

Public Document Pack



To: Councillor Milne, Convener; and Councillors Boulton, Corall, Cormie, Delaney, Finlayson, Grant, Jaffrey, Lawrence, MacGregor, McCaig, Jean Morrison MBE and Thomson.

Town House,
ABERDEEN, 8 May 2013

DEVELOPMENT MANAGEMENT SUB COMMITTEE

The Members of the **DEVELOPMENT MANAGEMENT SUB COMMITTEE** are requested to meet in Committee Room 2 - Town House on **THURSDAY, 16 MAY 2013 at 10.00am.**

JANE G. MACEACHRAN
HEAD OF LEGAL AND DEMOCRATIC SERVICES

B U S I N E S S

MINUTES OF PREVIOUS MEETINGS

- 1.1 Minute of the Development Management Sub Committee of 18 April 2013 - for approval (Pages 1 - 8)

PLANNING APPLICATIONS WHICH ARE THE SUBJECT OF WRITTEN REPORTS (CIRCULATED HEREWITH)

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 2.1 7 Howburn Place, Aberdeen - Proposed part demolition of public house and erection of new part public house and 6 No. serviced apartments (Pages 9 - 24)

Reference Number - 130190

- 2.2 64 Bridge Street, Aberdeen - Change of use of licensed gaming machine centre to licensed restaurant with takeaway facility (Pages 25 - 38)
Reference Number - 130246
- 2.3 Albury Outdoor Sports Centre, Albury Road, Aberdeen - Alterations and extension of existing tennis courts, erection of floodlights and replacement fencing (Pages 39 - 46)
Reference Number - 130268
- 2.4 6 West Craibstone Street, Aberdeen - Change of use from Class 4 (Offices) to Class 2 (Clinic) (Pages 47 - 60)
Reference Number - 130312
- 2.5 Unit 10, Summerhill Court, Aberdeen - Proposed change of use from barber's shop to hot food takeaway (including installation of ventilation chimney) (Pages 61 - 70)
Reference Number - 130286
- 2.6 Inversnecky Cafe, 7-8 Sea Beach, Esplanade - Change of use to outside seating area (Pages 71 - 76)
Reference Number - 130431
- 2.7 9-11 Belmont Street, Aberdeen - Proposed extension to terrace at rear of building (Pages 77 - 84)
Reference Number - 130227

Website Address: www.aberdeencity.gov.uk

Should you require any further information about this agenda, please contact Martin Allan on 01224 523057 or email mallan@aberdeencity.gov.uk

DEVELOPMENT MANAGEMENT SUB COMMITTEE

ABERDEEN, 18 April 2013. Minute of Meeting of the DEVELOPMENT MANAGEMENT SUB COMMITTEE. Present:- Councillor Milne, Convener; and Councillors Boulton, Corall, Cormie, Delaney, Finlayson, Grant, Jaffrey, Lawrence, MacGregor, McCaig and Thomson.

The agenda and reports associated with this minute can be found at:-

<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&MId=2558&Ver=4>

MINUTE OF MEETING OF THE DEVELOPMENT MANAGEMENT SUB COMMITTEE OF 21 MARCH 2013

1. The Sub Committee had before it the minute of its previous meeting of 21 March 2013.

The Sub Committee resolved:-

to approve the minute.

MINUTE OF MEETING OF THE DEVELOPMENT MANAGEMENT SUB COMMITTEE (VISITS) OF 28 MARCH 2013

2. The Sub Committee had before it the minute of meeting of the Development Management Sub Committee (Visits) of 28 March 2013.

The Sub Committee resolved:-

to approve the minute.

HILL OF RUBISLAW, RUBISLAW QUARRY - 121692

3. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee express a willingness to approve the application in respect of planning permission for a proposed development of 10,840 square metres of office accommodation with associated new access roads, car parking and landscaping, subject to the following conditions, but to withhold the issue of consent document until the applicant had made a payment to the Council of developer contributions towards the Strategic Transport Fund and in relation to core paths and combined footway and cycleway:-

- (1) That no development shall take place within the application site unless the applicant has secured the implementation of a programme of archaeological work which shall include post-excavation and publication work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority;
- (2) That no development pursuant to this planning permission shall take place, nor shall any part of the development hereby approved be occupied, unless there has been submitted to and approved in writing by the planning authority, a detailed scheme of site boundary

enclosures for the entire development hereby granted planning permission. The building hereby granted planning permission shall not be occupied unless the said scheme has been implemented in its entirety; (3) That no development shall take place unless a further scheme detailing all external finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed; (4) That the development hereby approved shall not be occupied unless the car parking spaces, drop off car space, cycle and motorcycle parking spaces, lockers, showers and changing facilities hereby granted planning permission have been constructed, drained, laid-out and demarcated in accordance with drawing Nos. 201 Rev C and 202 Rev D of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than those specified above; (5) That the development hereby granted planning permission shall not be occupied unless all drainage works detailed on Plan Nos 93323/2051 Rev A 3323/2052 Rev A or such other plan as may subsequently be approved in writing by the planning authority for the purpose have been installed in complete accordance with the said plan; (6) That no development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of landscaping for the site, which scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting; (7) That all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority; (8) That, except as the planning authority may otherwise agree in writing, no construction or demolition work shall take place (a) outwith the hours of 7.00am to 7.00pm Mondays to Fridays; (b) outwith the hours of 9.00am to 4.00pm Saturdays; or (c) at any time on Sundays, except (on all days) for works inaudible outwith the application site boundary. [For the avoidance of doubt, this would generally allow internal finishing work, but not the use of machinery]; (9) That no development shall take place unless a scheme for external lighting has been submitted to and approved in writing by the planning authority, and thereafter implemented in full accordance with said scheme; (10) That the building hereby approved shall not be occupied unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full; (11) That the building hereby approved shall not be occupied unless a scheme detailing suitable equipment for monitoring Radon gas has been submitted to and approved in writing by the planning authority and thereafter has been installed in accordance with the details so agreed; (12) That

no development pursuant to this planning application shall take place unless there has been submitted to and approved in writing by the planning authority a location specific Environmental Management Plan (EMP) for the Hill of Rubislaw site. The plan shall be submitted and approved in writing by the planning authority at least two months before works commence on site or in accordance with any other timescale agreed in writing by the planning authority; (13) That no development shall take place unless waste management proposals which provide adequate arrangements for the segregation, storage, collection and management of business waste, has been submitted to and approved in writing by the planning authority; (14) That no development shall take place unless a scheme for the protection of all trees to be retained on the site during construction works has been submitted to, and approved in writing by, the planning authority and any such scheme as may have been approved has been implemented; (15) That no materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the aforementioned scheme of tree protection without the written consent of the planning authority and no fire shall be lit in a position where the flames could extend to within five metres of foliage, branches or trunks; (16) That there shall be no tipping of materials or excavated materials into the quarry; (17) That the construction site and developed area shall be securely fenced to prevent access to the rest of the quarry rim both during and after construction. The fences shall be erected as close to the perimeter of the construction site as is compatible with operational requirements, details of which shall be submitted to and approved in writing for the purpose by the planning authority and shall be implemented in complete accordance with the details so approved; (18) That development shall not commence until a bird hazard management plan has been submitted to and approved in writing by the planning authority. The submitted plan shall include details of the management of the site, which may be attractive to nesting, roosting and 'loafing' birds and shall be implemented as approved upon completion of the roof and shall remain in force for the life of the building and thereafter the agreed measures shall be implemented in full; (19) That the offices hereby granted planning permission shall not be occupied unless a schedule of work relating to the upgrade of four bus stops (two each on Queens Road and Anderson Drive) to a minimum standard of a shelter, raised kerbs, lighting and seating has been submitted to and agreed in writing by the planning authority and thereafter implemented in its entirety; (20) That the development shall not be occupied unless a scheme showing the upgrading of the traffic signals at the Queens Road/Hill of Rubislaw junction has been submitted to and agreed in writing by the planning authority and thereafter implemented in its entirety; and (21) That the development shall not be occupied unless there has been submitted to and approved in writing a detailed Travel Plan, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets and associated penalties for not meeting targets and that three months prior to occupation a travel pack shall be submitted to and approved in writing by the planning authority.

The Sub Committee asked a number of questions of planning and roads officials, following which Councillors Jennifer Stewart and Greig addressed the Sub Committee as two of the local members for the area, expressing constituents' concerns regarding the application.

The Sub Committee further resolved:-

- (i) to approve the recommendation subject to an additional condition as follows:-
(22) That unless the planning authority has agreed in writing to a variation, no development pursuant to the planning permission hereby approved shall take place unless the applicant has submitted a scheme for the improvement of cycling provision along Anderson Drive between the Kings Gate and Queens Road roundabouts, and any such scheme has been agreed in writing by the planning authority and Transport Scotland. The development hereby approved shall not be occupied unless any scheme thereby agreed has been implemented in its entirety; and
- (ii) to request the Enterprise, Planning and Infrastructure Committee to consider designating the surrounding area as a controlled parking zone to alleviate pressures on residential parking likely to be caused by the development.

HAUDAGAIN RETAIL PARK, UNIT 3, GREAT NORTHERN ROAD - 121763

4. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission to alter and extend the existing drive-thru restaurant, adjust the associated car parking arrangements and provide an external seating area, subject to the following conditions:-

- (1) That no development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of landscaping for the site, which scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting;
- (2) That all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority; and
- (3) That the development hereby approved shall not be occupied unless the revised car parking areas and pedestrian facilities proposed within the site have been constructed, drained, laid-out and demarcated in accordance with drawing No.12-188-04 A of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing for the purpose by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of the ancillary parking of cars or the enabling of access to the development and use thereby granted approval.

The Sub Committee resolved:-
to approve the recommendation.

145 KING STREET - 121087

5. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission to form a pavement café outside the existing restaurant, subject the following condition:-

- (1) That the pavement café shall not be in operation and no tables, chairs or barriers shall be left outside the premises outwith the hours 8.00am and 8.00pm, unless the planning authority has given prior written approval for a variation.

The Sub Committee resolved:-
to approve the recommendation.

THE BOX, SPEY TERRACE - 130143

6. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission for a change of use to residential use of the building, with the existing area of amenity ground to the rear to form a private garden, subject to the following conditions:-

- (1) That the residential use of the building shall not take place without the associated area of open space within the application site being fully available for private use by the occupiers of the building, unless otherwise agreed in writing with the planning authority; and (2) That details of any boundary treatment of less than 1m in height shall be submitted to, and approved in writing by, the planning authority prior to being erected on site (it should be noted that boundary enclosures of more than 1m in height would require planning permission).

The Sub Committee resolved:-
to approve the recommendation.

10 STOCKET GRANGE, STOCKETHILL CRESCENT

7. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission for a change of use from a warden's flat to a social care and wellbeing hub, subject to the following condition:-

- (1) That except as the planning authority may otherwise agree in writing, the social care and wellbeing hub shall not open outwith the hours of 8.00am to 5.00pm Monday to Friday.

The Sub Committee resolved:-
(i) to approve the recommendation; and

- (ii) to request the relevant Director to consult the residents of the affected blocks and report back on the outcome to the relevant committee.

16 HAMEWITH, BRIDGE OF DON - 130160

8. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission for a change of use from a warden's flat to a social care and wellbeing hub, subject to the following condition:-

- (1) That except as the planning authority may otherwise agree in writing, the social care and wellbeing hub shall not open outwith the hours of 8.00am to 5.00pm Monday to Friday.

The Sub Committee resolved:-

- (i) to approve the recommendation; and
- (ii) to request the relevant Director to consult the residents of the affected blocks and report back on the outcome to the relevant committee.

14 DOMINIES COURT, DOMINIES ROAD - 130161

9. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission for a change of use from a warden's flat to a social care and wellbeing hub, subject to the following condition:-

- (1) That except as the planning authority may otherwise agree in writing, the social care and wellbeing hub shall not open outwith the hours of 8.00am to 5.00pm Monday to Friday.

The Sub Committee resolved:-

- (i) to approve the recommendation; and
- (ii) to request the relevant Director to consult the residents of the affected blocks and report back on the outcome to the relevant committee.

33 JANESFIELD MANOR, GARTHDEE - 130162

10. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission for a change of use from a warden's flat to a social care and wellbeing hub, subject to the following condition:-

- (1) That except as the planning authority may otherwise agree in writing, the social care and wellbeing hub shall not open outwith the hours of 8.00am to 5.00pm Monday to Friday.

The Sub Committee resolved:-

- (i) to approve the recommendation; and
- (ii) to request the relevant Director to consult the residents of the affected blocks and report back on the outcome to the relevant committee.

PLANNING DIGEST - EPI/13/077

11. The Sub Committee had before it a report by the Head of Planning and Sustainable Development which advised members of the decision of Scottish Ministers regarding the offshore wind development centre at Aberdeen Bay, and highlighted the Development Management Customer Charter.

The report recommended:-

that the Sub Committee note the report.

The Sub Committee resolved:-

- (i) to note the report; and
- (ii) to write to the Scottish Government welcoming the decision regarding the offshore wind development centre at Aberdeen Bay.

- RAMSAY MILNE, Convener.

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Agenda Item 2.1

7 HOWBURN PLACE, ABERDEEN

PROPOSED PART DEMOLITION OF PUBLIC HOUSE AND ERECTION OF NEW PART PUBLIC HOUSE AND 6 NO.SERVICED APARTMENTS

For: Mr Ian Lakin

Application Type : Detailed Planning Permission
Application Ref. : P130190
Application Date: 14/02/2013
Officer: Sally Wood
Ward : Torry/Ferryhill (Y Allan/A Donnelly/J Kiddie/G Dickson)

Advert : Can't notify neighbour(s)
Advertised on: 06/03/2013
Committee Date: 16 May 2013
Community Council : No response received



RECOMMENDATION:

Approve subject to conditions

DESCRIPTION

The application site currently consists of a single storey flat roof extension to the adjacent public house, The Adam Lounge. To the west is the public house at ground floor level, with four upper floors above (fourth floor is attic level) in use as serviced apartments. This building is of granite with slate roof.

To the east is a row of terraced dwellings two storeys in height and attic, with granite walls and slate roof. To the rear of the application site (north) are private gardens and outdoor space which serve the houses beyond.

RELEVANT HISTORY

None.

PROPOSAL

The existing single storey extension would be demolished, and a new building put in its place. The new building would be three storeys high with an attic level. At ground floor level there would be a new replacement extension to the public house. At first and second floors there would be two serviced apartments on each level, with two serviced apartments within the attic; a total of six apartments.

