

Public Document Pack



To: Councillor Boulton, Convener; Councillor Jennifer Stewart, the Depute Provost, Vice Convener; and Councillors Allan, Cooke, Copland, Cormie, Greig, Avril MacKenzie and Malik.

Town House,
ABERDEEN 19 June 2019

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in Committee Room 2 - Town House on **THURSDAY, 27 JUNE 2019 at 10.00 am.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

BUSINESS

MEMBERS PLEASE NOTE THAT ALL LETTERS OF REPRESENTATION ARE NOW AVAILABLE TO VIEW ONLINE. PLEASE CLICK ON THE LINK WITHIN THE RELEVANT COMMITTEE ITEM.

MOTION AGAINST OFFICER RECOMMENDATION

1.1 Motion Against Officer Recommendation - Procedural Note (Pages 5 - 6)

DETERMINATION OF URGENT BUSINESS

2.1 Determination of Urgent Business

DECLARATION OF INTERESTS

- 3.1 Members are requested to intimate any declarations of interest (Pages 7 - 8)

MINUTES OF PREVIOUS MEETINGS

- 4.1 Minute of Meeting of the Planning Development Management Committee of 30 May 2019 - for approval (Pages 9 - 26)

COMMITTEE PLANNER

- 5.1 Committee Planner (Pages 27 - 28)

GENERAL BUSINESS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 6.1 Removal of Condition 3 - (Provision of scheme of landscaping) of Planning Permission Ref P151807 (Pages 29 - 36)

Planning Reference – 190612/S42

All documents associated with this application can be found at the following link:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/>

Planning Officer: Robert Forbes

WHERE THE RECOMMENDATION IS ONE OF REFUSAL

- 7.1 Detailed Planning Permission for Change of Use from Class 1 (shops) to hot food takeaway (sui generis) and installation of ventilation duct - 268 Clifton Road Aberdeen (Pages 37 - 42)

Planning Reference – 190782

All documents associated with this application can be found at the following link and entering the reference number above

<https://publicaccess.aberdeencity.gov.uk/online-applications/> :-

Planning Officer: Robert Forbes

- 7.2 Variation of Condition 2 (roof terrace operating hours) of Planning Permission 180390/DPP to Extend Operating Hours on Roof Terrace - Soju Bar and Diner, 70 Carden Place, Aberdeen (Pages 43 - 48)

Planning Reference – 190760/S42

All documents associated with this application can be found at the following link:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/>

Planning Officer: Jamie Leadbeater

DATE OF NEXT MEETING

8.1 Date of Next Meeting - Thursday 15 August at 10am.

To access the Service Updates for this Committee please click [here](#)

Website Address: www.aberdeencity.gov.uk

Please note that Daniel Lewis, Development Management Manager, will be in Committee Room 2 from 9.30am for Members to view plans and ask any questions.

Should you require any further information about this agenda, please contact Lynsey McBain, Committee Officer, on 01224 522123 or email lymcbain@aberdeencity.gov.uk

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MOTIONS AGAINST RECOMMENDATION

Members will recall from the planning training sessions held, that there is a statutory requirement through Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 for all planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. All Committee reports to Planning Development Management Committee are evaluated on this basis.

It is important that the reasons for approval or refusal of all applications are clear and based on valid planning grounds. This will ensure that applications are defensible at appeal and the Council is not exposed to an award of expenses.

Under Standing Order 28.10 the Convener can determine whether a motion or amendment is competent, and may seek advice from officers in this regard.

With the foregoing in mind the Convener has agreed to the formalisation of a procedure whereby any Member wishing to move against the officer recommendation on an application in a Committee report will be required to state clearly the relevant development plan policy(ies) and/or other material planning consideration(s) that form the basis of the motion against the recommendation and also explain why it is believed the application should be approved or refused on that basis. Officers will be given the opportunity to address the Committee on the competency of the motion. The Convener has the option to call a short recess for discussion between officers and Members putting forward a motion if deemed necessary.

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DECLARATIONS OF INTEREST

You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether reports for meetings raise any issue of declaration of interest. Your declaration of interest must be made under the standing item on the agenda, however if you do identify the need for a declaration of interest only when a particular matter is being discussed then you must declare the interest as soon as you realise it is necessary. The following wording may be helpful for you in making your declaration.

I declare an interest in item (x) for the following reasons

For example, I know the applicant / I am a member of the Board of X / I am employed by... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

OR

I have considered whether I require to declare an interest in item (x) for the following reasons however, having applied the objective test, I consider that my interest is so remote / insignificant that it does not require me to remove myself from consideration of the item.

OR

I declare an interest in item (x) for the following reasons however I consider that a specific exclusion applies as my interest is as a member of xxxx, which is

- (a) a devolved public body as defined in Schedule 3 to the Act;
- (b) a public body established by enactment or in pursuance of statutory powers or by the authority of statute or a statutory scheme;
- (c) a body with whom there is in force an agreement which has been made in pursuance of Section 19 of the Enterprise and New Towns (Scotland) Act 1990 by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that body of any of the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise; or
- (d) a body being a company:-
 - i. established wholly or mainly for the purpose of providing services to the Councillor's local authority; and
 - ii. which has entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority.

OR

I declare an interest in item (x) for the following reasons.....and although the body is covered by a specific exclusion, the matter before the Committee is one that is quasi-judicial / regulatory in nature where the body I am a member of:

- is applying for a licence, a consent or an approval
- is making an objection or representation
- has a material interest concerning a licence consent or approval
- is the subject of a statutory order of a regulatory nature made or proposed to be made by the local authority.... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 30 May 2019. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; Councillor Jennifer Stewart, the Depute Provost, Vice Convener; and Councillors Allan (for articles 1 to 7), Cooke, Copland, Cormie, Greig, Avril MacKenzie and Malik.

The agenda and reports associated with this minute can be found [here](#).

Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent minute and this document will not be retrospectively altered.

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 18 APRIL 2019

1. The Committee had before it the minute of the previous meeting of 18 April 2019, for approval.

The Committee resolved:-

to approve the minute as a correct record.

COMMITTEE PLANNER

2. The Committee had before it a planner of future Committee business.

The Committee resolved:-

to note the information contained within the business planner.

19 NORTH ANDERSON DRIVE, ABERDEEN, 182101

3. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the erection of 118 affordable residential units (72 flats set over 3/4/5 storeys and 46 houses) with associated landscaping, parking and infrastructure, at 19 North Anderson Drive Aberdeen, 182101, be approved subject to a legal agreement and the following conditions:-

Conditions

(01) CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

No development (including site stripping, service provision or establishment of site compounds) shall commence on site until a site-specific Construction Environmental

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Management Plan(s) has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The CEMP must address the following issues (i) surface water management including construction phase SUDS; and (ii) site waste management including details of re-use on-site and off-site disposal of demolition materials. Thereafter development shall be undertaken in accordance with the approved CEMP.

