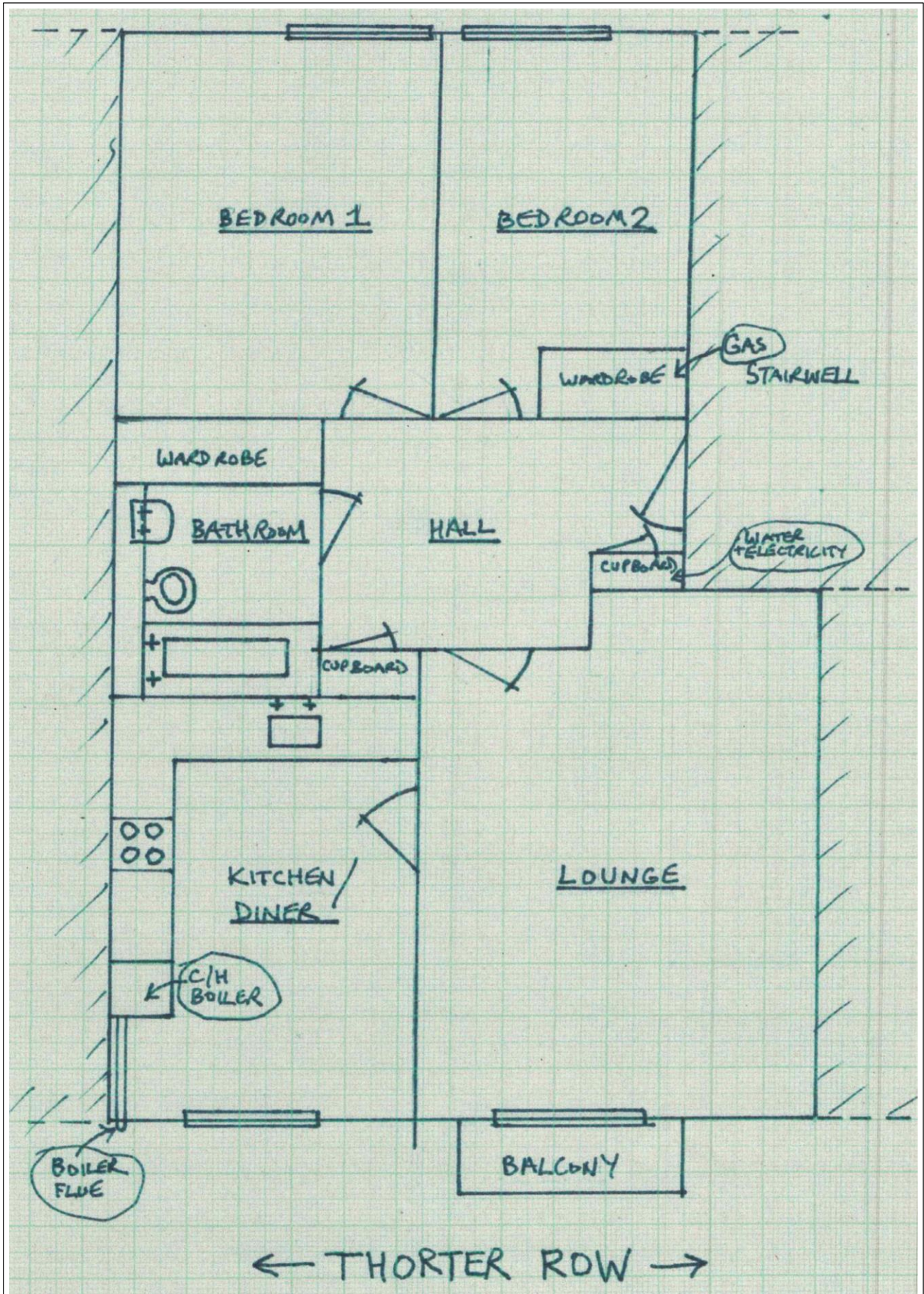


Figure 1 – Existing and Proposed Floor Plan

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## 2 SITE DESCRIPTION

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- 2.1 The application site is a flatted dwelling at Thorter Row.
- 2.2 The two-bedroom property is located within the west of a modern flatted development at Thorter Row. The property includes a lounge, bathroom, kitchen/diner and two bedrooms. The lounge on the west elevation benefits from a balcony and residents would have access to a communal courtyard to the rear of the flat. The property is accessed from a communal ground floor entry with stairs and elevator providing access to the flat. Communal garden ground is located towards the centre of the flatted development, and the property has access to a covered, secure parking space.
- 2.3 The property is within an area dominated by flatted residential properties at City Quay. To the west of the site is Thorter Row with further flatted dwelling beyond. The River Tay is to the south of the site. To the east is amenity space associated with existing flats at Thorter Row/Marine Parade with further dwellings beyond.