The proposed building would be approximately 11 metres high to eaves level, with a ridge height of 12.8 metres. It would be one floor higher than the existing residential premises to the east, but one floor level lower in height than the existing building containing the main public house and existing serviced apartments to the west.

No car parking would be provided as part of this development, and there is no outdoor space. The footprint of the building would occupy the whole of the site. The building is effectively an extension to the existing building to the west, as the new serviced apartments would share the stairwell of the existing serviced apartments.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130190>. On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because there are more than five letters of representation which have been received. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Project Team – As the development provides no car parking spaces, seeks 6 long term cycle parking spaces be provided for use by guests.

Requests that the applicant establishes procedures for taking out membership of the Car Club that will be available for guests of the serviced apartments for the duration of their stay.

Seeks clarification on servicing matters for residents within the apartments (such as mail, disposal of waste) and for cleaning/maintenance of each apartment.

Environmental Health – concerns expressed with regards to potential noise impact from the pub (Hawthorn Bar) and traffic noise. Therefore, in order to ascertain the impact of noise from these sources and whether effective mitigation measures can be employed, a noise assessment is requested to be carried out by a suitably qualified noise consultant prior to determination.

Environmental Health also seek a condition in relation to the hours of construction works being undertaken, and another condition to ensure adequate bin storage areas and bins in order to prevent litter problems and any obstructions to pedestrians.

Enterprise, Planning & Infrastructure (Flooding) - comments, no observations.

REPRESENTATIONS

6 number of letters of representation have been received. The objections raised relate to the following matters –

1. noise
2. odour
3. overlooking/loss of privacy
4. loss of light to the shared communal garden and to dwellings (sun and day light)
5. impact on access
6. lack of parking, which will cause others to park inconsiderately, thus potential for road safety issues.
7. increase in amount of rubbish, bins are already overflowing
8. security- fully opening windows on rear elevation will enable people to gain access into the rear of properties.

PLANNING POLICY

Scottish Planning Policy (SPP): The policy seeks to promote appropriate development, particularly within existing settlements. It seeks high quality development that is sympathetic to its setting and takes into consideration amenity.

Aberdeen City and Shire Structure Plan

Provides a spatial strategy for development, to ensure the right development in the right place to achieve sustainable economic growth which is of high quality and protects valued resources and assets, including built and natural environment, which is easily accessible.

Aberdeen Local Development Plan

Policy D1 Architecture and Placemaking – To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting.

Policy D3 Sustainable Active Travel – new development shall be designed to minimise private car travel. Promote healthy modes of travel. Ensure permeability and connection to existing development and environment.

Policy H1 Residential Areas – within existing residential areas, proposals for new residential and non-residential development must consider residential amenity, comply with supplementary guidance, and not cause nuisance to existing dwellings.

Policy T2 Managing the Transport Impact of Development – new development will need to demonstrate that sufficient measures have been taken to minimise the traffic generated.

Supplementary Guidance

- Harmony of Uses – residential and other developments within the city (compatibility of residential and non-residential use mix).
- Waste Management
- Transport and Accessibility

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Statement regards to the Adopted Local Development Plan (2012)

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend... Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

Principle of the development.

The building is located within a primarily residential area. The ground floor element of the proposal is effectively a replacement extension for the adjacent public house, as it will replace the existing.

Six serviced apartments over three levels are proposed above the extension to the public house. As the site is located within a residential area, in principle it is considered acceptable. However, careful consideration needs to be given to the impact that the public house and the residential properties may have on each other in terms of compatibility of use, which is discussed under residential amenity. In accordance with Planning Policy H1 for non-residential uses within existing residential areas, the proposal is acceptable in principle, but this is subject to detailed considerations of compatibility of the public house and serviced apartments with each other, and the adjacent residential premises. The acceptability of the proposal is also subject to detailed assessment of the impact of the proposal in terms of design, road safety and residential amenity, including loss of privacy, loss of light, and security.

Design

The proposed design in terms of visual impact is considered acceptable. The building would be elevated in granite with a slate roof. It would sit between existing buildings, and is considered to be of an appropriate height, acting as a step between the two buildings, being lower than the building to the west on the corner of the street but higher than the dwelling to the east.

Two dormer windows are proposed within the attic space, and a number of openings at first and second floor levels. The design and rhythm of the windows, and the horizontal banding included, are all judged acceptable in detailing, and are considered to take into account their setting. The ground floor extension to the public house has a large glazed window, and the area for fascia signage ties into the adjacent public house. It is considered acceptable.

In terms of design the proposal is considered acceptable. Issues arising as a result of the proposal on residential amenity concerns are discussed below under the heading 'Residential Amenity'.

Road Safety

The Roads Project Team have not objected to the proposal. It has requested secure cycle parking provision. The plans were updated to show cycle parking

within the ground floor of the building, however the proposed use of wall brackets is not considered acceptable. It is recommended that a condition is imposed to ensure that the details of the cycle storage area are submitted to and agreed in writing by the Planning Authority, and implemented prior to first use of the serviced apartments.

As the proposal does not provide any car parking, and to provide an alternative to the private car, it is required that the developer enters into an agreement with a Car Club to provide membership to the club for occupants of the apartments for the duration of their stay.

The Roads Project Team is now satisfied with the servicing details, which includes cleaning, delivery of parcels and handling of waste. It is understood that vehicles will use on street car parking to service the building.

This responds to the objection raised in relation to lack of parking, which will cause others to park inconsiderately, thus cause potential for road safety issues, as the Roads Project Team has not objected. The site is within the city centre accessible by a range of modes of transport for occupants to travel to the apartments. Similarly there should be no net change in patronage in relation to the public house as the extension replaces a similar sized extension.

Residential Amenity

There are a number of matters which relate to the consideration of residential amenity surrounding this proposal.

There is the consideration of the relationship of the two uses proposed within the same building; the compatibility of a public house at ground floor level with serviced apartments above. There is the relationship of the proposed use of this building and its impact on the residential premises to the east and north, and its impact on the existing public house and serviced apartments to the west and vice versa. Furthermore, there is the impact of the physical building in relation to consideration of loss of light, loss of privacy, noise, and security.

Environmental Health was consulted on the application. It is noted that it did not object to the proposal. They did seek a noise assessment to be carried out prior to a recommendation on the application. The noise assessment is to assess the impact of road noise and noise arising from the public house. On the basis that it is the impact that would arise on the proposal from existing noise sources, it is considered that in response to Environmental Health comments that a condition seeking a noise assessment and mitigation to be carried out as necessary is acceptable. There are solutions that can be carried out which overcome concerns relating to noise. With the necessary mitigation that may be required which would be informed by a detailed noise assessment carried out at the applicants expense but by a suitably qualified noise consultant, it is judged that the proposal can be located without having an adverse impact in terms of compatibility of uses. The proposal therefore should not have an adverse impact on neighbouring properties arising from noise. It should be noted that there is

already an extension to the public house at ground floor level. Serviced apartments have similarities with residential premises, and can be accommodated without causing a noise nuisance.

Environmental Health seek a condition relating to the hours of construction works being undertaken. This is not considered reasonable or enforceable, and therefore it is recommended that such a condition is not imposed. Environmental Health has its own powers to investigate such noisy operations that may arise. It is therefore considered unjustifiable to impose such a condition.

With regards to odour arising from the proposal, the extension at ground floor level replaces an existing extension for similar use, and it is noted that no kitchen facilities are proposed or other development which would generate an odour nuisance. The serviced apartments are similar in terms of occupancy to dwellings, and therefore there should be no adverse issues arising from odour as a result of the proposed apartments.

The openings on the rear elevation would consist of glazed blocks, which are obscure in nature. This would protect loss of privacy and overlooking to the rear gardens and premises. However, it is noted that the extension projects beyond the existing serviced apartments. It projects some 3.1 metres, within which would be windows placed within the western elevation, looking towards the existing service apartments. The distance between the window and the rear elevation of the apartments which front Holburn Street is 9.7 metres. To the rear of the flats which are adjacent to the service apartments which front Holburn Street (137-141 odd numbers) the separation distance is some 10.5 metres. The Councils supplementary guidance on assessing privacy notes that a minimum of 18 metres when openings are opposite existing windows. The distance of 9.7 metres between serviced apartments is considered acceptable. The existing and proposed service apartments are in the same ownership. Given that the windows are off-set with those within the block of flats to the north of the existing serviced apartments fronting Holburn Street, it is considered that 10.5 metres is a reasonable separation distance. The main outlook would be over the serviced apartments, which would not expect the same level of degree of privacy as a residential property (flat or house).

There would be a degree of loss of daylight and sunlight arising as a result of this development. However, the gardens and houses are already affected by the neighbouring premises in relation to impact on day and sunlight. The building would be not significantly higher than those adjacent, being of a commensurate height. The site measures approximately 8.5 metres in width. It is not considered that the height of the building with a limited footprint would have an adverse impact on the level of day and sun light already experienced by residents.

Other

Environmental Health seek a condition which ensures adequate bin storage areas and bins in order to prevent litter problems and any obstructions to pedestrians. The agent for the applicant has advised that it is his understanding

that existing bins on street are for communal use for residents of adjacent blocks, and that therefore there is suitable adequate provision for waste which they can use. However, it is considered necessary to apply a condition to ensure that there are adequate waste and recycling facilities. This also serves to address the objection raised in relation to waste.

One letter of representation raised concerns with regards to security in that fully opening windows on the rear elevation would enable people to gain access into the rear of other properties. This is not a valid planning reason to refuse an application. Many openings in other developments open out into rear courtyards and gardens. Furthermore, it is expected that a number of the openings would have to act as an escape in the event of a fire. It is not considered appropriate to apply such a condition that prevents the opening of windows, or limits the extent that they open.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

The proposed building, to accommodate an extension to the public house and additional serviced apartments, is considered acceptable. There would be no detrimental impact in design terms or residential amenity, therefore the proposal accords with Scottish Planning Policy, and Policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan. Given the city centre location it is judged that the application complies with planning policy D3 (Sustainable Active Travel). The provision of cycle storage and membership of car club secured by conditions ensures that the proposal complies with Policy T2 (Managing the Transport Impact of Development) of the Aberdeen Local Development Plan. Finally it is considered that the impact of the proposal on residential amenity, including the imposition of conditions to secure details of glass blocks and noise attenuation measures, ensures that the proposal complies with Policy H1 (Residential Areas).

It is recommended that approval is granted subject to the following conditions.

(1.) Prior to the commencement of development a noise assessment shall be undertaken, carried out by a suitably qualified noise consultant, and be submitted to and approved in writing by the Planning Authority. The noise assessment shall address the potential for noise disturbance arising from the extension of the public house and the serviced apartments to adjacent residents; noise arising from the public house extension and its impact on the serviced apartments, and the impact of noise arising from the road. The noise assessment shall include measures to prevent such noise disturbance arising.

The noise assessment shall:

- i). Be in accordance with Planning Advice Note 1/2011 Planning & Noise and its accompanying Technical Advice Note.

- ii). Identify the likely sources of noise; and
- iii). Indicate the measures to reasonably protect the amenity of nearby residents of the development from all such sources of noise that have been identified.

Thereafter, the approved mitigation measures shall be implemented in full prior to the development being first brought into use. – In the interests of residential amenity.

(2.) Notwithstanding the details submitted, prior to the commencement of development details of a secure long stay cycle storage space to accommodate six bicycles (3 Sheffield Type Stands) within the building shall be submitted to and approved in writing by the Planning Authority. Thereafter the cycle storage space shall be provided in full in accordance with the approved details prior to first occupation of any one of the serviced apartments hereby approved and retained for such use at all times. – To promote alternative modes of travel.

(3.) Prior to the first occupation of any one of the serviced apartments hereby approved details of the membership to a Car Club scheme for the eligibility of the occupants of the serviced apartments shall be first submitted to and approved in writing by the Planning Authority. Thereafter the serviced apartments shall continue to operate with membership to a Car Club for the occupants of the serviced apartments. – To promote alternative modes of travel other than the private car, in the interests of sustainable travel. The development does not include any car parking provision, therefore car club membership would act to discourage occupants of the apartments from using their private car(s).

(4.) Notwithstanding the details submitted, prior to the commencement of development details of the provision of waste facilities shall be submitted to and approved in writing by the Planning Authority. The detailed waste facilities shall be provided in full in accordance with the approved details prior to first occupation of any part of the development hereby approved. – To ensure that there is appropriate and sufficient waste disposal facilities in the interest of residential amenity.

(5.) Prior to the commencement of development samples of the proposed glass blocks in the rear elevation shall be submitted to the Planning Authority for consideration and approval in writing. The development thereafter shall be completed in accordance with the approved details. – In the interests of residential amenity.

Dr Margaret Bochel

Head of Planning and Sustainable Development.

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From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 19/02/2013 23:02
Subject: Planning Comment for 130190

Comment for Planning Application 130190

Name : Andrew Fraser
Address : 139 Holburn Street
Aberdeen
AB10 6BN

Telephone : [REDACTED]
Email : [REDACTED]
type :

Comment : I have concerns regarding the proposed 7 Howburn Place developments west facing rear windows, which face the rear east facing windows of 139 Holburn Street and the properties to the south of 139.

I would request, on behalf of 139 residences, that these windows must have frosted glass for our privacy as the windows will be within a very close proximity of 139's. This is compared to the current properties backing onto each other on Howburn Place and Hollybank Place. The proposed property at 7 Howburn Place seems to have taken this into account for the windows backing onto Hollybank Place properties by highlighting glass block panel that will provide privacy to both properties. Therefore, I request the same privacy is considered and implemented with regard to the west facing windows on all floors of the development at 7 Howburn Place.

I would also request that the rear west facing windows in flats on the 1st & 2nd floor had restricted/part opening only so that there was not access to the rear of 139 via the flat roof above the toilet block of the Adam Lounge. Fully opening windows could provide easy access for persons to gain rear of many flats.