Reason - In order to minimise the impacts of necessary demolition / construction works on the environment.

(02) SCHEDULE OF GREEN MEASURES

No development (including site stripping, service provision or establishment of site compounds) shall commence on site unless a schedule of green measures has been submitted to the Planning Authority. The schedule, detailing the measures that have been investigated and will be implemented on site, should be submitted prior to the commencement of development on site for the written approval of the Planning Authority, in consultation with SEPA and implemented in full.

Reason: to ensure adequate protection of the water environment and contribute to and enhance the natural environment in accordance with Scottish Planning Policy.

(03) LOW AND ZERO CARBON BUILDINGS

No development associated with any particular flatted block or residential dwelling shall take place unless a scheme detailing compliance with the Council's Resources for New Development Supplementary Guidance has been submitted to and approved in writing by the Planning Authority. Thereafter no units shall be occupied unless any recommended measures specified within that scheme for that unit for the reduction of carbon emissions have been implemented in full.

Reason - to ensure that the development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance: Resources for New Development.

(04) EXTERNAL FINISHING MATERIALS

No development, beyond foundation level, shall take place on any hereby approved building unless a scheme detailing all external finishing materials to the roof and walls of such building has been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be finished in accordance with the approved scheme.

Reason - In the interests of visual amenity.

(05) LANDSCAPING

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme (as shown on Drawings No: 423.03.01D, 423.03.02D and 423.03.03D) and shall be completed during the planting season immediately following the commencement of the development or as otherwise agreed in writing with the

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Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

In addition, prior to the commencement of the implementation of the approved scheme, detailed proposals for a programme for the long-term management and maintenance of all the approved landscaped and open space areas within the development shall be submitted for the further written approval of the Planning Authority. Thereafter, all management and maintenance of the landscaped and open space areas shall be implemented, in perpetuity, in accordance with the approved programme.

Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area and to ensure that the landscaping is managed and maintained in perpetuity.

(06) PLAY AREA

No residential unit shall be occupied unless (i) details of the proposed play area; (ii) details of the boundary treatments for the proposed play area and (iii) a phasing plan for their provision, have been submitted to and approved in writing by the Planning Authority. In designing the scheme reference should be made to Part 8 of the Council's Open Space Supplementary Guidance.

Reason - In order to ensure satisfactory provision of play facilities.

(07) ACOUSTIC FENCING

Prior to the occupation of any dwellinghouse or flat, the proposed acoustic fencing, and all other boundary treatments relating any residential unit, as shown on Drawing No: PL (00)033 REV E shall be implemented in their entirety and retained in perpetuity. For avoidance of doubt, the noise barriers must meet with the following specifications: (i) they must be solid and imperforate; (ii) they must have a superficial weight of $\geq 10 \text{ kg/m}^2$ (iii) there must be no gap between the bottom of the barrier and the ground; (iv) there must be no gap where it extends out from the external facade of a dwelling whose garden it is screening; (v) they must be $\geq 1.8 \text{ m}$ in height; and the barrier locations shall be as shown in Figure 8 in the Sandy Brown report, 18340-R01-C, issued on 20 March 2019.

Reason – In order to achieve an appropriate level of residential amenity.

(08) PROVISION OF ACCESS ROAD AND CAR PARKING

Prior to the occupation of any dwellinghouse or flat, the car parking areas hereby granted planning permission shall be constructed, drained, laid-out and demarcated in accordance with drawing No. PL (00)003 REV E 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

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than the purpose of the parking of cars ancillary to the development and use thereby granted approval - in the interests of public safety and the free flow of traffic.

(09) CAR CLUB PARKING SPACES

Prior to the occupation of any dwellinghouse or flat, a scheme showing the location of two 'car club only' parking spaces shall be submitted to and approved in writing by the Planning Authority. Thereafter, unless otherwise agreed in writing with the planning authority, prior to completion of the last flatted property within the development (i) the car club only parking spaces shall be constructed and available for use and any associated signs or road markings implemented, in accordance with a phasing plan if necessary; and (ii) a traffic regulation order (TRO) is in place to restrict the use of the parking spaces to car club vehicles only.

Reason - In order to encourage modal shift away from the private car.

(10) CYCLE PARKING

No flatted property shall be occupied unless: (i) the residents cycle store within that block has been constructed and is available for use, and (ii) a scheme of short-stay cycle parking for that block, showing the location and design of cycle stands for visitors, has been submitted to and approved in writing by the Planning Authority and such approved scheme has been implemented.

Reason - In order to encourage more sustainable modes of transport.

(11) RESIDENTIAL TRAVEL PACK

No flatted property shall be occupied unless a residential travel pack, aimed at encouraging use of modes of transport other than the private car, has been submitted to and approved by the Planning Authority. Thereafter the pack shall be provided to each property on occupation.

Reason - In order to encourage use of more sustainable modes of transport.

(12) ELECTRIC VEHICLE CHARGING POINTS

No flatted property shall be occupied unless: (i) details of the type and location of electric vehicle charging points and bays; (ii) markings and signage to identify the bays; (iii) a phasing plan for their provision; and (iv) the charging points and bays shall be provided in accordance with the agreed phasing plan. Information in relation to items (i, ii and iii) shall be submitted to and approved in writing by the Planning Authority.

Reason - In order to provide for and encourage the use of electric vehicles.

(13) TREE PROTECTION

That no development shall take place unless a plan showing those trees to be removed and those to be retained and a scheme for the protection of all trees to be retained on the site and immediately outwith the site during construction works has been submitted to, and approved in writing by, the Planning Authority and any such scheme as may

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have been approved has been implemented in its entirety - in order to ensure adequate protection for the trees on site during the construction of the development.

(14) TREES – STORAGE OF MATERIALS

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 5 metres of foliage, branches or trunks.

Reason - in order to ensure adequate protection for the trees on site during the construction of the development.

(15) DRAINAGE

No unit within the hereby approved development shall be occupied unless all drainage works detailed in the approved Flood Risk Assessment and Strategy Report (Ref: J4005 – November 2018, V1) produced by Bayne Stevenson Associates Ltd or such other plan/ document as may subsequently be approved in writing by the planning authority for the purpose have been installed in complete accordance with the said plan.

Reason - In order to safeguard water qualities in adjacent watercourses and to ensure that the proposed development can be adequately drained.

(16) WASTE STORAGE PROVISION

No flatted block shall be occupied unless the waste storage area for that particular block has been provided in accordance with drawings PL(00)003 REV E and PL(00)035 REV C or such other drawing as may be approved in writing by the Planning Authority.

Reason - In order to ensure suitable waste storage facilities are available for residents and to protect public health.

(17) DUST MANAGEMENT PLAN

No development (including site stripping or service provision) within any particular phase or block shall take place unless a Dust Management Plan for the construction phase of development has been submitted to and approved in writing by the planning authority. Such management plan shall specify dust mitigation measures and controls, responsibilities and any proposed monitoring regime. Thereafter development (including demolition) shall be undertaken in accordance with the approved plan.