Figure 2 – View of Entry From Thorter Row



Figure 3 – View of Site From South Victoria Dock Road



Figure 4 – Internal Images and Parking Space

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### 3 POLICY BACKGROUND

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3.1 The following plans and policies are considered to be of direct relevance:

**NATIONAL PLANNING FRAMEWORK 4**

Policy 12: Zero Waste

Policy 13: Sustainable Transport

Policy 23: Health and Safety

Policy 30: Tourism

**DUNDEE LOCAL DEVELOPMENT PLAN 2019**

Policy 8: Visitor Accommodation

Policy 39: Environmental Protection

Policy 44: Waste Management Requirements for Development

Policy 54: Safe and Sustainable Transport

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

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### 4 SITE HISTORY

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4.1 There is no relevant planning history.

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### 5 PUBLIC PARTICIPATION

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5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.

5.2 In total five letters of objection were received, including an objection from the City Centre and Harbour Community Council. The letters of objection raised the following material considerations:

- the proposed change of use to short-term let will result in significant disturbance to existing residents by virtue of noise and additional footfall. There will also be additional pressures on existing parking and waste provision;
- the proposal raises safety and security concerns, with the proposed short-term let use being inappropriate within a residential development; and
- the proposal would set a precedent for further short-term let accommodation at Thorter Row and within the immediate surrounding area.

5.3 The letters of objection also highlighted that title deeds of all properties within this building restrict use to private residential accommodation only. Title deeds are a private legal matter that need to be addressed between the relevant parties. Title deed requirements are not valid grounds for objecting to a planning application.

5.4 The valid grounds of representation are taken into account in the material considerations section of this report.

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## 6 CONSULTATIONS

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- 6.1 No consultation responses were received.

## 7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission (other than for a national development) shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.**

### THE DEVELOPMENT PLAN

The provisions of the Development Plan relevant to the determination of this application are specified in the Policy Background section above.

- 7.2 **NATIONAL PLANNING FRAMEWORK 4**

- 7.3 **Zero Waste Policy 12 c** – seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy. Development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed including:

- i provision to maximise waste reduction and waste separation at source, and
- ii measures to minimise the cross-contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities.

- 7.4 The existing flatted dwelling has access to a communal bin storage area within the site, which would be accessible to visitors of the proposed short-term let. The store includes provision of bins for waste separation including recycling and household waste. The proposed short-term let would be provided with appropriate waste provision which supports waste separation and recycling.

- 7.5 **The proposal is in accordance with Policy 12 c.**

- 7.6 **Sustainable Transport Policy 13 b** - states development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii will be accessible by public transport, ideally supporting the use of existing services;
- iii integrate transport modes;
- iv provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;



- vi are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
  - vii have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
  - viii adequately mitigate any impact on local public access routes.
- 7.7 With regard to Criteria i–iii, the existing residential development is connected to the surrounding footpath network, including Thorter Row and South Victoria Dock Road. The proposed short-term let would be located within an accessible location, which can be accessed by modes of sustainable transport and active travel that help to minimise the need to travel by private car. The site is connected to surrounding public transport links including Dundee Bus Station and Railway Station by existing footpaths. Dundee Bus Station is located to the northwest of the site, with further bus stops on Commercial Street, Seagate and Dock Street. The site provides connections to a range of transport modes including walking/cycling, road or rail. The proposals would support the use of integrated transport modes.
- 7.8 In relation to Criterion iv, the existing flat benefits from a dedicated parking space to the south of the site, but has no provision for electric vehicle or cycle charging. The policy refers to provision being made in alignment with building standards. The building standards do not currently require any provision. As the proposed short-term let would be within an existing flatted property that has no electric vehicle or cycle charging provision it is not considered appropriate or reasonable to require provision to be made. The site is within proximity of a range of publicly accessible electric vehicle charging points, including chargers at Olympia Hub and Gellatly Street Car park. This provision would ensure visitors to the short term let have access to electric vehicle charging points.
- 7.9 With regard to Criterion v, the proposal would utilise existing cycle storage provision at the site which is in a secure, covered location.
- 7.10 With regard to Criteria vi, vii and viii the development is connected to the existing footpath network which provides safe and convenient connections to the surrounding area. Direct pedestrian access is provided onto Thorter Row and a cycle storage area is provided within the site. Streets in the vicinity of the development are suitable for use by pedestrians: being lit and being pedestrianised or having footways contiguous to the carriageway. There are roads surrounding the site and pedestrianised streets which are suitable for cycling. The site is linked by roads and paths to signed cycle routes including the Dundee Green Circular at West Victoria Dock Road. The use of the two-bedroom property as short-term let accommodation would have no detrimental effect on the capacity or safe functioning of the existing road or rail networks.
- 7.11 **The proposal is in accordance with Policy 13 b.**
- 7.12 **Health and Safety Policy 23 e** - states that development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.
- 7.13 The site is within an established residential development, which includes a communal entrance and shared amenities including garden ground and bin storage.
- 7.14 The short-term let would provide two bedrooms, and accommodate a similar number of residents to the existing use as a flat. The residential nature of the property, and use of the