From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 07/03/2013 07:09
Subject: Planning Comment for 130190

Comment for Planning Application 130190
Name : Mrs Anne Baxter
Address : 46 St Ternan's Road,
Newtonhill,
By Stonehaven,
Kincardineshire
AB39 3PF

Telephone : [REDACTED]
Email : [REDACTED]
type :
Comment : 46, St. Ternan's Road,
Newtonhill,
By Stonehaven,
Kincardineshire,
AB39 3PF.
03.03.2013

Planning Application Ref. No. 130190
(Proposal to build a block of serviced apartments at The Adam Lounge, 7 Howburn Place, Aberdeen)

Dear Sir / Madam,

I am the present owner of one of the first floor tenemented flats directly opposite to the rear of where this proposed apartment block may yet be sited. It is important to note that my property (at 1F/L 10 Hollybank Place) is, and always has been, a single aspect flat which only receives sunlight and daylight from the rear of our tenement block, i.e. solely from the immediate direction where the Adam Lounge serviced flats are now proposed. The only sources of sunlight and daylight to my property are two single width windows which provide light to my living room and bedroom respectively (the openings for these windows appearing to be the original openings within the granite structure dating back to 1902 when the property was constructed). There are no supplementary windows located at the gable end of the tenement block, and the only natural light available to my kitchen area is borrowed via these same two rear facing windows. A recent site visit to my property (presently leased under long-term arrangements) and a complementary study of the planning application material currently available online have now enabled me to make a preliminary assessment of the impact that part of the proposed development would have on the natural light and amenity presently available within my flat. I have come to the inevitable conclusion that the impact on presently acceptable levels of light available in the flat from south-facing windows will be severe.

I believe that if this development proceeds, my property will be left with unacceptable levels of natural light; clearly a situation which could only be remedied by a disproportionate use of artificial light. This, of course, would not be in line with the clearly stated principles of Aberdeen City Council in energy efficiency terms (for example, its long-term commitment to The Home Energy Conservation Act (H.E.C.A.) from 2000; 2010 and its subsequent commitment to energy efficiency as outlined within its own Local Housing Strategy Document; (2011; 2016). I would now wish to lodge formal objection to planning application reference no. 130190, and do so for the following reasons:

- (a) The Aberdeen City Council Householder Development Guide, Supplementary Guidance; planning document clearly states within its General Principles; section (Pg 5) that significant adverse impact on privacy, daylight and general residential amenity will count against a developmental proposal;
- (b) Planning authority guidelines in terms of amenity via daylight; and

“sunlight” vary across the United Kingdom. Scottish and U.K. local authority planning guidelines in terms of impact measurement can include a whole raft of “rules” and design standards around the 25° line, the 43° line, the 45° line, etc. which inform practice in different parts of the country. Some of these are based around perpendicular measurement, some around measurement on a horizontal plane. The Aberdeen City Council guidelines are perhaps less clear than some other local authorities in Scotland, but there does appear to be a general recognition therein of the importance of respecting a 25° perpendicular line when access and entitlement to light is being considered. The Aberdeen City Council “Householder Development Guide, Supplementary Guidance” document states on Pg. 31, “It is important to note that these tools will be used as and when the planning authority deems it appropriate due to a potential impact on daylight to an existing dwelling.” Without having detailed figures available to me in respect of any “new” perpendicular angles which would be created if an Adam Lounge extension were to proceed in line with presently published elevation plans, it would appear to me from the drawings which are presently available online that these angles might well be clearly outwith nationally and locally acceptable parameters.

(c) From a quick review of those examples of national standards and practice presently made available online, it would appear that very many local authorities across Scotland and the U.K. consider “daylight” and “sunlight” quite separately when assessing developmental impact. Although I am not entirely certain where exactly within Aberdeen City Council planning guidelines this important point is considered, I can only provide the key information that there will be virtually no “sunlight” whatsoever provided to my flat if this development were to proceed.

(d) Appendix D of Aberdeen City Council’s “Householder Development Guide, Supplementary Guidance” deals with the matter of “privacy” and entitlements in that direction where new developments are being considered. That document states on Pg. 35, “it is common practice for new-build residential development to ensure a separation distance of 18m between windows where dwellings would be directly opposite each other.” According to the scale drawing of the proposed development presently available online, the distance between the new Adam Lounge extension proposed and my living room and bedroom windows may be below this clearly-stated threshold.

(e) There is also reference within Aberdeen City Council’s “Householder Development Guide, Supplementary Guidance” to the concept of “good neighbours” in planning terms. This guidance document states on Pg. 31 that “the 25° method and associated guidelines can only reasonably be applied when buildings are “good neighbours” (“standing a reasonable distance from the boundary and taking only their fair share of light”).” Although the neighbouring public house can presently be considered as a “good neighbour” in the above terms, the proposed extension could not be considered in a similar way since the current suggestion is that it will be built immediately adjacent to the very edge of the boundary between The Adam Lounge and the grounds of our mutually-owned tenement property.

I look forward to hearing from Aberdeen City Council in due course. I have sent the present letter via both traditional post and email in order to ensure that it reaches all relevant planning colleagues timeously. I have also provided copies of this letter to all elected members who represent the electoral ward which includes The Adam Lounge and 10 Hollybank Place at the present time. I do this since I believe that Planning Application Ref. No. 130190 runs contrary to a number of current Aberdeen City Council “first principles” in planning and energy efficiency terms.

Yours Sincerely,

Anne Baxter

From: Eoin Ca [REDACTED]
To: <pi@aberdeencity.gov.uk>
Date: 20/02/2013 18:40
Subject: Planning Application Number 130190 - Re-development of Adam's Lounge

Dear Sir/Madam,

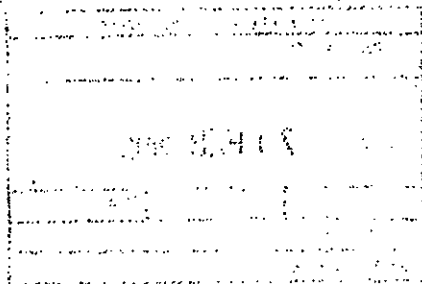
We have received notice of the application for the re-development of the 7 Howburn Street, Aberdeen. We own a flat in 10 Hollybank Place, we would like to lodge our objection to this planning application on the grounds that:

It will reduce the light into our garden and building
The serviced apartments will overlook our back garden
The new development will further increase the pressure on the already limited number of parking spaces available for residents
There will be an increase in the amount of rubbish in the available bins that are already frequently overflowing

Please advise if this email formally lodges our objection to the planning application or if there is another form that we should complete.

Kind regards,
Eoin Carroll

Flat 1M
10 Hollybank Place
Aberdeen
AB11 6XS
Tel: [REDACTED]



From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 10/03/2013 07:01
Subject: Planning Comment for 130190

Comment for Planning Application 130190
Name : Nathan Buksh
Address : 21 Howburn Place (Owner of flat 2R, 10 Hollybank Place)

Telephone :
Email : [REDACTED]
type :

Comment : Please accept this as an objection to the proposed development at 7 Howburn Place, Aberdeen, AB11 6XT. Material Planning Considerations that are relevant to this proposal are as follows:

- Impact on amenity (e.g. noise, odour, overlooking/loss of privacy, daylight issues). The proposal will effectively shut out all the light to the shared communal garden that is used by all owners/tenants.
- Impact on access, parking or road safety; Lack of parking in the area is already an issue and this will contribute further and may cause more drivers to park hazardously on double yellow lines creating road safety issues.

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Agenda Item 2.2

64 BRIDGE STREET, ABERDEEN

CHANGE OF USE OF LICENSED GAMING
MACHINE CENTRE TO LICENSED
RESTAURANT WITH TAKE-AWAY FACILITY

For: Grampian Leisure Group, Mr John Dawson

Application Type : Detailed Planning Permission

Application Ref. : P130246

Application Date: 26/02/2013

Officer: Sally Wood

Ward : Torry/Ferryhill (Y Allan/A Donnelly/J
Kiddie/G Dickson)

Advert : Section 34 -Proj. Pub.
Concern

Advertised on: 20/03/2013

Committee Date: 16 May 2013

Community Council : No response received



RECOMMENDATION:

Approve subject to conditions.

DESCRIPTION

The building fronts onto College Street and sits at the top of Guild Street. It is five storeys in height and has granite stone walls. At the first floor level is a Tandoori restaurant. There are other commercial uses within the building.

This proposal relates to the ground floor and basement level. The last known use was as an amusements arcade. The unit has an existing shop front, and fitted roller shutters.

RELEVANT HISTORY

Applicable to the planning unit

89/1842 Change of use of a ground floor retail unit to a pool hall and amusement centre. Approved subject to conditions, 21.12.1989.

Applicable to other units within Bridge House relevant to the assessment of this application.

90/0405 Change of use of first and second floors of shop to form restaurant. Granted subject to conditions, 07.06.1990.

90/1675 Change of use of first floor shop of bridge house to form a restaurant. Approved subject to conditions, 25.10.1990.

90/1676 Change of use of second floor shop of bridge house to form a restaurant. Approved subject to conditions, 25.10.1990.

120615 - Proposed change of use and alterations on first floor from office to form 7 no flats. The address is 27 Crown Terrace, however it affects what would be the fourth floor on the Bridge Street elevation. The application was refused by Committee, contrary to officer recommendation. The application is subsequently subject to an appeal.

PROPOSAL

The proposal is for a change of use from an amusement arcade (*sui generis*) to restaurant (Class 3). There would be no external alterations proposed, apart from a grille fitted to the external wall within the rear courtyard. Ventilation and cooking filtration would be dealt with by an internal system.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130246>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because the application was advertised as a Section 34 (Project of Public Concern) under Development Management Procedure Regulations 2008 – Schedule 3. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Project Team – commented, no observations.

Environmental Health – No objections, subject to conditions. Satisfied that the proposed ventilation system will, if effectively implemented, satisfy any potential odour nuisance concerns.

Enterprise, Planning & Infrastructure (Flooding) - commented, no observations.

REPRESENTATIONS

Two number of letters of representation have been received. The letters raised relate to the following matters –

1. Documented issues currently include overflowing grease traps and vermin.
2. Restaurant would generate additional deliveries than the existing use, which could block access to the car park or fire escapes; which would have a subsequent impact on existing businesses.
3. Vehicles reversing and entering the pend would be a road safety issue.
4. Dangerous road junction – road and pedestrian safety (particularly customers who may be under the influence of alcohol).
5. Request a condition applied in the event of approval which would prevent loading/unloading within the pend.
6. object to a take-away facility within restaurant
7. Litter

PLANNING POLICY

National Policy and Guidance

The policy seeks to promote appropriate development, particularly within existing settlements. It seeks high quality development that is sympathetic to its setting and takes into consideration amenity.

Aberdeen City and Shire Structure Plan

Provides a spatial strategy for development, to ensure the right development in the right place to achieve sustainable economic growth which is of high quality and protects valued resources and assets, including built and natural environment, which is easily accessible

Aberdeen Local Development Plan

Policy T2 Managing the Transport Impact of Development – new development will need to demonstrate that sufficient measures have been taken to minimise the traffic generated.

Policy D1 Architecture and Placemaking – ensures that high standards of design are achieved through a number of considerations, including context, to ensure that the setting of the proposed development and its design is acceptable.

Policy D3 Sustainable Active Travel – new development shall be designed to minimise private car travel. Promote healthy modes of travel. Ensure permeability and connection to existing development and environment.

Policy H2 Mixed Use Areas – applications for changes of use must take into account the existing uses and character of the surrounding area, and avoid undue conflict with adjacent land uses and amenity.

Policy RT1 Sequential Approach and Retail Impact – all development appropriate to a town centre should be located in accordance with the hierarchy and sequential approach as set out in the policy, and supplementary guidance.

Supplementary Guidance

- Harmony of Uses – residential and other developments within the city (compatibility of residential and non-residential use mix)

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Statement regards to the Adopted Local Development Plan (2012)

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend... Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

Principle of the development.

The site lies within an area identified as mixed use within the Local Development Plan. There are existing restaurant and take-away facilities within the locality. In principle there are no objections to the use so long as it would not have an unacceptable impact on residential amenity and road safety, and is of an acceptable design.

Design

There are no discernable changes to the exterior of the building. A grill is proposed for the rear elevation to enable the discharge of air, which would be located within the exterior courtyard, away from public frontages. There are therefore no design concerns.

Residential Amenity

Environmental Health has commented on the application. It is satisfied that the proposed Trion electrostatic precipitator air purification system will be able to cope with any odour arising in a suitable method. Environmental Health recommends a condition that asks that it is regularly maintained.

In addition Environmental Health request that a noise assessment is undertaken to address the potential of noise arising to the residents living in the upper floors (second floor and above). At first floor it is noted that there is already a restaurant. It is considered that the noise assessment should be supported by any measures needed to mitigate against any noise disturbance that may arise.

Environmental Health recommends a condition that the take-away element is restricted to the existing restaurant opening hours, to minimise disturbance to residents due to people entering and exiting the premises.

All of the above are reasonable requests to mitigate against the potential for noise in the interests of residential amenity.

Environmental Health have requested that the hours of operation of the take-away element are restricted to the hours of the restaurant use. Details of the proposed hours of the restaurant use have not been submitted for consideration, but Environmental Health has advised that without a late hours catering licence the premises could not operate beyond 11:00pm. The late hours catering licence would consider residential amenity concerns amongst others. As there is a mechanism already in place it is considered that limiting the restaurant opening hours is not necessary. However, as the licence may not include the take-away element it is considered appropriate to limit the hours of the take-away use to tie

in with the opening hours of the restaurant to protect residential amenity concerns in relation to noise and disturbance within the area.

Environmental Health has requested a condition to restrict the hours of deliveries and uplifts between 7:00 am and 19:00 Monday-Saturday, and 10:00am till 16:00 Sundays. It is not considered that the Planning Service can control the hours of delivery to the take-away. It would be difficult to enforce. The Planning Service could not prevent vehicles from parking close by waiting to deliver which could be a nuisance in itself. Given the mixed uses within the building, and that there is a restaurant already at first floor, it is considered that there is a sufficient buffer between the residential uses and the planning unit.

Finally in terms of residential amenity, Environmental Health has requested a condition be imposed to control the timing of the works relating to the change of use. This is not considered reasonable or enforceable, and therefore it is recommended that such a condition is not imposed. Environmental Health has its own powers to investigate such noisy operations that may arise. It is considered that the works would not be significant, and would take a relatively short period of time to complete. It is therefore considered unjustifiable to impose such a condition.

Road Safety

The Roads Project Team have raised no objections to the proposal. It is therefore considered that the proposal would not cause any concerns in terms of road safety. The letters of representation have raised some concerns about pedestrian safety, vehicles, and deliveries, and these are responded to below.

Other

Environmental Health have requested the provision of litter bins within the immediate area outside the premises

Environmental Health has requested details of the refuse area, which is a reasonable condition to ensure adequate provision. The refuse area would be to the rear of the site. Environmental Health has requested that the refuse area is suitably gullied and provided with a wash-down facility. It requests that any refuse generated is stored within this facility until the time of uplift, however this element is not enforceable and therefore an informative advising the applicant of this will be applied.

The two letters received raised a number of considerations.