Reason - In order to control air pollution from dust associated with the construction of the development in accordance with Policy T4 - Air Quality.

(18) SOUND INSULATION ASSESSMENT

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Prior to the commencement of development, a sound insulation assessment, as detailed within section 8.1 of the submitted Noise Impact Assessment, shall be submitted to, and approved in writing by the Planning Authority.

Reason – In order to achieve an appropriate level of residential amenity.

(19) VALIDATION REPORT

Prior to the commencement of development, a validation report, confirming the provision of a capping layer in gardens (600 mm 'clean' topsoil/subsoil) and landscaped areas (300 mm 'clean' topsoil/subsoil with basal geo-textile 'no dig' membrane) shall be submitted to, and approved in writing by the Planning Authority. For avoidance of doubt, the validation report for the capping layer should include: (i) a chain of custody documentation for imported soils, including details of source; (ii) chemical analysis data demonstrating suitability for use, (iii) receipt (purchase/delivery) for geo-textile 'no dig' membrane; and (iv) pre/post placement survey levels to confirm soil depth. Reason: reason: in order to ensure that the site is fit for human occupation.

The Committee heard from Mr Kristian Smith, Team Leader, Development Management, who spoke in furtherance of the application and answered various questions from members.

The Committee resolved:-

to approve the application conditionally, subject to a legal agreement and with an additional condition and informative to read:-

Condition:

20. None of the hereby approved development shall take place unless a scheme detailing timings and designs associated to the closure of the gap in the central reservation opposite the former access to the site has been submitted to and approved in writing by the Planning Authority. Thereafter the closure of the central reservation shall take place in accordance with such approved scheme, or other subsequently approved scheme.

Reason – In the interests of road/ public safety and the free flow of traffic.

Informative:

(08) Closure of Central Reservation

The level of information required by Condition 20 should be scoped and agreed with Aberdeen City Councils Roads Development Management Team, prior to submission to the Planning Authority. At this point the relevant contact is: Nathan Thangaraj, Engineer 01224 52 3441 or nthangaraj@aberdeencity.gov.uk

INCHGARTH HOUSE ABERDEEN - 182093

4. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

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That the application for the formation of a new access and driveway with gate, wall and pillars, through an existing boundary wall, closing up an existing drive opening, with all associated landscaping works at Inchgarth House, Aberdeen, 182093, be approved subject to the following conditions:-

Conditions

- (1) Badger Protection Plan - No development shall take place pursuant to this permission unless a scheme for the protection of badgers has been submitted to and approved in writing by the planning authority. The submitted plan shall include details of measures required during construction works in order to prevent injury to foraging badgers. The agreed measures shall be implemented in full for the duration of construction work on site.

Reason – In order to avoid potential adverse impact on protected species during construction works.

- (2) Tree protection measures - No development shall take place pursuant to this permission unless a scheme for the protection of all trees to be retained on the site during construction works, including temporary protective fencing, has been submitted to, and approved in writing by, the Planning Authority and any such scheme as may have been approved has been implemented.

Reason - In order to ensure adequate protection for the trees on site during the construction of the development.

- (3) Tree planting / landscape scheme - All soft landscaping / tree planting proposals shall be carried out in accordance with the approved scheme (drawing 437-12-10e, -11, -12, -13) and shall be completed during the planting season immediately following the commencement of the development or as otherwise agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason - To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area and to ensure that the character of the conservation area and setting of the listed building is preserved / enhanced.

- (4) SUDS / permeable surfacing - No development shall take place pursuant to this permission unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Planning Authority and thereafter the driveway shall not remain on site unless the required drainage measures / permeable surfacing has been installed in complete accordance with the said scheme.

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Reason - in order to safeguard water qualities in nearby watercourses and to ensure that the development can be adequately drained.

- (5) Drive width / construction / surface details – Notwithstanding the site layout plan hereby approved (drawing 603 rev C), the section of the driveway located to the south of the proposed entrance gates shall be restricted to a maximum width of 3m overall (i.e. including the granite sett edging) for a continuous distance of 55m, unless otherwise agreed in writing with the planning authority. No development shall take place unless details of the precise surfacing material / finish of the driveway have been submitted to and agreed in writing by the planning authority. Development shall be undertaken in complete accordance with such details as may be so approved.

Reason – In order to preserve the character and setting of the listed building and the character of the conservation area.

- (6) Detail of Gates / Pillars - No development shall take place pursuant to this permission unless construction details of the proposed gate piers / granite pillars including 1:10 detail elevations and coping stones have been submitted to and agreed in writing by the planning authority. Development shall be undertaken in complete accordance with such details as may be so approved.

Reason – In order to preserve the character and setting of the listed building and the character of the conservation area.

- (7) Stopping up Existing Access – The proposed access hereby approved shall not be used unless the existing vehicle access has been stopped off to vehicle traffic in accordance with a scheme which shall have been submitted to and approved in writing by the planning authority.

Reason – In order to preserve the character and appearance of the listed building and in the interest of road / traffic safety.

The Committee heard from Mr Robert Forbes, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Committee resolved:-

to approve the application conditionally.

INCHGARTH HOUSE - LISTED BUILDING CONSENT - 182141

5. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the partial demolition and alteration of the existing boundary wall and formation of new gated vehicle access, listed building consent, at Inchgarth House Aberdeen, 182141, be approved subject to the following conditions:-

Conditions

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(1) Detail of Gates / Pillars

No works shall take place pursuant to this consent unless construction details of the proposed metal gates, granite pillars and granite coping stones associated with the access works have been submitted to and agreed in writing by the planning authority. The works shall be undertaken in complete accordance with such details as may be so approved.

Reason – In order to preserve the character and appearance of the listed building.

(2) Existing Access – The proposed access hereby approved shall not be used unless the existing vehicle access has been stopped off to vehicle traffic in accordance with a scheme which shall have been submitted to and approved in writing by the planning authority.

Reason – In order to preserve the character and appearance of the listed building.

The Committee heard from Mr Robert Forbes, Senior Planner, who spoke in furtherance of the application and answered questions from members.

The Committee resolved:-

to approve the application conditionally.

4 WESTFIELD TERRACE ABERDEEN - 182030

6. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the erection of a two storey dwellinghouse within the garden ground and alterations to the boundary wall at 4 Westfield Terrace Aberdeen, 182030, be approved subject to the following conditions:-

Conditions

(1) No development shall commence until full details and samples of all the external materials to be used in the development, hereby permitted, have been submitted to and approved in writing by the planning authority, and the works shall be carried out using only those approved materials.

Reason: in the interests of visual amenity of the area and to comply with policies D1 and D4 of the Aberdeen Local Development Plan 2017;

(2) Before commencing the construction of the dwellinghouse, hereby permitted, the new vehicular access from Craigie Park Place shall be formed, together with a visibility splay of 2 metres x 17 metres from its centre line in a south-westerly direction and, once formed, the visibility splay shall be kept free of any obstruction for as long as the access remains.