communal entry and amenity areas would be in keeping with that of the existing use. Noise from residents within the property would be in keeping with that of a residential flat and have no significant impact on the amenity of existing residents.

7.15 Matters related to behaviour noise and sound transmission between properties, are considered under Dundee City Council's short-term lets licensing policy. To operate short-term let accommodation the applicant will require to meet the criteria of the Council's Licensing Policy Statement. Should the property obtain a short-term let licence, it will be subject of random inspections and enforcement during the lifetime of the licence to ensure the Council's Licensing Policy Statement is adhered to.

7.16 The proposed change of use would maintain the residential nature of the development and not result in any unsatisfactory level of disturbance on the surrounding area.

7.17 **The proposal is in accordance with Policy 23 e.**

7.18 **Tourism Policy 30 e** - states that 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.

7.19 With regard to criteria i, the proposed change of use relates to a two-bedroom flat within a multi-storey flatted development at Thorter Row. The proposed use of the property as a short-term let would result in footfall associated with guests attending the property. The use of the flat as a short-term let retains the residential nature of the property and would not result in any significant increase in footfall to the property or use of communal areas and services compared to the existing residential use. The character and amenity of the existing residential development would not be significantly impacted by the proposed change of use.

7.20 In relation to criteria ii, the proposed change of use would result in the loss of one residential flat on Thorter Row. There are a number of flats on Thorter Row, including 2 to 40 Thorter Row which are located within the same west facing section of the existing residential building as the application site. The proposed change of use of one property would not have any significant impact on the availability of residential accommodation in the local area. The provision of a range of type, form and scale of tourist accommodation is important in ensuring the City provides accommodation that meets the varying needs and expectations of leisure and business visitors. There are demonstrable economic benefits to the provision of small-scale short-term let accommodation in locations that provide access to the range of tourist attractions within the city. The site is within walking distance of the city centre and a range of tourist attractions. The proposed change of use would support the provision of tourist accommodation in an accessible location, with links to sustainable modes of transport and tourist attractions within the city.

7.21 **The proposal would satisfy Policy 30.**

#### **DUNDEE LOCAL DEVELOPMENT PLAN 2019**

7.22 **Policy 8: Visitor Accommodation** – the provision of a range of high-quality visitor accommodation within the City Centre is supported. Additional visitor accommodation that is complementary to the existing townscape, will be supported within the Central Broughty Ferry area to further enhance its attractiveness as a location for smaller scale tourism.

Visitor accommodation, with the exception of small-scale uses akin to bed and breakfast accommodation, will not be supported out with the City Centre or Central Broughty Ferry except where these involve enhancements to existing facilities. Any development in the City Centre should not have an adverse effect, either alone or in combination with other proposals or projects, on the integrity of any Natura site.