The current issue regarding the overflowing of grease traps and vermin cannot be a reason to refuse this current application. There are controls which Environmental Health can exercise to overcome such concerns. It is not reasonable to consider that all occupants or owners of a business would operate in a similar manner. It is therefore considered unreasonable to refuse permission on this basis.

The comments with regards to the restaurant generating additional deliveries than the existing use, which could block access to the car park or fire escapes; which would have a subsequent impact on existing businesses; and the possible reversing of vehicles and entering the pend would be a road safety issue. It is noted that the Roads Project Team have not objected to the proposal. The application site does not include the pend. The use of the pend for deliveries or parking is not a matter that the Planning Authority can control, as it is privately owned. It is noted that the application form states that there is no existing parking, and none proposed.

Dangerous road junction – road and pedestrian safety (particularly customers who may be under the influence of alcohol). The existing lawful use is an amusement arcade, which most people would access by foot. The use as a restaurant would not change the existing pedestrian safety. The use is for a restaurant not a public house, and many are licensed premises. It is unreasonable to refuse a planning application on the basis that people may be under the influence of alcohol and may be involved in an accident. There is a footpath outside the premises, which are part of a network of footpaths which people can use to gain safe crossings.

A request was made within the representations for the imposition of a condition should permission be granted which would prevent loading/unloading within the pend. The Planning Authority cannot control the use of the pend as a result of this application. It is noted that the Roads Project Team have not objected to the proposal.

Object to a take-away facility within the restaurant. This comment appears to relate to pedestrian safe access, which is addressed above, and litter.

Litter – the application is for a restaurant and take-away. It is noted that there is a bin adjacent to the footpath within 25 metres of the site for use.

It is judged that the proposal would not, subject to conditions, cause harm to residential amenity, it is therefore considered that the proposal complied with policy H2 of the Local Development Plan. There are minimal design changes, primarily relating to the need for a new ventilation grill which would be placed on the rear elevation, it is therefore considered that the proposal is not in conflict with policy D1. Details of the bin storage area will ensure that the area is suitably screened as may be necessary.

The site is within the city centre, and it is considered will not generate significant traffic than the lawful use as an amusement arcade. Thus the proposal is not in conflict with policy T2. Given that the site is within the city centre it is considered that the proposal is in a sustainable location, where travel can be achieved through a variety of modes, other than just the private car. The proposal is therefore judged to be acceptable against policy D3.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

The proposal is considered to comply with Aberdeen Local Development Plan Policy H2 (Mixed Use Areas) as the proposal would not have an adverse impact on residential amenity, subject to the satisfaction of the conditions imposed.

The external alterations to the building include a refuse storage area and a ventilation grill, full details to be secured by condition, which would be located within the rear courtyard. It is judged that the proposal, subject to securing these details, would not be in conflict with Planning Policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan.

The site is located within the City Centre where a range of modes of travel can be undertaken, the proposal is therefore judged to comply with Planning Policies T2 (Managing the Transport Impact of Development) and D3 (Managing the Transport Impact of Development) of the Aberdeen Local Development Plan.

It is recommended that approval is granted subject to the following conditions.

(1.) The development hereby approved shall not be brought into use until the extraction system detailed in the planning application has been fully installed in accordance with details that shall be first submitted to and approved in writing by the Planning Authority. – To ensure that adequate filtering, extraction and dispersing of cooking fumes is achieved in the interests of residential amenity.

(2.) Prior to the commencement of development a noise assessment shall be undertaken, carried out by a suitably qualified noise consultant, and be submitted to and approved in writing by the Planning Authority. The noise assessment shall address the potential for the premises to cause noise disturbance to residents living in the upper floor flats within the building and to the occupier of the restaurant directly above the application premises, and the measures to prevent such disturbance.

The noise assessment shall:

- i). Be in accordance with Planning Advice Note 1/2011 Planning & Noise and its accompanying Technical Advice Note.
- ii). Identify the likely sources of noise; and
- iii). Indicate the measures to reasonably protect the amenity of nearby residents of the development from all such sources of noise that have been identified.

Thereafter, the approved mitigation measures shall be implemented in full prior to the development being first brought into use. – In the interests of residential amenity.

(3.) The development shall not be brought into use until the bin refuse area has been provided in full in accordance with details that shall be first submitted to and approved in writing by the Planning Authority. The refuse area shall thereafter be retained at all times for such use. For the avoidance of doubt the refuse area shall be suitably gullied and have a wash-down facility – In the interests of residential amenity and visual amenity.

(4.) The take-away element of the proposal hereby approved shall not operate outwith the opening hours of the restaurant hereby approved. - To prevent the potential for noise nuisance to occur from customers visiting and leaving the premises and/or groups congregating outside the premises late at night, in the interests of residential amenity.

INFORMATIVE

(1.) All commercial refuse generated by the restaurant and take-away use when stored outside should be stored within the bulk refuse area until the time of uplift to enable careful handling of and disposal of waste, and not in other external locations.

Dr Margaret Bochel

Head of Planning and Sustainable Development.

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Hard copy
Duplicate

Aberdeen City Council

Planning Dept

Marischal College

Broad St

Aberdeen AB10 1 AB

20 Mar. 13

Dear sirs

Application number 130246 - 64 Bridge St, Aberdeen

As a neighbouring business to the subject of the above planning application (at the above address) I write to object to the specific proposal to include a take-away facility in the proposed licensed restaurant. While I have no objection to the proposed change of use to a licensed restaurant, I believe that this location would not be suitable for a take-away facility for the following reasons:

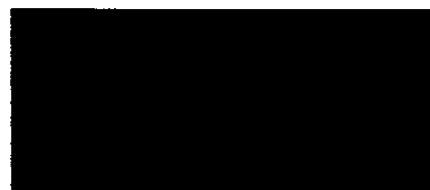
1 – Potential for litter and damage to the surrounding premises. Adjacent to the locus is the entrance to a car park/pend located between 58/62 Bridge Street. Access is available during office hours, during non-office hours this is secured with a locked wooden gate however there is a significant gap between the top of the gate and the ceiling, which I suspect would be a target for debris to be thrown into the pend. While the tenants make every effort to secure the car park, on occasions where it has previously been left open we have actually had to chase individuals out of the area.

2 – Dangerous road junction. Although railings are in use at the roadside, there is a gap at the location to allow exit and entry of cars to the car park mentioned above. The railway station and bus station can be accessed by crossing South College Street at this location, although there is no recognised crossing point and some difficulty would be encountered at the East side of the junction. I am concerned that users of the take-away facility could be under the influence of alcohol and at some risk if crossing the road at this point. Cars proceed northbound towards those traffic lights on South College Street proceeding onto Bridge St at speeds often appearing to be in excess of the 30 mph limit, and from the break in the railings it can be hard to determine if there is a break in the traffic.

I would reiterate that ATPI has no objection to the proposed conversion to a licensed restaurant but feel for the reasons above that the provision of a take-away facility should not be allowed.

Yours sincerely

Gary Hance, Director, Advanced Travel Partners (UK) Ltd.



solutions

IT solutions for business

02/04/2013

Our Ref: KC/GL/01

Aberdeen City Council Planning Department
Marischal College
Broad Street
Aberdeen
AB10 1AB

For the attention of the Planning Officer

Dear Sirs,

Comments in relation to Objection to application- P130246

We would like to comment on the above application. Over the last 2-3 weeks we have discussed the application with John Dawson of Grampian Leisure. Having had an excellent commercial neighbour relationship with him and his business for a number of years, we are confident that we can manage the issues laid out below together with him whilst he is still the owner. However, we have to consider our position should the restaurant be leased out or sold on to someone who does not have the same ethics.

Given the significant problems we have had with the other adjoining restaurants in the same building as the applicant and them steadfastly refusing to accept responsibility for environmental problems they have created in the Pend access from Bridge Street to our car park and fire escapes, we feel that we have no option but to place an objection to ensure that any future owner/lessee is compelled to deal with any of the issues.

We have a number of well documented episodes which have been logged with Andy Lamb of the Environmental Health department which include overflowing grease traps causing fat to saturate the entire area and even flow out onto the main street, vermin control problems and the lack of response or action from any of the three restaurants located in the building (being the Nazma, Saigon and Royal Thai). Grampian Leisure, ourselves and our other neighbour ATPi are the only people to deal with these problems even though we have not caused them.

The issues with the change of use we have are as follows:

Vans and Lorries potentially using the Pend to load

A restaurant has significantly more daily deliveries than the current use and our concern is that we will not be able to access our car park or egress from our fire escapes if loading is permitted. Neither ourselves nor ATPi allow daily delivery drivers to use the pend as it would cause significant inconvenience to the car park users who would have to circle the block or wait for vans to be unloaded before being able to exit the car park. This has a commercial impact to those in the car park.

More significantly, it is an extremely dangerous and fast blind bend exit onto the Bridge Street/South College St junction and vans cannot 3 point turn in the pend. Consequently they would have to reverse in across the junction or reverse out blind onto it. I cannot stress how dangerous this would be.

If we can obtain an agreement that regular, daily loading would not be permitted in the pend from the current and, more importantly, from any future owners we would be much more comfortable. We believe that this would require all of the neighbours to agree and, given the problems with the other restaurants, this may not be achievable or prohibitively expensive.

developing ***your*** business

Solutions (Aberdeen) Ltd., Bridge House, 56-58 Bridge Street, Aberdeen AB11 6JN

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IT solutions for business

Bins, Cleanliness and Vermin Control

Again, John has given us assurances as to the location of the bins and their control and we are comfortable that, under his control, we won't have an issues as he proposes to keep them in a designated area against the wall between the two side doors of the building.

Our concern, again, is that if Grampian Leisure sell the premises or lease it, then the new owner or lessee will not be compelled to keep the bins in the designated area or keep vermin and sanitation under control. If the bins are not kept within this area, it makes exiting and entering our car park extremely difficult.

We have experienced many issues with bins and refuse disposal from the existing 3 restaurants at the rear entrance to our building on Crown Terrace and, again, nobody (including the Environmental Health Department) seem to be able to deal with effectively.

We do not want to stop the vacant building being put to a suitable use and we are confident that we can work with the current owners to manage any problems but would like these issues considered during the planning process and dealt with effectively as a condition of consent to safeguard our position in future should there be any problems or ownership changes.

Should you require clarification or additional information, please don't hesitate to come back to me with any questions and I'll be delighted to help.

Yours Faithfully

Kevin Coll
Managing Director

developing **your** business

Solutions (Aberdeen) Ltd., Bridge House, 56-58 Bridge Street, Aberdeen AB11 6JN

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Agenda Item 2.3

ALBURY OUTDOOR SPORTS CENTRE,
ALBURY ROAD, ABERDEEN

ALTERATIONS AND EXTENSION OF EXISTING
TENNIS COURTS, ERECTION OF
FLOODLIGHTS AND REPLACEMENT FENCING

For: Nigel Spencer (Inspire)

Application Type : Detailed Planning Permission

Application Ref. : P130268

Application Date: 28/02/2013

Officer: Sally Wood

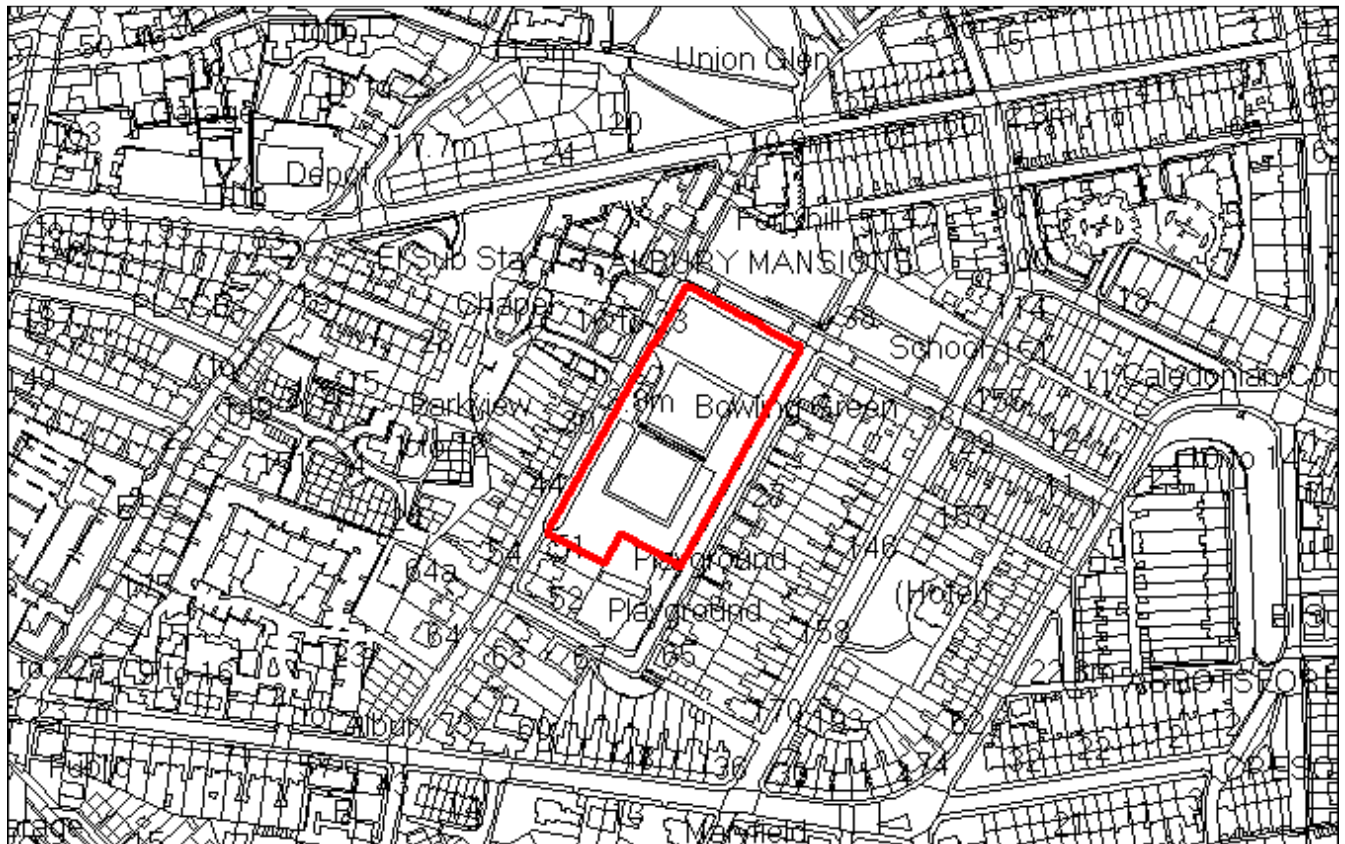
Ward :

Advert : Section 60/65 - Dev aff
LB/CA

Advertised on: 20/03/2013

Committee Date: 16 May 2013

Community Council : No response
received



RECOMMENDATION:

Approve subject to conditions

DESCRIPTION

The site is located some 90 metres south of the Ferryhill Community Centre, and is located between Albury Road, Caledonian Place and Albury Place. The site currently provides a sporting facility, including tennis courts and bowling greens.

