FPRB Reference: 25/429

# Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: 36 Deas Wharf, Kirkcaldy, Fife, KY1 1JJ
- Application for review by Miss Maya Mladenova against the decision by an appointed officer of Fife Council
- Application 25/00360/FULL for Full Planning Permission for the change of use from flatted dwelling (Sui Generis) to commercial let accommodation (Sui Generis) (retrospective)
- Application Drawings:
  01 – Location Plan, 02 – Site Plan, 03 – Existing Floor Plan

Date of Decision Notice: 9th November 2026

**Decision**

The FPRB upholds the determination reviewed by them and refuses full planning permission for the reasons outlined below in section 4.0.

## 1.0 Preliminary

1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

1.2 The above application for Planning Permission in Principle was considered by the FPRB at its meeting on 26 October 2026. The Review Body was attended by Councillors David Barratt (Convener), Altany Craik, Ken Caldwell, Gordon Pryde and Lesley Backhouse.

## 2.0 Proposal

2.1 This appeal site relates to the flat, 36 Deas Wharf, Kirkcaldy, Fife, KY1 1JJ located within Kirkcaldy Harbour and Port Brae Conservation Area. It is a two-bedroomed flat on the second floor of a modern three storey building with a buzzer-controlled communal entry system. The flatted building is one of several terrace blocks forming part of the larger flatted residential development of the harbour area. Flatted terrace blocks associated with the residential development complex adjoin the site to the north and south. To the west is the associated parking and Deas Wharf Road. To the east is a public footpath on the outer basin of the building beyond which is Kirkcaldy Bay.

2.2 There is no recorded planning history for the site.

2.3 The appeal proposal seeks full planning permission in retrospect for the change of use of the site from flatted dwelling (Sui Generis) to commercial let accommodation (Sui Generis).

## 3.0 Reasoning

3.1 The FPRB considered the terms of the Development Plan which includes National Planning Framework 4 (2023) and FIFEplan (2017) (Local Development Plan). The FPRB also considered the provisions of Making Fife's Places Supplementary Guidance (2018) (including Appendices), Fife Council Policy for Development and Noise (2021) and Scottish Government Planning Advice Note 1/2011 Planning and Noise.

3.2 Firstly, the FPRB considered the principle of development and whether the loss of residential accommodation is justified, assessed against FIFEplan Policy 1 (Development Principles) and NPF4 Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) and Policy 30 (Tourism). It was found that:

- The FPRB acknowledged that the site is located within a defined settlement boundary and, as such, complies with FIFEplan Policy 1 (Development Principles) in respect of the principle of development. In this context, the FPRB considered NPF4 Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings), under which the reuse of existing buildings is supported subject to their suitability for conversion to other uses.
- The FPRB noted the officer's position that NPF4 Policy 30 (Tourism) is the primary policy against which the reuse of existing buildings for short term / commercial accommodation is assessed. The FPRB acknowledged that, for the loss of residential accommodation to be acceptable under NPF4 Policy 30, any loss must be outweighed by demonstrable local economic benefits. The FPRB also had regard to the case law principles noted by the officer within the Report of Handling, which established that the local economic benefits associated with any individual application must be significant to warrant the loss of home.
- The FPRB considered the economic benefits of the commercial let, including the evidence of booking numbers and associated income provided by the appellant, together with the appellant's confirmation in their appeal statement that local economic benefits would arise through the use of a local laundry company and a dedicated cleaner for the flat. However, they were not persuaded that a proposal of this nature would generate the demonstrable local economic benefits sought by NPF4 Policy 30 to outweigh the existing residential use.
- The FPRB further considered the weight to be attached to the flat remaining in residential use in the context of the Council's declared housing emergency. The FPRB agreed that the appeal property would otherwise continue to contribute towards the local housing supply and this consideration has not been outweighed.
- The FPRB therefore concluded that while the appeal proposal will have its own economic benefits, these have not been found to be demonstrable to justify the loss of residential accommodation in satisfying the policy tests of NPF4 Policy 30 (Tourism). As such, the FPRB agreed that the principle of development is not acceptable and the appeal proposal is contrary to NPF4 Policy 30.