- 7.23 The proposal would see a two-bedroom property let as visitor accommodation. The proposed accommodation is of a small scale and would be acceptable out with the city centre. The proposal would support the provision of a range of visitor accommodation within the city for smaller scale tourism.
- 7.24 **The proposal is in accordance with Policy 8.**
- 7.25 **Policy 39: Environmental Protection** – all new development or an extension to an existing development that would generate noise, vibration, odour, emissions to air, dust or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing development in close proximity to existing sources of noise, vibration, odour, emissions to air, dust or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses.
- 7.26 As considered under Health and Safety Policy 23 e of National Planning Framework 4, the site is within an established residential development, which includes a communal entrance and shared amenities including garden ground and bin storage.
- 7.27 The short-term let would accommodate a similar number of residents to the existing flat. The residential nature of the property, and use of the communal entry and amenity areas would be in keeping with the existing use.
- 7.28 Matters related to behaviour noise and sound transmission between properties, are considered under Dundee City Council's short-term lets licensing Policy. To operate short-term let accommodation the applicant will require to meet the criteria of the Council's Licensing Policy Statement. Should the property obtain a short-term lets licence, it will be subject of random inspections and enforcement during the lifetime of the licence to ensure the Council's Licencing Policy Statement is adhered to.
- 7.29 The proposed change of use would maintain the residential nature of the development and not result in any unsatisfactory level of disturbance on the surrounding area.
- 7.30 **The proposal is in accordance with Policy 39.**
- 7.31 **Policy 44: Waste Management Requirements for Development** - development proposals should demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012. The policy also requires site waste management plans be prepared and used during the construction of major developments.
- 7.32 A bin storage area is provided within the site. This would be accessible to visitors of the proposed short-term let. The store includes provision of bins for recycling and household waste, collected by Dundee City Council. The proposed short-term let would be provide with appropriate waste provision which supports waste separation and recycling.
- 7.33 **The proposal is in accordance with Policy 44.**

7.34 **Policy 54: Safe and Sustainable Transport** - all development proposals that generate travel should be designed to be well served by all modes of transport. In particular the sustainable modes of walking, cycling and public transport should be afforded priority and provide for easy access to local amenities, education facilities and other services.

7.35 Development proposals will be required to:

- 1 minimise the need to travel by private car;
- 2 provide facilities on-site (and/or off-site through developer contributions or by direct delivery) for walking, cycling and public transport networks, including road/junction improvements and cycle parking. Developments without high quality, safe and convenient links to adjacent walking and cycling networks will not be supported;
- 3 incorporate measures to permit access to public transport networks within a walking distance of no more than 400 metres from all parts of the development;
- 4 have no detrimental effect on the capacity or safe functioning of the existing road or rail networks;
- 5 ensure that safe and adequate provision is made for road freight and waste access, loading and unloading;
- 6 comply with the National Roads Development Guide and any local variations within Dundee City Council's roads design standards; and
- 7 be supported by a travel plan to mitigate transport impacts and improve the accessibility of developments where the Council considers that the development will generate significant travel.

Walking and cycling routes should be fully useable prior to the first occupation of a new development.

7.36 In respect of the above Criteria 1 - 7:

- 1 The existing residential development is connected to the surrounding footpath network, including Thorter Row and South Victoria Dock Road. Dundee Bus Station is located to the north west of the site, with further bus stops on Commercial Street, Seagate and Dock Street. Cycle storage is provided within the a secure, covered location within the site. The proposed short-term let would be located within an accessible location, which can be accessed by modes of sustainable transport and active travel that help to minimise the need to travel by private car.
- 2 The development is connected to the existing footpath network which provides safe and convenient connections to the surrounding area. Direct pedestrian access is provided onto Thorter Row and a cycle storage area is provided within the site. Streets in the vicinity of the development are suitable for use by pedestrians: being lit and being pedestrianised or having footways contiguous to the carriageway. There are roads surrounding the site and pedestrianised streets which are suitable for cycling. The site is linked by roads and paths to signed cycle routes including the Dundee Green Circular at West Victoria Dock Road.
- 3 The site is connected to footpaths and roads which provide access to the bus and rail network within the city centre. Dundee Bus Station is 0.5 miles to the north west of the site, which provide access to local and long-distance bus services. The site is connected

by footpaths to further bus stops on Dock Street, Seagate and Commercial Street which are served by local bus services. Dundee railway station is 0.7 miles to the south west of the site. The station provides access to local and long-distance rail services and is equipped with bicycle lockers, short stay car park and taxi drop-off spaces.