The area of the tennis courts, which the proposed development relates to, is surrounded by a high metal fence. Located between the high fence and the road on the western and northern sides is a hedge, with a metal railing fence. On the eastern side are mature conifer trees, and other plants and shrubs.

To the west and north are residential properties, which overlook the site.

RELEVANT HISTORY

None.

PROPOSAL

The planning application relates to the tennis courts, and it is proposed to refurbish them to provide enhanced facilities. There are currently five painted courts, but it is understood that they do not meet the required standards of the Lawn Tennis Association (LTA). The proposal is to extend the existing surface which the courts occupy by 2.66 metres to the north-west, to provide four courts at the required specification, and two mini courts.

The existing surface will be repaired. The retaining walls to the north and south-east will be repaired or replaced to match the existing height depending on condition. The high metal fence which surrounds the court will be replaced with a three metre high fence, in the same location as the existing. It should be noted that the hedge and metal railings will be retained.

Finally, floodlighting will be proposed for the four new courts, which will be designed for individual switches, with an over-ride system which ensures that they are not left on accidentally beyond the curfew. Floodlights would be located on eight metre high columns, of which ten columns are proposed. The three middle columns in each row would have two lights attached.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130268>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

- Design statement

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because the Council owns the application site. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Project Team – commented that there will be an additional parking demand, and request details of proposals for parking.

Environmental Health - no comments received.

Enterprise, Planning & Infrastructure (Flooding) - comments, no observations.

REPRESENTATIONS

Two number of letters of representation have been received. The points raised relate to the following matters –

1. Impact of floodlighting – brightness, number of, location, times of operation.

However, one letter of representation was subsequently withdrawn on receipt of further clarification of the lighting details; and the other advised support of the proposal on receipt of further information.

PLANNING POLICY

National Policy and Guidance

The policy seeks to promote appropriate development, particularly within existing settlements. It seeks high quality development that is sympathetic to its setting and takes into consideration amenity.

Paragraph 149 states access to good quality open spaces and opportunities for sport and recreation make important contributions to a healthier Scotland.

Aberdeen City and Shire Structure Plan

Provides a spatial strategy for development, to ensure the right development in the right place to achieve sustainable economic growth which is of high quality and protects valued resources and assets, including built and natural environment, which is easily accessible

Aberdeen Local Development Plan

Policy D1 Architecture and Placemaking – ensures that high standards of design are achieved through a number of considerations, including context, to ensure that the setting of the proposed development and its design is acceptable.

Policy D2 Design and Amenity – outlines a number of considerations which shall be taken into account when assessing a planning application in the interests of amenity considerations, mainly relating to residential.

Policy D3 Sustainable Active Travel – new development shall be designed to minimise private car travel. Promote healthy modes of travel. Ensure permeability and connection to existing development and environment.

Policy D5 Built Heritage – proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy.

Policy D6 Landscape – development is not acceptable unless it avoids, (i) significant adverse impact on landscape character and elements that contribute to ‘sense of place’; (ii) obstruction of important views of the City’s townscape, landmarks and features when seen from important public vantage points; (iii) the disturbance loss or damage to important recreational resources; (iv) sprawling onto important or necessary green spaces.

Policy H1 Residential Areas – within existing residential areas proposed non-residential development will be refused unless it is considered complementary to residential use or it can be demonstrated that the use would not conflict with residential amenity.

Policy NE1 Green Space Network – the Council will protect, promote and enhance the wildlife, recreational, landscape and access value of the Green Space Network. Proposals for development that are likely to destroy or erode the character or function of the Green Space Network will not be permitted.

Policy NE5 Trees and Woodlands – appropriate measures should be taken for the protection and long terms management of existing trees and new planting both during and after construction. Buildings and services should be sited so as to minimise adverse impacts on existing and future trees and tree cover.

Supplementary Guidance

- Harmony of Uses – residential and other developments within the city (compatibility of residential and non-residential use mix)
- Landscape Guidelines
- Transport and Accessibility

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and/or enhance the character or appearance of conservation areas

Statement regards to the Adopted Local Development Plan (2012)

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend...Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

Principle of the development.

The proposed development will be contained within the existing tennis court facilities. There is no change of use. The proposal involves a physical extension to the surface of the courts, with associated improvements, including the provision of floodlights. On the basis that the recreational facilities are retained, it is considered that in principle the development complies with planning policy NE1 of the Local Development Plan- Green Space Network. The application is considered acceptable in principle subject to considerations of design, impact on Conservation Area, residential amenity, road safety, and impact on trees.

Design

The extension of the existing court surface by 2.66 metres will have little visual impact in design terms within the area.

The wire fence will be replaced with new fencing, and be of a similar height. Visually there would be little change.

A new wall proposed to the north-west will be 0.7 metres above ground level. Planning permission is not required for a wall less than 1.0 metre in height, unless there are any previous conditions relating to planning permissions preventing so. The Planning Authority therefore has no control over this element of the works; however, it is considered that visually it would be acceptable, as it would be screened by railings and a hedge.

Given the comments noted above it is judged that the proposal would not affect the character of the Conservation Area, as they are minor in nature.

The floodlighting columns will be designed to illuminate the courts. There would be ten columns in total, which would be of galvanised steel. The poles have not to dissimilar an appearance to lighting columns, of which there are a number of within the area. On that basis, in design terms, it is considered that they are acceptable.

As a result of the proposed development encroaching to the north-west there is a consideration on the impact of adjacent trees and hedge. This is dealt with under the title heading – Other, within this report.

The proposal is judged to comply with planning Policy D1 as the proposed development is considered to be appropriate to its setting, and to comply with Policy D5 as the proposal complies with Scottish Planning Policy in terms of impact on the character and appearance of the Conservation Area.

Residential Amenity

The physical alterations are considered minor in nature, and therefore should not have an adverse impact on occupiers of the adjacent residential properties.

The proposed floodlighting columns would not have an adverse impact, but there is a consideration in terms of the impact of the lighting itself. The supporting information advised that the lights would be switched off at curfew. The applicant has advised that curfew is 10pm at night. Consideration has to be given to light spillage and impact on residential amenity arising from light.

The application is accompanied with details of the lighting. It shows that there will be a total of ten columns, laid out in two rows of five, with the middle three columns in each row having a total of two floodlights.

The accompanying information shows data on the level of illumination which would result from the development, and its impact on the adjacent residential properties. The information shows that the lighting would not have an adverse impact to residential properties through light spill. The application states that there will be over-ride switched which will automatically turn off the lights at curfew.

No conditions currently control the hours of operation, however its use would be controlled by the availability of light. The impact of light spill within this predominantly residential area is a concern. It is proposed to condition that the lights are not in operation beyond 9pm in the evening, to ensure that they are switched off. This is one hour earlier than the applicant wishes. The imposition of this condition has been carefully considered. It is recognised that the location is within a residential area where floodlighting potentially can cause a significant adverse impact on residential amenity, particularly to bedrooms. The floodlights could potentially cause light spill and artificial light within the area, particularly during the winter months. A 9pm curfew is therefore considered appropriate for such a location, and would enable monitoring of the situation. Should the applicant at a later date seek to review the time of the curfew, it could make a further application for consideration in the future, though it would be advisable that this was no less than 12 months after operation.

The proposal is considered to comply with planning policy D2 Design and Amenity, subject to conditions including 9pm switch off of the lights, as it should have not adverse impact on residential amenity, and therefore also complies with planning policy H1 Residential Areas.

Road Safety

The application is for a minor extension to existing tennis court facilities. It should not have an adverse impact on road safety, and should not generate additional traffic. It is noted that the facility is located within a sustainable location, and relates to an existing use. The proposal is therefore considered to not be in conflict with planning policy D3 Sustainable Active Travel.

The Roads Project Team judge that the proposal would create additional traffic, and therefore requests additional information on the provision of car parking. However, it is noted that the proposal would result in one extra mini-court being provided. Currently there are five large courts; the proposal would result in four large courts and two mini-courts. It is therefore considered that the proposal would not generate any significant change considering the existing courts.

Other

The application states that the proposal will require the removal of a tree, however, it appears that this has already been removed. It is considered appropriate to apply a condition which seeks landscaping details for a replacement tree, as it was removed to necessitate the development, and the site lies within a Conservation Area. Furthermore, it is judged that the proposal would not have an adverse impact on the existing hedge. However, to ensure that it is protected during the construction phase, it is proposed to apply a condition for fencing for the duration of the works.

Conditions requiring additional tree planting and the protection of the hedge, should ensure that the development would not have an adverse impact on the natural features within the site, which serves to assist in absorbing the development within the locality, and is a feature within the Conservation Area.

The proposal is therefore considered to comply with Planning Policies D6 Landscape and NE5 Trees and Woodlands.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

The proposed development would ensure continuance of a sporting facility by providing enhanced facilities. The proposal is therefore considered to comply with planning policies NE1 (Green Space Network) of the Local Development Plan. The changes to the courts are considered minor in scale. The proposal for floodlights has been designed such that they would not have an adverse impact on neighbouring properties, subject to a condition requiring that they be switched off no later than 9pm to protect residential amenity.

The proposal is considered to not have an adverse impact on residential impact and would preserve the character of the Conservation Area. The application therefore complies with Scottish Planning Policy, and Planning Policies D1 (Architecture and Placemaking); D2 (Design and Amenity), D5 (Built Heritage); D6 (Landscape); and H1 (Residential Areas). Subject to condition requiring protection of the hedge and a landscaping condition, the proposal is considered to comply with Planning Policy NE5 (Trees and Woodlands).

It is recommended that approval is granted subject to the following conditions.

(1) Notwithstanding the details submitted, the ten floodlights hereby approved shall be switched off no later than 21:00 every day and shall not be switched on before 8:00am the following day. – To protect the residential amenity of the neighbouring occupants.

(2) No development shall take place unless a scheme for the protection of the hedge on site during construction works has been submitted to, and approved in writing by, the Planning Authority and any such scheme as may have been approved has been implemented for the duration of the construction phase. - In order to ensure adequate protection for the hedge on site during the construction of the development.

(3) No development shall take place until details of two trees to be planted have been submitted to and agreed in writing by the Planning Authority. These trees are to be planted at half-standard size or larger. Planting shall take place in the first planting season after completion of the tennis courts and floodlight installation and any trees which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Planning Authority gives written consent to any variation. - To mitigate against the loss of the tree to accommodate this proposal, to protect the character and amenity of the Conservation Area.

Dr Margaret Bochel

Head of Planning and Sustainable Development.

Agenda Item 2.4

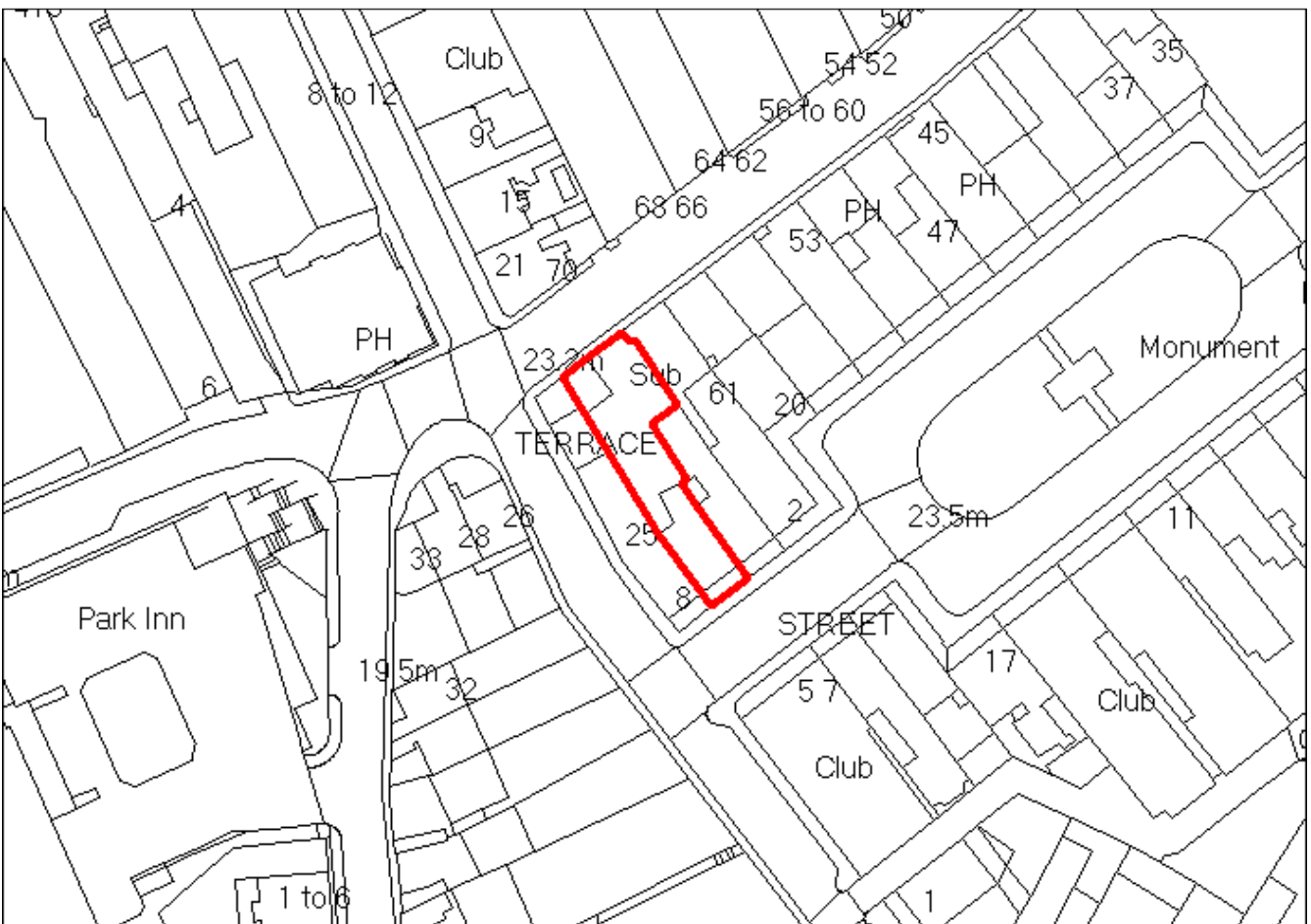
6 WEST CRAIBSTONE STREET, ABERDEEN

CHANGE OF USE FROM CLASS 4 (OFFICES)
TO CLASS 2 (CLINIC)

For: Temple Medical Aesthetics Ltd

Application Type : Detailed Planning Permission
Application Ref: P130312
Application Date: 07/03/2013
Officer: Sally Wood
Ward : Torry/Ferryhill (Y Allan/A Donnelly/J
Kiddie/G Dickson)

Advert :
Advertised on:
Committee Date: 16 May 2013
Community Council : No response received



RECOMMENDATION:

Approve subject to conditions

DESCRIPTION

The application site consists of a building with an area of hardstanding to the (rear) south of the building.