Reason: in the interests of pedestrian and highway safety.

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- (3) The dwellinghouse, hereby permitted, shall not be occupied until the car parking areas shown on Drawing No. 100 Rev A have been laid out, constructed and drained unless otherwise approved in writing by the planning authority, and the approved car parking areas shall thereafter be used only for that purpose.

Reason: in the interests of public safety and the free flow of traffic.

- (4) No development shall commence until a scheme for all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the planning authority. The dwellinghouse, hereby permitted, shall not be occupied until the works have been carried out and completed strictly in accordance with that approved scheme.

Reason: to ensure that the development is adequately drained and to safeguard water quality in adjacent water courses and to comply with policy NE6 of the Aberdeen Local Development Plan 2017.

- (5) No development shall commence until a detailed scheme for the landscaping of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall identify all existing trees to be retained on the land, with details of their protection during construction, any that are to be felled and proposed areas of tree/shrub planting specifying numbers, species, locations and sizes.

Reason: for the protection of existing trees and in the interests of the amenity of the area, to safeguard the health and safety of trees during building operations and the visual amenities of the area generally and to comply with policies D1 and NE5 of the Aberdeen Local Development Plan 2017.

- (6) All planting, seeding and turfing in the approved landscaping scheme shall be carried out in the first planting season following the completion of the development and, within a period of 5 years from that date, any trees or plants which die, are removed or seriously damaged or diseased shall be replaced in the next planting season with others of the same species and sizes, unless the planning authority give prior written approval to any variations.

Reason: in the interests of the amenity of the area to enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies D1 and NE5 of the Aberdeen Local Development Plan 2017.

- (7) The dwellinghouse, hereby permitted, shall not be occupied until a method statement, showing the management proposals for the care and maintenance of all trees and planting, including the timing of works and inspections, has been submitted to and approved in writing by the planning authority. Any works shall be carried out strictly in accordance with the approved method statement, unless the planning authority give prior written approval to any variations.

Reason: to preserve the character and visual amenity of the area and to ensure the maintenance of the trees and to enhance the appearance of the

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development in the interest of the visual amenities of the area and to comply with policies D1 and NE5 of the Aberdeen Local Development Plan 2017.

- (8) The dwellinghouse, hereby permitted, shall not be occupied until provision has been made on the site for refuse storage and collection in accordance with a scheme submitted to and approved in writing by the planning authority.

Reason: in the interests of public health and to preserve the amenity of the neighbourhood and to comply with policies D1 and R9 of the Aberdeen Local Development Plan 2017

The Committee heard from Mr Gavin Evans, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Convener moved, seconded by the Vice Convener:-

that the application be approved in line with the recommendation contained within the report.

Councillor Cormie moved as an amendment, seconded by Councillor Copland:-

that the application be refused due to the loss of sunlight to the neighbouring properties and also the shadowing the proposed development would cause to the neighbouring properties.

On a division, there voted:- for the motion (6) – the Convener, the Vice Convener and Councillors Allan, Cooke, MacKenzie and Malik; for the amendment (3) – Councillors Copland, Cormie and Greig.

The Committee resolved:-

to adopt the motion and therefore approve the application conditionally.

LAND TO SOUTH OF HAZLEDENE ROAD, ABERDEEN - 182053

7. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for a residential development comprising 216 units (across zones A, B, C, D and E) with associated access, landscaping and infrastructure at land to the south of Hazledene Road Aberdeen, 182053, be approved with a legal agreement and subject to the following conditions:-

Conditions

- (1) that no development shall take place other than in accordance with the hereby approved scheme of tree protection (Struan Dalglish Arboriculture, Tree Protection Plan (TPP) and Drawing, Dated Nov 2018) - in order to ensure adequate protection for all trees to be retained on the site during construction works.

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- (2) that any tree work, not specified in the submitted Arboriculturally Impact Assessment (AIA), which appears to become necessary during the implementation of the development shall not be undertaken without the prior written consent of the Planning Authority; any damage caused to trees growing on the site shall be remedied in accordance with British Standard 3998: 2010 "Recommendations for Tree Work" before the building hereby approved is first occupied - in order to preserve the character and visual amenity of the area.
- (3) 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 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 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 - in the interests of the amenity of the area.
- (4) none of the buildings hereby granted planning permission shall be occupied unless the boundary enclosures relevant to that plot have been laid out in accordance with the approved scheme (Dandara Landscape Plans for Zones A, B, C, D and E - Drawing nos M_APL_230_Rev A; M_APL_231_Rev A; M_APL_232_Rev A) - in order to preserve the amenity of the neighbourhood.
- (5) that the development hereby granted planning permission shall not be fully occupied unless all drainage works detailed on Plan Nos ABR_PID_115_Rev A, ABR_PID_116_Rev B and ABR_PID_117_Rev C 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 - in order to safeguard water qualities in adjacent watercourses and to ensure that the proposed development can be adequately drained.
- (6) none of the buildings hereby granted planning permission shall be occupied unless the car parking areas relevant to that plot and hereby granted planning permission have been constructed, drained, laid-out and demarcated in accordance with drawing No. M_APL_243 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 the purpose of the parking of cars ancillary to the development and use thereby granted approval - in the interests of public safety and the free flow of traffic.
- (7) notwithstanding the specification shown on the submitted plans, no development pursuant to this planning permission shall be undertaken unless details of a suitably equipped play space (equivalent to a Locally Equipped Area for Play - LEAP) have been submitted to and agreed in writing by the planning authority. Such approved equipped play area shall have been laid out and made available

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

30 May 2019

for use in accordance with a phasing plan to be submitted to and agreed in writing by the planning authority prior for occupation of any units within the approved development - in order to ensure that the development is served by dedicated play space of appropriate size and quality, as required by policy NE4 (Open Space) of the Aberdeen Local Development Plan.