3.3 The FPRB then moved to consider the impact on residential amenity from the change of use to commercial let (Sui Generis), assessed against FIFEplan Policy 10 (Amenity) and NPF4 Policy 23 (Health and Safety). They found that:

- The FPRB considered FIFEplan Policy 10 (Amenity), which requires that proposals do not lead to a significant detrimental impact from noise, traffic movements, loss of privacy or other nuisances. The FPRB further acknowledged NPF4 Policy 23 (Health and Safety), under which development proposals likely to raise unacceptable noise issues will not be supported.

- The FPRB had regard that the flat is located on the second floor of a flatted residential terrace block, forming part of a wider residential complex, and accessed via a shared communal entrance.
- The FPRB noted the representations submitted at application and LRB stage raising concerns of security and safety.
- Given the flat's location within a larger residential complex, with a shared open stairwell, the FPRB considered that its use as a commercial let would represent an inherently different pattern of use from residential occupation. They resolved that it would generate increased activity at varying hours which would be further exacerbated by cleaning activities which would add further noise nuisance. The FPRB agreed that this would be detrimental to the residential amenity of residential occupiers of the shared stairwell and has the potential to give rise to further security concerns.
- The FPRB therefore concluded that, as the appeal property is served by a shared open stairwell, within a larger residential complex, the proposal would result in detrimental impacts to the residential amenity of the flatted occupiers, including potential for increased noise impacts and security concerns. Accordingly, the FPRB agreed with the officer's position that the appeal proposal is contrary to FIFEplan Policy 10 (Amenity) and NPF4 Policy 23 (Health and Safety).

3.5 The FPRB concurred with the Appointed Officer's position in relation to the other planning considerations that did not form part of the original refusal reasons. They contended that these matters did not have any material impact in changing their position on this application.

3.6 Overall, the FPRB concluded that the proposed development fails to meet the requirements of NPF4 Policy 30 (Tourism) in that the loss of residential accommodation would not be outweighed by demonstrable local economic benefit. As such, the principle to change the use of the site to a commercial let was not deemed acceptable. The FPRB further agreed that the change of use would have a detrimental impact on the amenity of the other residential occupiers, contrary to FIFEplan Policy 10 (Amenity) and NPF4 Policy 23 (Health and Safety). They resolved that the transient nature of future occupants, often involving late-night movements, together with regular cleaning and the introduction of non-residential occupiers, would result in significant adverse residential amenity impacts with regards to noise and security. The FPRB agreed with the Appointed Officer's position that the proposed development is contrary to NPF4 Policies 23 and 30 and FIFEplan Policy 10 as well as the provisions of Making Fife's Places Supplementary Guidance (2018) (including Appendices), Fife Council Policy for Development and Noise (2021) and Scottish Government Planning Advice Note 1/2011 Planning and Noise. The FPRB did not consider there to be any other matters for consideration or any material considerations which would outweigh the Development Plan position. Cumulatively, the FPRB agreed that the Appointed Officer's decision should be upheld and the appeal refused.

## 4.0 Decision

4.1 The FPRB upholds the determination reviewed by them and refuses full planning permission for the following reasons:

1. In the interests of avoiding the unjustified loss of residential accommodation which contributes to local housing need; the applicant having failed to demonstrate that the loss of this dwelling to commercial let accommodation is outweighed by significant local economic benefits; consistent with Policy 30 of the adopted National Planning Framework 4 (2023).

2. In the interests of protecting residential amenity and character; the typical operation of such accommodation types is likely to result in significant adverse noise impact and a resulting material adverse effect on the established residential amenity and character of this building. The impact and effect would be particularly pronounced in this common residential stair context, having regard to its physical and acoustic characteristics and the increased sensitivity of such environments to disturbance; contrary to Policies 1: Development Principles and 10: Amenity of the adopted FIFEplan Fife Local Development Plan (2017); contrary to Policies 14 Design, Quality and Place, 23 Health and Safety, and 30 Tourism of the adopted National Planning Framework 4 (2023); and contrary to Fife Council Policy for Development and Noise 2021.

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Proper Officer

# NOTICE TO ACCOMPANY REFUSAL ETC.

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

*Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions*

**NOTICE TO ACCOMPANY REFUSAL ETC.**
**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

*Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8).*

1. If the applicant is aggrieved by the decision of the planning authority -

   (a) to refuse permission for the proposed development;

   (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or

   (c) to grant permission or approval, consent or agreement subject to conditions,

   the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.