The building is two storeys in height, with a basement and attic floor. The application relates to all four levels of the building. The building is terraced, being located within a row of four premises in total. The building has granite walls with a natural slate roof.

The area of hardstanding to the rear has been used as car parking, with vehicular access from Justice Mill Lane.

The building is currently vacant, but its last use is known to be an office (Class 4). The site lies within the Bon Accord Crescent/Crown Street Conservation Area. The building is also a B category Listed Building.

RELEVANT HISTORY

None.

It should be noted however, that there is a current pending application for Listed Building Consent (reference P130313) for internal works to provide the clinic which relates to this planning application.

PROPOSAL

The application seeks planning permission for a change of use from office (Class 4) to a clinic (Class 2). No external alterations are proposed as part of this application. Any ventilation will use existing pipes.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130312>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because there are more than five letters of representation which have been received. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Project Team – no objections, seeks a minimum of 2 long stay cycle stands provided in a secure lockable compound. Details of showering and changing facilities for the use of staff should be provided.

Environmental Health – comments, no observations.

Enterprise, Planning & Infrastructure (Flooding) – comments, no observations.

REPRESENTATIONS

6 number of letters of representation/objection/support have been received. The objections raised relate to the following matters –

1. Building is not suitable for use as a clinic;
2. The location is not suitable for use as a clinic;
3. The building, in particular the stairs and corridor, is not suitable for disabled persons;
4. The building does not comply with Government guidelines for disabled facilities in commercial buildings. Major changes would need to be made, and the building is listed;
5. Staff will be burdened to move people within the building;
6. Fire escape issues for persons disabled, aged or overweight;
7. If approved, mechanical help to overcome stairs, and sizeable rooms to allow grab bars and rails should be provided to allow people to move within the building;
8. Additional pressure on street parking, which is already insufficient;
9. The area should remain a mix of offices and residential;
10. Set an undesirable precedent.

PLANNING POLICY

National Policy and Guidance

Scottish Planning Policy (SPP): The policy seeks to promote appropriate development, particularly within existing settlements. It seeks high quality development that is sympathetic to its setting and takes into consideration amenity.

Aberdeen City and Shire Structure Plan

Provides a spatial strategy for development, to ensure the right development in the right place to achieve sustainable economic growth which is of high quality and protects valued resources and assets, including built and natural environment, which is easily accessible.

Aberdeen Local Development Plan

Policy D1 Architecture and Placemaking – To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting.

Policy D3 Sustainable Active Travel – new development shall be designed to minimise private car travel. Promote healthy modes of travel. Ensure permeability and connection to existing development and environment.

Policy D5 Built Heritage – proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy.

Policy H2 Mixed Use Areas – applications for changes of use must take into account the existing uses and character of the surrounding area, and avoid undue conflict with adjacent land uses and amenity.

Policy T2 Managing the Transport Impact of Development – new development will need to demonstrate that sufficient measures have been taken to minimise the traffic generated.

Supplementary Guidance

- Harmony of Uses – residential and other developments within the city (compatibility of residential and non-residential use mix)

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and/or enhance the character or appearance of conservation areas

Statement regards to the Adopted Local Development Plan (2012)

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend...Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application

would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

Principle of the development.

The site lies within an area identified as mixed use within the Local Development Plan. There are existing offices and residential uses within the locality. In principle there are no objections to the use so long as it would not have an unacceptable impact on residential amenity and road safety, and is of an acceptable design (Policy H2 Mixed Use Areas – Aberdeen Local Development Plan).

In addition given that the site lies within a Conservation Area and that the building is listed, consideration needs to be given to the impact that the proposal will have on the character and/or appearance of the Conservation Area, and the setting of the listed building, these are discussed below under Design.

Design

There are no changes proposed to the exterior of the building. Ventilation for new services within the building will utilise existing external vents and pipes. As there are no external design changes, it is considered that the proposal complies with planning policy D1 (Architecture and Placemaking) of the Aberdeen Local Plan. Furthermore, the proposed change of use complies with Policy D5 (Built Heritage) as it would not change the character or appearance of the conservation area, and would not adversely affect the setting of a listed building.

It is noted that there are number of internal alterations proposed to accommodate the development, however these do not form part of the consideration of this application. A separate Listed Building Consent application is currently pending consideration for the internal alterations which affect the fabric of the listed building; this is currently being dealt with under delegated powers.

Road Safety

The Roads Project Team has not objected to the proposal. Seven car parking spaces would be provided within the site. It notes that the maximum allowable provision is seventeen parking spaces (in accordance with the Council's guidelines). The development is located within a controlled parking zone and has good access to public transportation. Although the proposed parking is significantly below the allowable maximum, given the site's accessible city centre location is it not considered that the lack of on site parking would have a significant effect on parking in the area.

As the Roads Project Team has no objections, and given the sites location which is accessible by a range of modes of travel. It is considered that the application would not have an adverse impact on parking within the area.

The Roads Project Team require of 2 long stay stands must be provided in a secure lockable compound. Showering and changing facilities for the use of staff should also be provided within the building. This can be secured by condition.

The proposal is therefore judged to comply with policies D3 (Sustainable Active Travel) and T2 (Managing the Transport Impact of Development) of the Local Development Plan.

Residential Amenity

The area is located within a Mixed Use Area as identified in the Local Development Plan. The buildings immediately adjacent are in commercial use, not residential. Furthermore, it is noted that Environmental Health has not objected to the application. It is not considered that the proposal would affect residential amenity.

Other

The representations received can be broadly broken into two distinct issues – access (disability and elderly) and parking.

It is noted under in the Road Safety section of this report that the Roads Project Team has not objected to this application, and therefore it is considered that the impact on parking would be minimal.

In relation to access, the Disability Discrimination Act 2005 imposes a duty on the owner of a building to ensure access for disabled people. Under the Building Regulations, the buildings have to be fully accessible with respect to Disability Access.

Given the existing use of the building and that it is currently accessed only by steps, given the elevated ground floor level, it is considered that the proposal would be limited in terms of accessibility by virtue of its entrance. However, whether the building is suitable for use as a clinic, and whether there are any exemptions through the Building Standards given the existing access, would be carefully considered against the Building Standards on the receipt of a warrant. Furthermore, in terms of planning, the clinic would provide a service, and there is nothing to say that the service provided would be provided with a person's home. The applicant could provide the service of a clinic within a home if it felt that this meant it did not discriminate in terms of providing a service. GP's sometimes provide such a service on the individual merits of the circumstances on a case by case basis. It is therefore considered that the granting of this application would not set a precedent. Accessibility issues in terms of disabled access would be considered at the time of the warrant application. Planning considerations should not exert control where there are other statutory controls in place. The mechanism of the Building Warrant will consider these elements. In addition concerns relating to fire escapes are also controlled by Building Standards.

As the site lies within a Mixed Use Area, and given that such a proposal would not affect residential amenity, it is considered inappropriate to refuse such an

application on the basis that the area should remain in office and residential use only.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

The proposal for the change of use is considered acceptable. There would be no detrimental impact in design terms or residential amenity, therefore the proposal accords with Scottish Planning Policy, and Policies D1 (Architecture and Placemaking) and H2 (Mixed Use Areas) of the Aberdeen Local Development Plan. Given the city centre location it is judged that the application complies with planning policy D3 (Sustainable Active Travel). No external alterations are proposed to the building it is therefore considered that the application complies with Planning Policy D5 (Built Heritage) of the Aberdeen Local Development Plan, as no adverse impact would arise on the character of the Conservation Area or the setting of a listed building as a result of this application.

It is recommended that approval is granted subject to the following conditions.

(1.) Prior to first occupation of the development hereby approved two long stay cycle stands shall be provided within a secure lockable compound in accordance with details that shall be first submitted to and approved in writing by the Planning Authority. Thereafter the cycle stands shall be retained and made available for such use at all times. – To promote alternative modes of travel.

(2.) Prior to first occupation of the development hereby approved showering and changing facilities for the use of staff shall be provided within the building in accordance with details that shall be first submitted to and approved in writing by the Planning Authority. Thereafter the showering and changing facilities shall be retained and made available for such use at all times. – To promote alternative modes of travel.

Dr Margaret Bochel

Head of Planning and Sustainable Development.

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From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 30/03/2013 15:04
Subject: Planning Comment for 130312

Comment for Planning Application 130312

Name : Katherine Middleton
Address : 150 GardnerCrescent
Aberdeen

Telephone :

Email :

type :

Comment : I have been a care worker for 15 years and do not think that this application should be approved. I object.

This type of building and location are not suitable for clinic purposes. The access is difficult and inside there will be too many stairs and corridors. These buildings are not suited to meeting the disabled regulations and if you allow this then the staff will be burdened by the physical problem of helping people with mobility issues. This not only bad for the staff but also the patients who do not like to have there independence compromised.

This is not a good idea but if you are going to do it then you need to ensure that all normal disabled facilities are provided including mechanical help to overcome stairs. You might also want to consider making rooms a decent size so that grab bars and rails can be accommodated . You also need to think about the fire escape issues as it is much more difficult to help disabled,aged or overweight people to escape.

Thank you Katherine.

From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 30/03/2013 10:17
Subject: Planning Comment for 130312

Comment for Planning Application 130312

Name : Graham Russell
Address : 95 Garthdee Drive
AB10 7HT

Telephone [REDACTED]

Email [REDACTED]

type :

Comment : i wish to object to the following application having worked in this area for several years i know the type of building well they are full of awkward staircases and i do not see how you can consider a clinic use in one of these buildings.

Clinics are full of elderly people and people with mobility issues. It would not be suitable to use this building in this manner as people would have great difficulty moving around in the premises. If you were to grant this we could end up with half a dozen clinics, none of which would be suitable for use, and i presume if granted it could be used as is, and it is currently totally unsuitable.

80 QUEENS ROAD
ABERDEEN
AB15 4YE

DEAR SIR..

6 WEST CRAIBSTONE ST

I WISH TO OBJECT TO THE ABOVE
CHANGE OF USE PROPOSAL. I CURRENTLY WORK IN
BON ACCORD SQUARE AND AT PRESENT PARKING MY
CAR IS EXTREMELY DIFFICULT. THIS DEVELOPMENT
WILL MAKE MATTERS WORSE AS MANY PEOPLE WILL
VISIT DAILY. THE AREA SHOULD REMAIN A MIXTURE
OF OFFICES AND RESIDENTIAL.

YOURS SINCERELY.

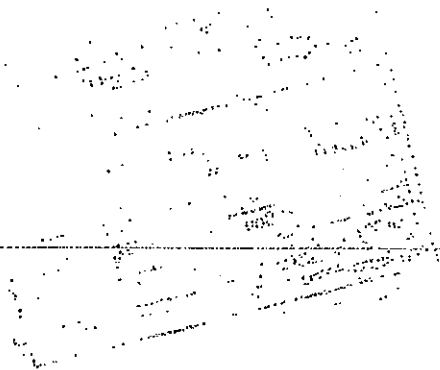


From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 27/03/2013 16:23
Subject: Planning Comment for 130312

Comment for Planning Application 130312
Name : ASHLEY BURT
Address : 12 SPRINGDALE CRESCENT
BIELDSIDE
ABERDEEN
AB159FG

Telephone: [REDACTED]
Email: [REDACTED]
type :

Comment : I WISH TO OBJECT TO THE CHANGE OF USE PROPOSED ON TH EBASIS THAT THE PROPOSED USE WOULD NOT COMPLY WITH GOVERNMENT GUIDELINES FOR DISABLED FACILITIES IN COMMERCIAL BUILDINGS UNLESS MAJOR CHANGES WERE MADE TO THE BUILDING WHICH IS CURRENTLY LISTED. I DO NOT THINK THAT IS DESIRABLE



From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 27/03/2013 16:28
Subject: Planning Comment for 130312

Comment for Planning Application 130312

Name : Suzzane Davie

Address : 2 Croftland

Pitmedden

Aberdeenshire

AB417GN

Telephone : [REDACTED]

Email : [REDACTED]

type :

Comment : I object to the proposed change of use as the conversion would generate pressure on the street parking which is already insufficient

From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 30/03/2013 10:25
Subject: Planning Comment for 130312

Comment for Planning Application 130312

Name : William Craig
Address : The Devenick
Cults
Aberdeen AB15 9NN

Telephone :

Email :

type :

Comment : I have worked in a lot of listed buildings and would like to object to the change of use application. This building is unsuitable for this business as it has too many levels. Disabled people would be unable to move around and would have great difficulty escaping in event of a fire especially from the top floor. This would set a undesirable precedent in the area.