- (8) no dwelling/flat within the hereby approved development shall be occupied unless there has been submitted to and approved in writing by the planning authority a Noise Impact Assessment and associated scheme of mitigation measures in order to address traffic noise affecting the new properties closest to existing roads. Thereafter development shall be carried out in full accordance with the approved measures, and no unit shall be occupied unless the required mitigation measures relevant thereto have been fully implemented - in order to ensure that an adequate level of amenity is afforded to residents within the development.
- (9) no development pursuant to this planning permission shall be undertaken unless there has been submitted to and approved in writing by the planning authority a detailed Dust Management Plan, which identifies potential sources of dust and measures for dust attenuation. Thereafter all works shall be carried out in full accordance with the agreed Dust Management Plan - in order to protect the amenity of residents in the surrounding area.
- (10) no unit within the development hereby approved shall be occupied unless evidence that the relevant unit(s) have achieved the required Gold Standard building standards sustainability label, specifically with regard to the incorporation of water-saving measures as set out in the Dandara 'Water Efficiency Statement: Zones A, B, C, D and E, Pinewood/Hazledene (rev A)', dated September 2018 - in order to secure a reduction in water usage and ensure compliance with policy R7 (Low and Zero Carbon Buildings and Water Efficiency) of the ALDP and the associated 'Resources for New Development' Supplementary Guidance.
- (11) no unit within the development hereby approved shall be occupied unless the measures set out in the approved 'Low/Zero Carbon Energy Statement, September 2018 (or any other such scheme as submitted to and approved in writing by the planning authority for the same purpose) have been implemented in full for that unit/those units - to ensure that this development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings'.
- (12) no unit within the development hereby approved shall be occupied unless a scheme for the restriction of non-resident access to rear lanes has been submitted to and agreed in writing by the planning authority, and any agreed measures implemented in accordance with the agreed scheme - in order to

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

30 May 2019

restrict inappropriate access to rear lanes by non-residents and to 'design out' crime where practicable.

- (13) that no development pursuant to this planning permission shall commence unless temporary measures proposed to deal with surface water run-off during construction and prior to the operation of the final SUDS have been put in place in accordance with the approved construction-phase SUDS drawing (ABR_PID_125). These measures shall be implemented in full for the duration of works on the site or until the final drainage systems have been brought into operation - in order to prevent potential water pollution.

The Committee heard from Mr Gavin Evans, Senior Planner, who spoke in furtherance of the application and answered various questions from members in regards to the application.

The Convener moved, seconded by the Vice Convener:-

that the application be approved in line with the recommendation contained within the report.

Councillor Greig moved as an amendment, seconded by Councillor Cooke:-

that the application be refused on the following grounds:-

- (1) It was contrary to Policy NC8 – lack of retail and mixed use;
- (2) It was contrary to planning policies and supplementary guidance on sustainable transportation due to the lack of access to bus services;
- (3) It constituted overdevelopment by virtue of density and the height of the development;
- (4) There was an unacceptable impact on educational provision by virtue of resulting in overcapacity in local schools; and
- (5) There was an impact on the road network and congestion by virtue of traffic exceeding the capacity of the road network.

On a division, there voted:- for the motion (7) – the Convener, the Vice Convener and Councillors Allan, Copland, Cormie, MacKenzie and Malik; for the amendment (2) – Councillors Cooke and Greig.

The Committee resolved:-

to adopt the motion and therefore approve the application subject to a legal agreement and conditions.

12 WOODLANDS WALK - 190606

8. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the erection of a two storey gable at 12 Woodlands Walk, Aberdeen, 190606, be approved subject to the following conditions:-

Conditions

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

30 May 2019

- (1) That all external finishing materials to the roof and walls of the development hereby approved, including stonework and roof tiles, shall match those of the existing property - in the interests of visual amenity.
- (2) That the existing 1.8 metre high timber fence shown in Drawing No WWA-1805-AA (Dated 30/5/18) shall remain in place along the length of the western boundary of the site until the completion of development, unless the planning authority gives written consent for a variation. **Reason:** in order to ensure adequate protection, during the construction of the development, for the trees identified in Drawing No WWA-1805-AA which are in proximity to the application site.

The Committee heard from Mr Gavin Evans, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Convener moved, seconded by Councillor Greig:-
that the application be refused by virtue of the visual impact the proposed development would have on the surrounding area, which meant it did not comply with Policy D1, Quality Placemaking and Design.

Councillor Copland moved as an amendment, seconded by Councillor Cooke:-
that the application be approved in line with the recommendation contained within the report.

On a division, there voted for the motion (2) – the Convener and Councillor Greig; for the amendment (6) – the Vice Convener and Councillors Cooke, Copland, Cormie, MacKenzie and Malik.

The Committee resolved:-

to approve the amendment and therefore approve the application conditionally.

16 SCLATTIE PARK - 190532

9. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the change of use from class 1 (shops) to hot food takeaway (sui generis) and installation of a ventilation duct, at 16 Sclattie Park Aberdeen, 190532, be refused.

The Committee heard from Mr Robert Forbes, who spoke in furtherance of the application and answered questions from members.

The Convener moved, seconded by the Vice Convener-
That the application be refused in line with the recommendation contained in the report.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

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Councillor Copland, moved as an amendment:-
That the application be approved conditionally.

Councillor Copland's amendment failed to attract a seconder and was therefore not put to the vote.

The Committee resolved:-
to refuse the application.

325 HOLBURN STREET - 190623

10. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the subdivision of the existing feu and erection of a 3 storey dwelling at 325 Holburn Street, 190623, be refused.

The Committee heard from Mr Robert Forbes, who spoke in furtherance of the application and answered questions from members.

The Committee resolved:-
to refuse the application.

COMMITTEE EFFECTIVENESS REPORT - GOV/19/285

11. The Committee had before it a report by the Chief Officer – Governance, which presented the annual report of the Planning Development Management Committee.

The report recommended:-
that the Committee note the annual report.

The Committee resolved:-

- (i) to request that information and details on planning applications be included in the next annual effectiveness report; and
 - (ii) to otherwise note the report.
- **Councillor Marie Boulton, Convener**