- 4 The form and layout of the existing residential development would be retained as existing. The use of the two-bedroom property as short-term let accommodate would have no detrimental effect on the capacity or safe functioning of the existing road or rail networks.
- 5 The proposal would utilise existing parking and road access arrangements. The proposal would benefit from one covered, private parking space and parking provision within the surrounding area is safe and accessible.
- 6 No variations are proposed to the surrounding road network.
- 7 The proposed short-term let would be occupied by tourists who may be unfamiliar with local public and sustainable transport options. In support of the use of sustainable transport options, it is recommended the provision of a detailed Travel Plan to guests of the short-term let is controlled by condition.

7.37 **The proposal is in accordance with Policy 54, subject to conditions.**

7.38 **It is concluded that the proposal fully accords with the Development Plan.**

## **MATERIAL CONSIDERATIONS**

7.39 The material considerations to be taken into account are as follows:

### **A – REPRESENTATIONS**

7.40 In total 5 letters were received objecting to the proposal, including an objection from the City Centre and Harbour Community Council.

7.41 The objections raised the following valid material grounds:

- the proposed change of use to short-term let will result in significant disturbance to existing residents by virtue of noise and additional footfall. There will also be additional pressures on existing parking and waste provision;
- the proposal raises safety and security concerns, with the proposed short-term let use being inappropriate within a residential development; and
- the proposal would set a precedent for further short-term let accommodation at Thorter Row and within the immediate surrounding area.

- 7.42 The letters of objection also highlighted that title deeds of all properties within this building restrict use to private residential accommodation only.
- 7.43 The grounds of objection are considered and assessed as follows;
- 7.44 **Objection** – the proposed change of use to short-term let will result in significant disturbance to existing residents by virtue of noise and additional footfall. There will also be additional pressures on existing parking and waste provision.
- 7.45 **Response** – noise associated with the proposed change of use is considered under LDP Policy 39. The use of the property would remain residential in nature, and no alterations are proposed to the form or layout of the flat. Noise associated with residents using areas such as the entry and amenity space would not be any greater than noise associated with use of the property as a residential flat. Matters related to noise transfer between properties is considered under the Council's Short-term Let Licensing Policy. The flat benefits from one parking space, and there is parking provision within the wider area. It is acknowledged there can be parking pressures within City Quay area. However, the proposals would generate a parking requirement in line with the existing use as a residential flat, and would not result in any increase in parking demand compared to the existing situation. Similarly, existing waste facilities provide suitable capacity for the proposed short-term let.
- 7.46 **Objection** – the proposal raises safety and security concerns, with the proposed short-term let use being inappropriate within a residential development.
- 7.47 **Response** – The proposal would see visitors of the proposed short-term let have access to the communal entry and property. The proposed use would not result in any additional risk to safety and security compared to use of the property as an owner occupied flat or long-term lease property. Specific matters related to the provision of keys in secure locations, fire and electrical safety are considered under the separate short-term let licensing policy. The proposed use is of a residential nature and would have no significant impact on the character or amenity of the existing residential development.
- 7.48 **Objection** - the proposal would set a precedent for further short-term let accommodation at Thorter Row and the immediate area.
- 7.49 **Response** - at this time, one other planning application has been submitted for a change of use to short-term let accommodation within the existing residential development at Marine Parade/Thorter Row. This application was approved in February 2023. Any decision to approve or refuse planning permission would not set a precedent for future planning applications, with each application considered on its own merits.
- 7.50 **Objection** – the title deeds of all properties at Marine Parade restrict use to private residential accommodation only.
- 7.51 **Response** - the requirements of title deeds are not a material planning consideration. They are a legal matter that will need to be addressed between the relevant parties.
- 7.52 **It is concluded that there are no material considerations of sufficient weight which would justify refusal of planning permission.**

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## 8 CONCLUSION

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- 8.1 The application for a change of use to short-term let accommodation accords with the Development Plan. It is recommended that planning permission be granted subject to conditions.

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## 9 RECOMMENDATION

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- 9.1 It is recommended that planning permission be GRANTED subject to the following conditions:

- 1 **Condition** - the development hereby permitted shall be commenced within 3 years of the date of this permission.

**Reason** - to ensure the timeous commencement of development and in compliance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

- 2 **Condition** - prior to first occupation, a Travel Plan that sets out proposals for reducing dependency on the private car and encouraging use of sustainable transport shall be submitted to and approved in writing by Dundee City Council. The Plan shall include details of when it will be reviewed and updated, and how it will be distributed to visitors. Thereafter, the agreed Travel Plan shall be published and distributed in accordance with the approved details.

**Reason** - in the interests of promoting sustainable transport to all visitors.