Agenda Item 2.5

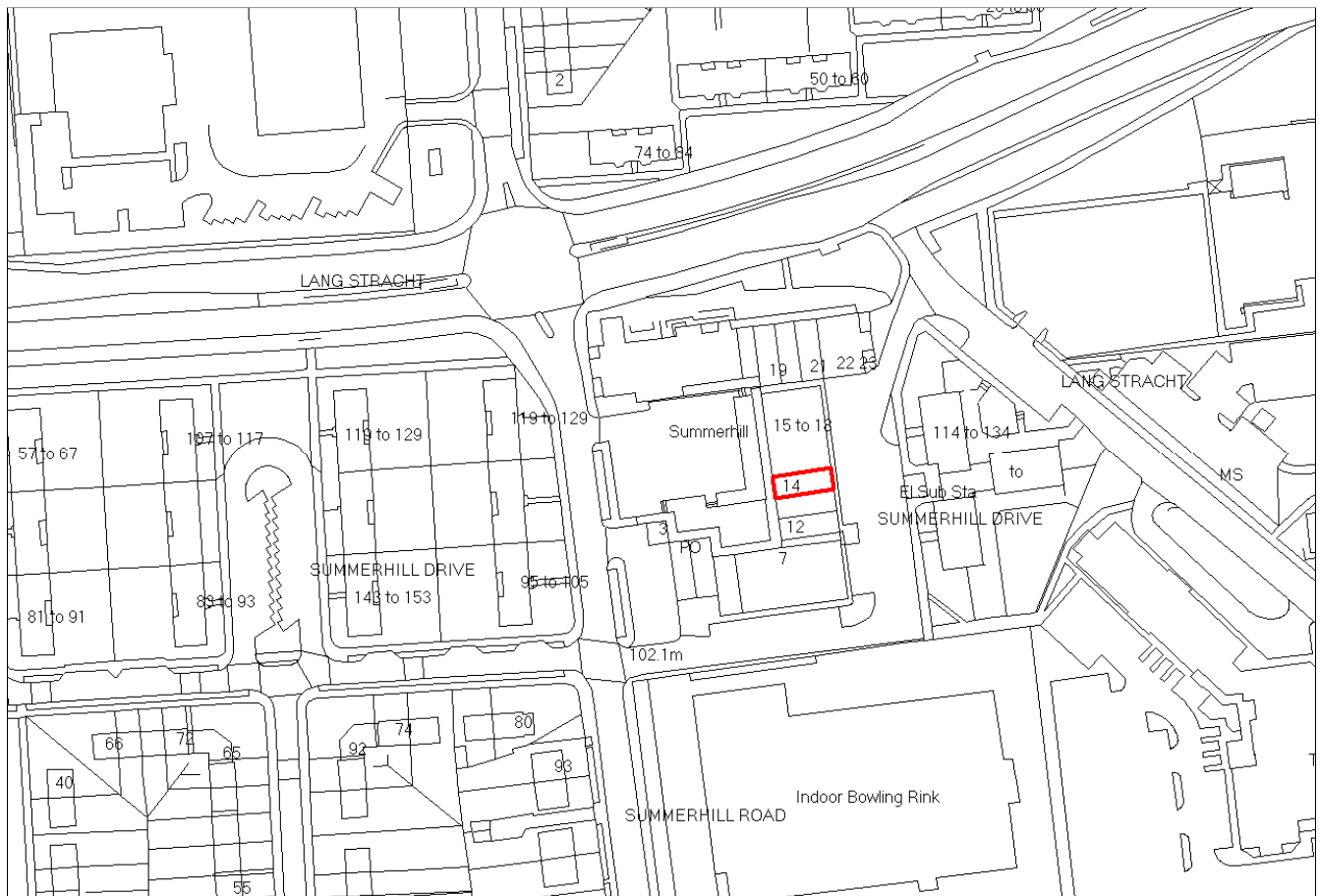
UNIT 10 SUMMERHILL COURT

PROPOSED CHANGE OF USE FROM
BARBER'S SHOP TO HOT FOOD TAKEAWAY
INCLUDING THE INSTALLATION OF A
VENTILATION CHIMNEY.

For: Jasmine Property Investments Ltd

Application Type : Detailed Planning Permission
Application Ref. : P130286
Application Date: 05/03/2013
Officer: Donna Laing
Ward : Kingswells/Sheddocksley (L Ironside/S
Delaney/D Cameron)

Advert : Section 34 -Proj. Pub.
Concern
Advertised on: 13/03/2013
Committee Date: 16 May 2013
Community Council : No response
received



RECOMMENDATION:
Approve subject to conditions

DESCRIPTION

The site sits within a purpose built U shaped shopping complex with a hotel and commercial units facing Lang Stracht with the remainder of the commercial premises fronting a car park which is accessed off Summerhill Road. There are a number of commercial units within the complex mostly with a retail use including a mini-market, blinds company, and other uses including the hotel and 2 hot food takeaways. To the rear (east) of the complex is car parking and the refuse storage area for the site. There are a number of air conditioning units to the rear of the complex and a ventilation chimney from an existing hot food take away premises. Beyond this is residential accommodation in the form of 4 storey block of flats. The front of the flats sit approximately 24m from the rear of the site. More residential accommodation is present to the front (west) of the commercial premises and sits approximately 64m from the site. The site is located within a neighbourhood centre and within a mixed use area. The site comprises a single storey unit, occupied by a barber's shop at present, which faces on the Summerhill Road.

RELEVANT HISTORY

There is no relevant history for the premises.

PROPOSAL

The proposal is for change of use from a barber's shop to a hot food takeaway. It is also proposed to instal a flue to the rear of the premises. The flue would be 315mm in diameter and comprise of galvanised steel. The flue would project over the top of the front of the premise by 800mm.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130286>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because the application is a Schedule 3 Development. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Project Team – response received – no observations

Environmental Health – response received – condition regarding ventilation, refuse and additional on street litter bin provision.

Enterprise, Planning & Infrastructure (Flooding) – response received – no observations

Community Council – no response received

REPRESENTATIONS

1 of letter of objection has been received. The objections raised relate to the following matters –

Competition

There is no more capacity within the area to accommodate a further hot food take away. The proposal would impact on the existing business and may result in the loss of jobs.

PLANNING POLICY

Local Development Plan

Policy H2: Mixed use areas

Applications for development or change of use within Mixed Use Areas must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity. Where new industrial, business and commercial uses are permitted, development should not adversely affect the amenity of people living and working in the area.

Policy RT3 – Town, District and Neighbourhood Centres

Proposals for change of use from retail to non-retail use in town, district and neighbourhood centres will only be allowed if:

- The proposed alternative use makes a positive contribution to the vitality and viability of the shopping centre; and
- The proposed alternative use will not undermine the principle retail function of the shopping centre or the shopping development in which it is located; and
- The applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use since the property became vacant); and
- The proposed use caters for a local need; and
- The proposed use retains or creates a live and attractive shop frontage.

Policy D1: Architecture and Placemaking

To ensure high standards of design, new developments must be designed with due consideration for its context and make a positive contribution to its setting.

Policy R6 – Waste Management requirement for new development

Details of storage facilities and means of collection must be included as part of any planning application for development which would generate waste.

Supplementary Guidance

Harmony of uses Supplementary Guidance

In Mixed Use Residential Areas, H2, there is a presumption against the introduction of other activities including hot food shops, unless the development would cause no conflict with or any nuisance to residential amenity.

In assessing hot food shop proposals within town centres, district centres and neighbourhood centres, consideration will be given to whether or not a proposal will:

- make a positive contribution to the overall viability of a centre
- bring into use a vacant unit with consideration given to the length of time a unit has been vacant
- provide a locally required service
- retain an acceptable level of 'live' frontage

- be strategically situated within a shopping centre e.g. it is important that corner shop units provide live shop window displays to enhance the attraction of a shopping centre

Amenity issues such as noise, litter and smell need to be addressed.

Outwith the City Centre hot food shops generally seek to locate in district or local shopping centres. In many cases such centres are located beside or within residential areas. The importance of residential amenity in such areas is generally higher than for a City Centre location, especially if there are no other potential amenity conflicts such as licensed premises or a busy road.

Traffic and parking

A major issue here is the threat to road safety. The attraction of car borne customers can also be to the detriment of residential amenity through noise, particularly in cases of late opening and through overspill parking in nearby residential streets.

Where fringe, linear, local or district shopping centres are located in Residential and Mixed Use Residential areas, proposals for hot food shops in such centres require in the first instance to be assessed against the criteria set down in the Local Development Plan Policy RT3 - Town, District and Neighbourhood Centres. Where that policy allows, permission may be granted for a hot food shop provided no upper floors of the application property or adjacent properties are in residential use and/or the amenity of the Residential and Mixed Use Residential areas would not be adversely affected by such proposals.

Waste Management Requirements in New Developments

Commercial developments vary in activity and scale. However, they will be expected to recycle waste and so multiple storage containers are likely to be required. The minimum size of storage area for a small shop is 2m x 1m. Areas of hard standing at storage and collection points are required and dropped kerbs along routes where waste is moved in wheeled containers. Where premises are accessible to the public, safe pedestrian access must be provided even where collection is from the public footway.

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Legal Challenge

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend... Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

Principle of Development

A proliferation of non-retail uses can affect the viability and vitality of a shopping area and therefore each change of use from Class 1 (Shops) has to be assessed on its merits and how it may impact upon the overall centre.

Change of use proposals within a mixed use area must take into account the surrounding uses, avoid undue conflict with the adjacent land uses and should not adversely affect the amenity of people living in the area. Change of use proposals from retail to non-retail within neighbourhood centres are required to comply with a number of criteria, as outlined in Policy RT3: Town, District and Neighbourhood Centres. If proposals meet these criteria then change of use to non-retail use would be permitted.

The harmony of uses supplementary guidance outlines hot food takeaway premises within mixed use areas are not encouraged, unless the development would cause no conflict with or any nuisance to residential amenity. Within neighbourhood centres, hot food takeaways again have a number of criteria to fulfil before being permitted.

Change of Use

The first point to note is the unit is not vacant. The barber's shop is still in use currently, therefore the criteria relating to bringing back into use a vacant unit and demonstrating there is a lack of demand for a retail function cannot be met.

There are no shopfront alterations proposed with the application. The existing shopfront is open with large glass windows; therefore the requirement to retain a live and attractive shop frontage has been met. The criteria that the unit is strategically situated within the shopping centre relates to corner units having a live frontage. As the unit is not a corner unit this criteria is not valid to this application.

Although it is not for the planning authority to determine whether a business would be viable or to restrict competition between different operators, the guidance and policy does require the new use to cater for a local need. The shopping complex, at the time of the site visit, has a number of occupied units

which are open during typical working hours. There are also commercial premises which are open outwith typical working hours, including the hotel and 2 no. hot food takeaway premises. At the time of the site visit, 3 no. units were closed, with 1 no. unit facing Lang Stracht seeking to be let. The vacant status of the other 2 premises is unknown.

The proposed unit would be open at lunchtimes and until late at night providing additional presence at the shopping centre, yet the hours could be considered anti-social. At present, the shopping complex has a hotel with a Class 7 use, six units with a Class 1 retail use (two of these units occupy more than one premises within the centre), two units have a Class 2 Financial, professional and other services use, and two units are hot food takeaway premises therefore are classed as sui generis. The removal of the Class 1 use at the proposed site would leave five units within the shopping complex with a Class 1 use. Even with the removal of the Class 1 use at the site, the main Use Class within the site would still be retail; therefore the loss of one unit with a retail use would not result in a decrease in the viability of the centre, or undermine the principle retail function of the shopping centre.

The criteria to provide a locally required service has been unable to be established. There are 2 pizza hot food takeaway premises within the complex. Beyond these the next available hot food takeaway premises is located approximately 1.5km from the site. It is considered that a hot food takeaway at this location would provide residents with further choice should they wish to purchase takeaway food.

On balance, the change of use from retail to a non retail use complies with the principles of the guidance and meets the majority of the criteria therefore accords with the harmony of uses supplementary guidance and Policy RT3: Town, District and Neighbourhood Centres. The proposal would maintain a live frontage, would not undermine the principle retail function of the shopping centre, would not result in a decrease of the viability of the centre.

Impact on Amenity

Due to its location, adjacent to the Lang Stracht there is an abundance of vehicular movement within the area creating an impact on amenity through noise. There are 2 no. existing hot food takeaway premises within the shopping complex, one 2 doors from the proposed site. It is proposed the unit would be open until midnight Sunday to Wednesday and on a Thursday, Friday and Saturday night for an additional 30 minutes, until 00:30. The existing hot food takeaway within the complex are open until 22:45 and 00:00. A late hours catering license from the Councils Licensing Committee would be required to allow the premises to open between the hours of 2300 and 0500. There are no residential premises above or adjacent to the site. The nearest residential accommodation is located 24m from the rear of the site. Due to the distance between the proposed use and the residential accommodation, the presence of the Lang Stracht and the existing licensed premises it is deemed that the introduction of an additional hot food takeaway would not result in an unacceptable level of disturbance being experienced by residents in the area. To

further ensure the residential amenity would be preserved a condition on the opening hours has been recommended to protect the occupants of nearby housing from noise/disturbance late in the evening.

In terms of traffic generation, the shopping centre has a car park associated with it which would be used by patrons. The Council's Roads Projects Team have assessed the application and have submitted no observations on the proposal. It is therefore considered there is no roads safety issue with the proposal.

The proposed plans show that a ventilation system would be installed to collect smoke and grease particles from the cooking appliances in the kitchen and disperse cooking odours via a flue at the rear of the premises. Environmental Health officers have asked for a condition to be attached requiring details of the extract system to be installed. It is considered that with a suitable system installed there would be no adverse impact upon the amenity of the area in terms of cooking odours. Conditions regarding refuse storage and bin provision have been discussed with environmental health who have agreed sufficient refuse storage has been provided on site through the refuse collection point to the rear of the complex, and additional litter bin provision would be a recommendation rather than a condition as there is an existing litter bin in close proximity to the site. The pavement area of the shopping centre is not in Council ownership, and although a condition can be applied asking for additional litter bins to be supplied if the use is felt to raise this concern, it is deemed that this would not be required. The area surrounding the site was in good order on the site visit with no litter being present on the walkways.

The provision of refuse collection for the shopping centre accords with Policy Policy R6 – Waste Management requirement for new development, and with the supplementary guidance harmony of uses.

There are existing ventilation systems within the shopping complex. The top of the flue would project above the roof line of the shopping centre but this would be deemed to be acceptable. The design and location of the flue would cause no concern, therefore would comply with Policy D1: Architecture and Design of the Aberdeen Local Development Plan.

Matters raised through Written Representaion

Overprovision of hot food takeaways is not a material planning consideration and would a matter for the market to resolve. The planning system operates in the public interest and is not here to protect one commercial enterprise from another.

Subject to condition and on balance, it is considered the change of use application complies with Policy H2: Mixed Use, Policy RT3: Town, District and Neighbourhood Centres, Policy D1: Architecture and Placemaking, Policy R6 – Waste Management of the Aberdeen Local Development Plan requirement for new development and with the supplementary guidance harmony of uses. The proposed development would not adversely affect the amenity of people living and working in the area, there is sufficient parking and refuse facilities within the area, and noise would not be considered an issue due to the existing licensed

premises within the shopping complex and the traffic generate noise from the Lang Stracht. The external alterations are considered acceptable.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

Subject to condition, it is considered the change of use application complies with Policy H2: Mixed Use, Policy RT3: Town, District and Neighbourhood Centres, Policy D1: Architecture and Pacemaking, Policy Policy R6 - Waste Management of the Aberdeen Local Development Plan requirement for new development and with the supplementary guidance harmony of uses. The proposed development would not adversely affect the amenity of people living and working in the area, there is sufficient parking and refuse facilities within the area, and noise would not be considered an issue due to the existing licensed premises within the shopping complex and the traffic generate noise from the Lang Stracht. The external alterations are considered acceptable.