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE
30 May 2019

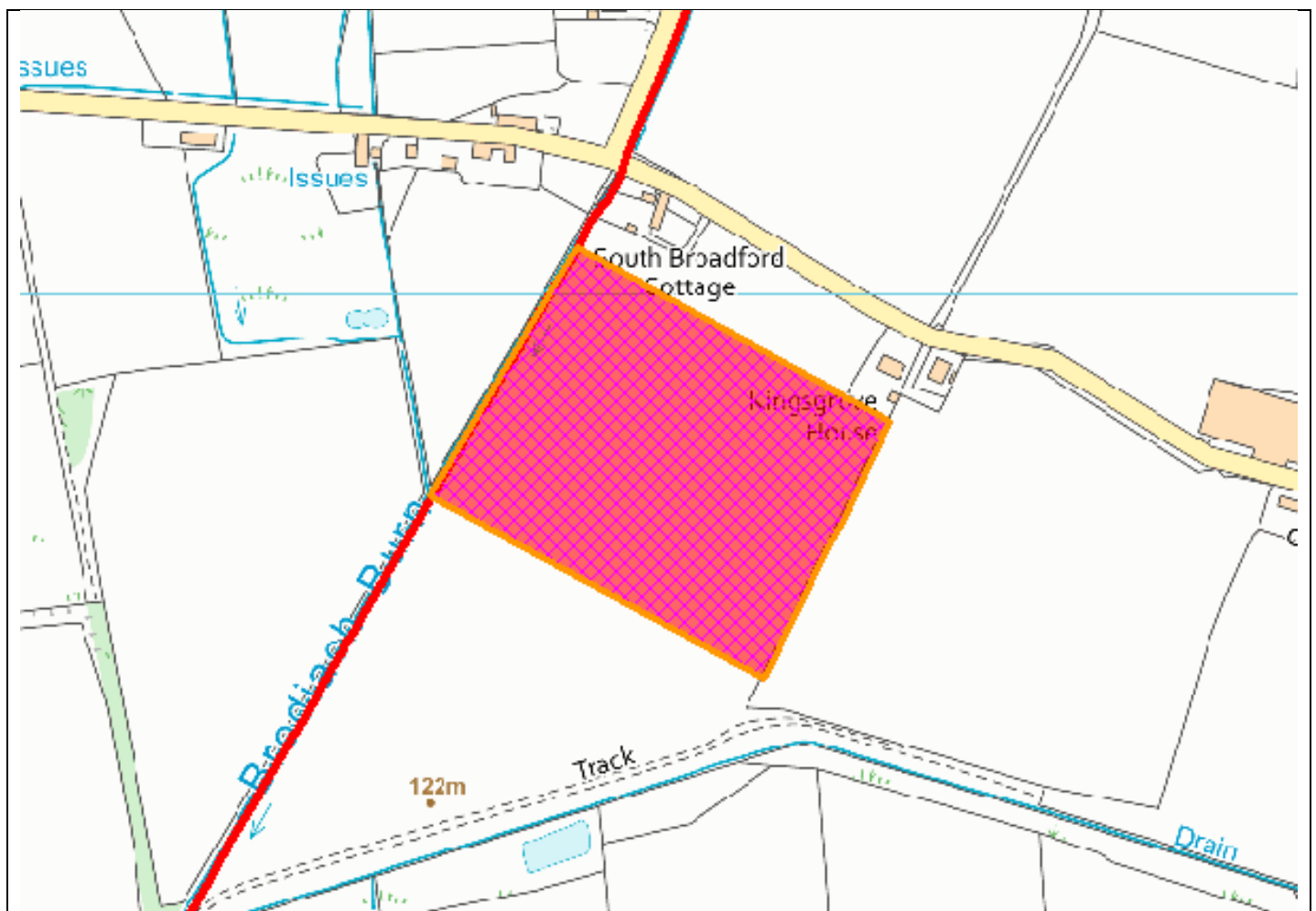
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	A	B	C	D	E	F	G	H	I
1	PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
3			27 June 2019						
4	Soju Bar and Restaurant 70 Carden Place	To approve or refuse the application.		Jamie Leadbeater	Strategic Place Planning	Place	1		
5	Cairdhilllock Farm	To approve or refuse the application.		Robert Forbes	Strategic Place Planning	Place	1		
6	268 Clifton Road	To approve or refuse the application.		Robert Forbes	Strategic Place Planning	Place	1		
7			15 August 2019						
8	Former VSA Care Home 22 Kings Gate	To approve ore refuse the application.		Jamie Leadbeater	Strategic Place Planning	Place	1		
9	Bieldside Lodge	To approve or refuse the application.		Lucy Greene	Strategic Place Planning	Place	1		
10	Craigden near Woodend	To approve or refuse the application.		Lucy Greene	Strategic Place Planning	Place	1		
11	Land at Contlaw Road	To approve ore refuse the application.		Alex Ferguson	Strategic Place Planning	Place	1		Delayed - requires additional information on impact of drainage scheme proposed on wet grassland habitat.
12	Shielhill Road Mundurno	To approve or refuse the application.		Robert Forbes	Strategic Place Planning	Place	1	D	Delayed at request of applicant to allow for submission of supporting information.
13	May Baird Avenue	To approve or refuse the application.		Lucy Greene	Straegic Place Planning	Place	1	D	
14			19 September 2019						
15									
16			31 October 2019						
17									
18			05 December 2019						
19									
20	AD HOC REPORTS (CYCLE DEPENDENT ON REQUIREMENT TO REPORT)								
21									
22									

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
23									

 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p>Committee Date: 27 June 2019</p>

Site Address:	Land Adjacent Former Landfill Site, Cairdhillock Farm, Kingswells, By Westhill, Aberdeen AB15 8QS
Application Description:	Removal of Condition 3 (Provision of scheme of landscaping) of Planning Permission Ref P151807
Application Ref:	190612/S42
Application Type	Section 42 (Variation to Conditions)
Application Date:	12 April 2019
Applicant:	McIntosh Plant Hire (Aberdeen) Ltd.
Ward:	Kingswells/Sheddocksley/Summerhill
Community Council:	Kingswells
Case Officer:	Robert Forbes



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RECOMMENDATION

Approve Modification/Discharge

APPLICATION BACKGROUND

Site Description

This site lies in open countryside, adjacent to the city's administrative boundary, about 1km east of Westhill, and 2km west of Kingswells. It has been subject to landraising / infill operations associated with agricultural improvement and has recently been restored to agricultural use. It is relatively level and contains no woodland, vegetation or landscape features of significance, other than an uncultivated buffer strip, to the south flowing Brodiach Burn, along the western boundary.

There are a few detached houses lining the public road to the north. The western part of the site acts as flood storage from the burn. About 0.5km to the south lies the A944, a dual carriageway, from which access is obtained via an unmetalled track. The intervening land to the south is undergoing substantive development / earthworks in association with the Kingsford football stadium and associated training facility.

Relevant Planning History

Application Number	Proposal	Decision Date
95/1530	Infilling of land with subsoil	1995 (expired 2000)
151807	Land infilling / ground raising	Approved 28.10.16

Condition 3 of the above permission states:-

"No further 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 detailed scheme of landscaping for the western part of the site adjacent to Brodiach Burn. This scheme shall include proposed areas of native tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting.

Reason: - In the interests of protection of the visual amenity and ecological value of this green belt area."

APPLICATION DESCRIPTION

Description of Proposal

Removal of condition 3 of permission ref 151807. The effect of which would be that no tree planting / additional landscaping would be provided within the buffer strip along the western edge of the site, and this area would remain as rough grassland.

Details submitted, seeking to address this condition in a tree planting plan (i.e. drawing 9126 rev.A) set out that...9 individual groups of whip trees of varied species (e.g. hazel, hawthorn, beech, Norway spruce) be planted within the existing buffer zone at the edge of the site. A total of 118 trees were proposed. However, following discussion with the Environmental Policy Team, given the low level of detail and the nature / extent of the planting this was not approved, and revised proposals were to be submitted. No such details were subsequently submitted.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PPSBGKBZMQT00>.

- Supporting Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee as the number of objections received exceeds the threshold figure.

CONSULTATIONS

Kingswells Community Council – No response received.