CONDITIONS

it is recommended that approval is granted subject to the following conditions:-

(1) that the use hereby granted planning permission shall not take place unless a detailed scheme showing the proposed means of filtering, extracting and dispersing cooking fumes from the premises has been submitted to and approved in writing by the planning authority and that the said scheme has been implemented in full and is ready for operation - in order to prevent cooking odours from creating a nuisance to nearby residential properties

(2) that the premises shall not be open for business outwith the hours of 0700 and 0000 - in order to protect the nearby residents from unreasonable disturbance late in the evening.

Dr Margaret Bochel

Head of Planning and Sustainable Development.

From: <webmaster@aberdeencity.gov.uk>
 To: <pi@aberdeencity.gov.uk>
 Date: 20/03/2013 15:21
 Subject: Planning Comment for 130286

Comment for Planning Application 130286
 Name : Mohammed reza naze
 Address : Unit 12 summerhill court,Aberdeen,AB15 6tw

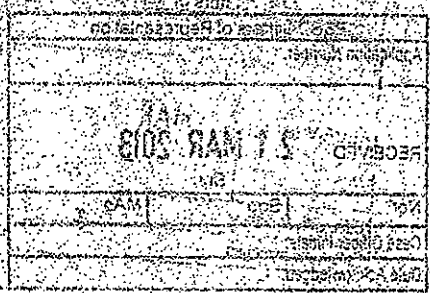
Telephone : [REDACTED]
 Email : [REDACTED]
 type :

Comment : Dear Sir/Madam

Thank you for sending me the planning application . I would like to take a moment to explained my situation in this area.

I moved to this area about 6 years a go and since that there is lots competition in this area, specially when big pizza company domino's opened from last 2 years a go, we are fighting to get our business running very hard and I believe this little Square does not have more capacity to open other food shop beside us, if this is happening I'm sure we will be loosing our business and 6 people will be out of job, I'm strongly disagree for accepting this planning to open other food shop, I hope my case will be taking in to the view for any decisions

Regards
 Mohammad



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Agenda Item 2.6

INVERSNECKY CAFE, 7-8 SEA BEACH,
ESPLANADE

CHANGE OF USE TO OUTSIDE SEATING
AREA IN ASSOCIATION WITH THE
INVERSNECKY CAFE

For: Mr Martin Vicca

Application Type : Detailed Planning Permission
Application Ref. : P130431
Application Date: 04/04/2013
Officer: Gavin Clark
Ward : George Street/Harbour (A May/J
Morrison/N Morrison)

Advert : Section 34 -Proj. Pub.
Concern
Advertised on: 17/04/2013
Committee Date: 16 May 2013
Community Council : no response
received.



RECOMMENDATION:

Approved Unconditionally

DESCRIPTION

The existing site consists of a single storey semi-detached building located on the west side of the Beach Esplanade.

The building presently houses the “Inversnecky Café” and comprises a kitchen, seating and service areas. Customers access the premises directly from the Beach Esplanade.

There is a café, “The Pavilion” located in the neighbouring property, with a number of other café’s and restaurants located in the immediate vicinity. Codona’s Amusement Arcade is located to the immediate west, and Aberdeen Beach is located to the west.

The pavement outside is 7m at its narrowest.

RELEVANT HISTORY

None

PROPOSAL

It is proposed to use the pavement at the front of the building to place tables and chairs for use by customers. An informal seating arrangement has been in place for a period of time, with the current application seeking to formally regulate this use.

The proposed layout plan shows that there would be seven tables and twenty-four chairs. The seating area would be 12m long and 3.2m wide, which includes a gap to allow customers to enter and exit the building. The solid panel style removable barriers would be a maximum 920mm in height.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council’s website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130431>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because the proposal is considered to be a project of public concern. Accordingly, the application falls outwith the scope of the Council’s Scheme of Delegation.

CONSULTATIONS

Roads Project Team – response received, no objection.

Environmental Health – response received, no objection.

Enterprise, Planning & Infrastructure (Flooding) - response received, no objection.

Community Council – no response received.

REPRESENTATIONS

None

PLANNING POLICY

Aberdeen Local Development Plan

Policy NE3: Urban Green Space - states that proposals for extensions of existing buildings as part of a conversion or rehabilitation scheme will be permitted in the green belt provided the original building remains dominant, the design of the extension is sympathetic to the original building in terms of massing, detailing, and materials, and the siting of the extension relates well to the setting of the original building.

Policy D1 (Architecture and Placemaking) – to ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportions of building elements, together with the spaces around buildings, including streets, squares, open space, landscaping and boundary treatments, will be considered in assessing that contribution.

Supplementary Guidance

Harmony of Uses – Residential, Licensed Premises and Commercial Uses – The Council supports and encourages the provision of street cafes in the city centre, as they make a positive contribution by adding vitality, colour, life and interest to the street scene. They can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live, and work in Aberdeen.

It is important that street cafes are properly designed, administered and managed to ensure that they meet the high standards expected in Aberdeen city centre. They should not obstruct public space or create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.

Before agreeing to planning permission for a street café, the Council must ensure:

1. They do not constitute a hazard; there should be enough pavement width or equivalent space to accommodate the seating, tables and café operation without causing hazard to, or invade the privacy of, other adjacent legitimate uses or impede access into or egress from nearby buildings or spaces or block a desire line.

2. If the development provides shelter from the elements, it should do so without permanently altering the physical fabric of the building to which they are attached or spaces in which they are located; and

3. They do not result in or contribute to an inadequate amenity for existing residential uses. Appropriate facilities to dispose of litter should be provided, without adversely affecting the quality, amenity or cleanliness of the City Centre.

EVALUATION

Analysis:

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

The Harmony of Uses Supplementary Guidance states that pavement cafes provide a positive contribution to areas by adding vitality, colour, life and interest to the street scene. The proposal would therefore be encouraged by planning policy.

The site is located within the Urban Green Space, which states that alterations/extensions to buildings will be encouraged provided the original building remains dominant, the design of the extension is sympathetic to the original building in terms of massing, detailing, and materials, and the siting of the extension relates well to the setting of the original building. The proposal involves the installation of outdoor seating. This use is considered acceptable given its location, with a number of similar uses in the immediate vicinity, therefore the proposal accords with Policy NE3 of the Local Development Plan. As a result, the proposal is also seen to accord with Policy D1 of the Aberdeen Local Development Plan.

Public Safety:

The tables and chairs would occupy part of the pavement which is occupied informally. The supplementary guidance states that pavement cafes must not constitute a hazard and should ensure that there is enough pavement width or equivalent space to accommodate the seating, tables and café operation without causing hazard to, or invade the privacy of, other adjacent legitimate uses or impede access into or egress from nearby buildings or spaces or block a desire line.

The pavement on the front of the property is 7m between the front of the building and the kerb at its narrowest. The tables and chairs would occupy 3.2m of pavement width, which would result in 3.8m remaining. The Council's Roads

Projects Team have considered the proposal and have raised no objection to the proposal, indicating that sufficient pavement width would remain.

In summary the proposal is considered to have taken into account the matters raised in the supplementary guidance and would therefore have no adverse impact upon public safety which would warrant refusal of planning permission.

Legal Challenge to the Aberdeen Local Development Plan

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend...Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

RECOMMENDATION

Approved Unconditionally

REASONS FOR RECOMMENDATION

The proposed addition of an outdoor seating area is considered to be acceptable. The proposal would not negatively impact on the surrounding area, and raised no concerns in terms of public safety. The proposal therefore accords with Policies NE3 and D1 of the Aberdeen Local Development Plan and the Supplementary Guidance in relation to Harmony of Uses – Residential, Licensed Premises and Commercial Uses

Dr Margaret Bochel

Head of Planning and Sustainable Development.

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Agenda Item 2.7

9-11 BELMONT STREET, ABERDEEN

PROPOSED EXTENSION TO TERRACE AT
REAR OF BUILDING

For: C.E.I. Harding

Application Type : Detailed Planning Permission
Application Ref. : P130227
Application Date: 21/02/2013
Officer: Gavin Clark
Ward : George Street/Harbour (A May/J Morrison/N Morrison)

Advert : Section 34 -Proj. Pub.
Concern
Advertised on: 17/04/2013
Committee Date: 16 May 2013
Community Council : No response received



RECOMMENDATION: Approve Unconditionally

DESCRIPTION

The property is located on Belmont Street and is presently used as a public house. The unit has a frontage onto Belmont Street, although the works are to the rear, and will be visible from Denburn Road.

The site lies within Conservation Area 2 (Union Street).

The application site is wholly within the control of the applicant and is used as a public house and a hotel.

RELEVANT HISTORY

- 081208 – Planning permission was approved for the formation of a glazed canopy over the existing terrace in August 2008.
- 072046 – Planning permission was approved for a change of use and alterations to the nightclub to form a hotel, alterations to the bar and an extension to form a terrace in February 2008.
- 070735 – Planning permission was approved for a change of use of bar and nightclub to form a bar and restaurant in May 2007.
- 040802 – Planning permission was approved for an extension to form a terrace in November 2004.

Various other applications have been submitted for advertisement consents, change of use, the installation of replacement shopfront and other various alterations.

PROPOSAL

Planning permission is sought for the erection of a terrace to the rear of the building. This will form an extension to the existing balconies to the rear and will be constructed using galvanised steel supports and beams, which are to be bolted to the existing granite wall. The handrail and balustrade will also be constructed of galvanised steel. Timber boarding will form the terraced deck.

The terrace will be 2700mm wide, with a handrail 1250mm high.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130227>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because the application has been advertised as a project of public concern. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Project Team – response received. No objection.

Environmental Health – response received. No objection.

Enterprise, Planning & Infrastructure (Flooding) – response received. No objection.

Community Council – no response received.

REPRESENTATIONS

1 letter of representation has been received. The objections raised relate to the following matters –

- existing concerns in relation to use of fire exit by customers, which would be exacerbated by an extension to balcony; and
- concerns in relation to smell from balcony areas;
- concerns in relation to an increase in the amount of cigarette smoke from customers in the outdoor seating area.

PLANNING POLICY

National Policy and Guidance

Scottish Historic Environment Policy (SHEP): this document provides guidance on alterations and extensions to listed buildings, and to developments within conservation areas.

Aberdeen Local Development Plan

Policy D1: Architecture and Placemaking: states that to ensure a high quality of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportion of building elements, together with the space around buildings, including street squares, open space, landscaping, and boundary treatments, will be considered in assessing that contribution.

Policy D5: Built Heritage: states that proposals affecting Listed Buildings and Conservation Areas will only be permitted where they comply with Scottish Planning Policy.

Policy C2: City Centre Business Zone and Union Street: relates mostly to the control of change of use.

EVALUATION

Analysis:

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas

As the proposal does not involve a change of use, there is no conflict with policy C2. The principal issues are the effect on the character and appearance of the conservation area and the acceptability of the works in terms of design.

The proposal raises no major issues in terms of planning policy and will have a neutral impact on the character and appearance of the conservation area by provision of an extension to the existing terrace, which will be located to the rear of the property. The proposal therefore accords with the principles of SHEP. The extension will be visible from Denburn Road, but will only be partially be visible from Union Terrace, and will not be visible from Union Street. It is therefore considered that policies D1 and D5 are satisfied.

In terms of the letter of representation, a number of the issues raised are not relevant in the determination of this application. This is particularly in relation to odour smells, and the issues in relation to windows/ extractor fans, which are part of the existing site. Issues in relation to access are an issue between the management of both premises.

The proposal is for a small extension to the balcony associated with the bar/ restaurant, which is considered to be acceptable, and will not negatively impact on neighbouring amenity to an unacceptable degree.

Legal Challenge to the Aberdeen Local Development Plan

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if

Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend...Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

RECOMMENDATION: Approved Unconditionally

REASONS FOR RECOMMENDATION

The proposal is considered to accord with planning policy, as the development is relatively minor in nature and the proposal would preserve the character of the Conservation Area. In terms of amenity, the proposal would not result in additional impact on the occupiers or users of neighbouring properties. The proposal is therefore seen to accord with Scottish Historic Environment Policy (SHEP) and Policies C2 (City Centre Business Zone and Union Street), D1 (Architecture and Placemaking) and D5 (Built Heritage) of the Aberdeen Local Development Plan.

Dr Margaret Bochel

Head of Planning and Sustainable Development.

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From: <webmaster@aberdeencity.gov.uk>
To: <pi@aberdeencity.gov.uk>
Date: 20/03/2013 10:30
Subject: Planning Comment for 130227

Comment for Planning Application 130227
Name : Eric Shepherd
Address : The Beautiful Mountain
11-13 Belmont St
AB10 1JR

Telephone : [REDACTED]

Email : [REDACTED]

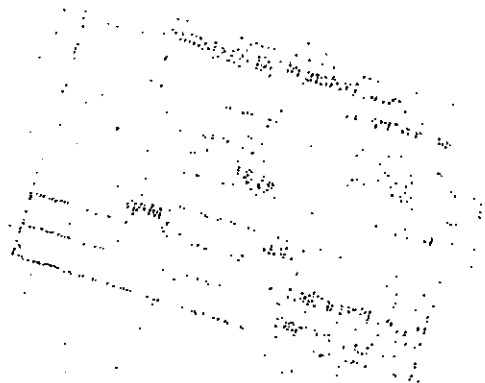
type :

Comment : 1. We currently experience problems with staff and customers using the fire exit from the Vodka Bar which opens into, and transits through our building. We feel that the increased numbers associated with this development will exacerbate this problem

2. Cigarette smoke from customers in the outdoor seated area below our ground floor take-away area drifts into our premises - we must always have our windows closed, even on summer days. We feel that this is in contravention of the No-smoking laws and that increased numbers will again exacerbate this problem.

3. Vodka Bar kitchen extracts are sited directly by our 1st Flr rear window, cooking smells & fan noise waft directly into our restaurant through an open window, again we must keep this window closed at all times, even on summer days. Customers who feel hot due to the lack of effective air-circulation because of the closed window have in the past opened the window themselves, the resulting smell of deep-frying coupled with fan blade noise is obnoxious and we have had to screw the window shut in order to stop this happening. When we applied for Planning, we were required to route ducting up through existing chimneys, such that no air-borne odour pollution might occur, I don't understand why Harding-Ltd were not similarly required to do the same. Increased seating will exacerbate this problem.

I object on the grounds above.



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