REPRESENTATIONS

7 objections raise the following matters:-

1. As there has been no material change in circumstances, there is no compelling reason as to why the condition should be removed;
2. The applicant has not chosen to appeal the condition;
3. Nearby development has been controversial and the integrity of the planning process demands that conditions are complied with, in order to uphold public trust in that process;
4. Trees serve numerous benefits (including reduction of sound / light pollution) and tree planting is required in accordance with the objective of reducing carbon emissions;
5. The site has a history of infilling / unauthorised activity by the applicant and there has been an adverse impact on visual amenity;
6. The site was previously a wetland of wildlife interest and the reinstatement of such wetland should be required to preserve the ecological value of the green belt;
7. Enforcement action should be taken to ensure that the condition is complied with.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 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.

Notwithstanding, section 42 of the 1997 act allows the planning authority to consider only the question of the conditions subject to which the planning permission should be granted.

National Planning Policy and Guidance

SPP: Expresses a presumption in favour of development which contributes to sustainable development. It acknowledges the role of green belts in terms of settlement strategy.

Aberdeen City and Shire Strategic Development Plan 2014 (SDP)

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth,

maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, SDP will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

Aberdeen Local Development Plan 2017 (ALDP)

D2: Landscape

NE2: Green Belt

NE5: Trees and Woodland

Supplementary Guidance and Technical Advice Notes

- Landscape

Background/ other Material Considerations

A complaint was received from a local resident regarding materials being deposited at the site in December 2014. This complaint was investigated and was thereafter subject of a report to the Planning Development Management Committee (PDMC) of 28 May 2015 regarding a breach of planning control (the unauthorised importation of materials and land raising, etc.) / proposed associated enforcement action. This report is available below:-

<http://committees.aberdeencity.gov.uk/documents/s47409/Alleged%20breach%20of%20planning%20control%20at%20Cairdhilllock%20Farm%20Kingswells.pdf>

The PDMC agreed to enforcement action to address the breach of planning control. The minute of this meeting is available below:

<https://committees.aberdeencity.gov.uk/documents/g3469/Printed%20minutes%2028th-May-2015%2010.00%20Planning%20Development%20Management%20Committee.pdf?T=1>

A Temporary Stop Notice (TSN) was subsequently served in 2015 and the unauthorised operations then ceased, following discussions with the applicant and SEPA.

Planning application 151807 was subsequently submitted and approved, thereby regularising the development. The subject condition was applied to that approval, in attempt to ensure that the potential adverse visual / ecological impacts of the development were addressed (e.g. as a means of protecting the water quality of the Brodiach Burn) and given the potential risk to visual / landscape amenity if the site had remained unrestored.

EVALUATION

Principle of Development / Strategic Impact

In terms of assessment against the Strategic Development Plan, and notwithstanding the location of the site immediately adjacent to the administrative boundary with Aberdeenshire Council, due to the small scale of this proposal, the proposed development is not considered to be strategic or

regionally significant, and does not require consideration of cross-boundary issues. Furthermore the proposal does not result in any physical development and removal of the condition which was imposed on the parent application (151807) does not in itself result in a requirement for consultation with Aberdeenshire Council. The application therefore, does not require detailed consideration against the SDP.

Whilst the proposal results in no significant contribution to sustainable development, as no physical development is proposed, and notwithstanding the wider sustainability benefits of tree planting (e.g. in terms of biodiversity enhancement, creation of shelter and carbon storage) the wider restoration of the site to productive agricultural use accords with the objectives of green belt policy.

Landscape Impact

Notwithstanding the historic / consented use of the land for importation of materials and land raising, that activity has been completed. At the time of imposition of the condition the site had not been restored to agricultural use and was in a transitional phase where it largely comprised soils in the process of being moved around the site, to create the current levels arrangement. Thus there was a risk that it would remain unrestored and in a degraded visual appearance. The site has now been fully restored to agricultural use, in accordance with the expectations of the planning permission (151807), such that the landscape character and visual amenity of the green belt area has been protected. No further physical development is proposed as part of this application. Therefore, no additional landscape measures or tree planting can now reasonably be required in order to accord with local plan policies D2 and NE2 (e.g. to soften / screen physical development / construction works).

The physical / landscape context of the site and its surroundings has changed significantly since the 2016 approval, primarily as a result of the ongoing 'Kingsford' football related development and development of the AWPR. The former sees previously undeveloped agricultural fields immediately to the south levelled/ raised and platformed and a steep sided engineered embankment created along its northern edge. The latter sees a major road infrastructure project, at times atop a significant embankment, a short distance to the east. Both have resulted in the formal 'rural' landscape context of the site becoming more developed / urbanised, and this will further increase as the Kingsford development progresses. As consented, the northern boundary within the Kingsford site will see strategic landscaping, and that associated tree planting will in time provide a degree of softening of the boundary with the application site, so the field will be largely screened, from the south / A944. When approaching the site from the west via Westhill Road, which lies to the north, it is largely screened by existing vegetation, hedges and trees associated with garden ground, and domestic buildings. Although the site is clearly visible on approach from the east along this road, this is a relatively lightly trafficked road in comparison with the A944 and the burn is not a prominent landscape feature and the predominant means of field division being simple post and wire fencing/ dry stone walling/ and uncultivated field edges.

Indeed it would appear that the historic landscape context of the site is one of open primarily arable farmland with field boundaries defined by fencing and with very limited presence of woodland / specimen trees / hedgerows, although it is recognised that there is a line of mature deciduous trees (primarily beech, sycamore and ash) flanking the section of the Brodiach burn to the north of the site. Thus, setting aside the recognised wider benefit of tree planting, the fact that the provision of tree planting is no longer proposed is largely consistent with the wider landscape and historic context and would not result in visual incongruity in relation to the historic landscape character.

It is considered that the change in the physical context of the site, completion of its restoration to agricultural use, the prevailing open landscape context of the site and the arguable necessity

associated with the tree planting as originally required, are all significant material considerations which provide justification for removal of the condition.

Impact on Trees

The development has not resulted in any loss of / damage to trees and there are no protected trees / woodland in the vicinity. Notwithstanding the objective of policy NE5 to: promote creation of new woodland; the recognised multiple benefits of tree planting; and wider strategic objectives to achieve reductions in carbon emissions, additional tree planting at the site cannot now reasonably be required, particularly given the authorised use of the site as agricultural land, its restored condition and the absence of any new physical development at the site. In addition, the applicant has indicated that the implementation of tree planting at the site may conflict with farm animal husbandry objectives.

In the longer term, the implementation of the Kingsford development will result in a degree of additional planting along the boundary with the site, enhancing tree cover in the wider area. It should however be noted that it was not a requirement or intention that the subject tree planting mitigated the impact of the Kingsford development. Additionally, no tree planting or landscaping measures are required to be implemented on the application site in association with that consented development.

Impact on Wildlife

Notwithstanding the historic designation of part of the site by the Council's predecessor (City of Aberdeen District Council); as a "District Wildlife Site", no such designation now applies. The reason for the designation in the early 1990s appears to have been due to the historically poor nature of drainage of the land, resulting in associated bog vegetation. Importantly it significantly predates the existing situation, and ground levels and drainage characteristics on the site have been significantly modified in accordance with the objective of the completed agricultural improvement works. It can thus be concluded that the impact of approval of the application, whereby trees would not be planted on the buffer strip, would result in no undesirable change from the existing position on site and therefore no impact on wildlife would occur. Notwithstanding the agricultural use, the wider site, and in particular the buffer strip, would continue to have potential biodiversity value – as uncultivated areas and riparian habitat. It would not be reasonable to compel the farmer / landowner to create a wetland feature on the site, although this may occur in times of high rainfall and as the burn overflows into the adjacent lower lying parts, particularly given that authorised use and absence of any physical development proposed. The fact that the buffer strip has remained in situ during the construction work on site has limited potential adverse impact on the ecology of the Brodiach Burn (e.g. due to prevention of sedimentation / run-off from the site during deposition of materials) and this buffer strip would continue to provide such a function irrespective of whether the required tree planting is undertaken.

Other Matters

As the site has been fully restored to agricultural use to an acceptable standard, and no deposition of waste / ground raising is taking place, none of the other conditions imposed on 151807 require to be re-applied. Notwithstanding that the site has a history of unauthorised development and that adjacent development is considered by some members of the public to be controversial, for all the above reasons, it is not considered appropriate to take enforcement action. The fact that the applicant did not choose to appeal against the imposition of the condition is not a valid reason to refuse this application, and the proposal must be assessed on its current merits, as set out above and particularly given the material change in circumstances / context.

RECOMMENDATION

Approve Modification/Discharge

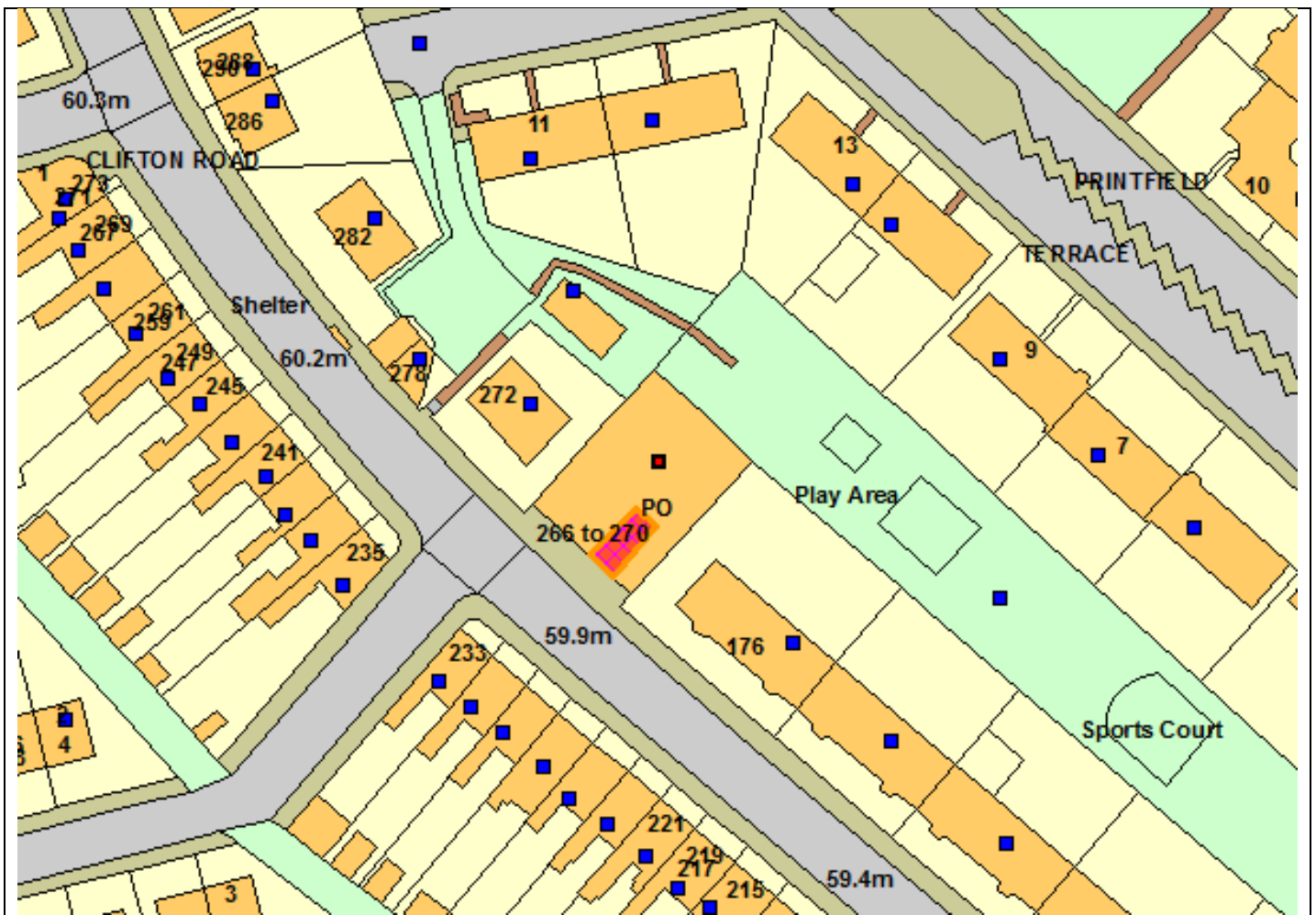
REASON FOR RECOMMENDATION

The site has been fully restored to agricultural use in accordance with the expectations of the previous planning permission (Ref: 151807), such that the landscape character and visual amenity of the green belt area has been protected. No further physical development is proposed, therefore, no additional landscape measures or tree planting can now reasonably be required in order to ensure compliance with local plan policies D2 – Landscape and NE2 – Green Belt (e.g. to soften / screen physical development / construction works). The proposals do not result in any loss of existing trees and notwithstanding the objective of local plan policy NE5 – Trees and Woodland to promote creation of new woodland, additional tree planting is not considered necessary, particularly accounting for the prevailing landscape character and changes resulting from infrastructure projects since the application was originally considered and given the authorised use of the site as agricultural land.

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 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2> <p style="margin: 5px 0 0 0;">Report by Development Management Manager</p> <p style="margin: 5px 0 0 0;">Committee Date:</p>
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Site Address:	Loose Ends, 268 Clifton Road, Aberdeen, AB24 4HA
Application Description:	Change of use from class 1 (shops) to hot food takeaway (sui generis) and installation of ventilation duct
Application Ref:	190782/DPP
Application Type	Detailed Planning Permission
Application Date:	15 May 2019
Applicant:	Mr Sudheer Jinkala
Ward:	Hilton/Woodside/Stockethill
Community Council:	Woodside And Hilton
Case Officer:	Robert Forbes



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The site comprises part of a single storey granite building of 1930s origin. The unit is currently vacant and was previously used as a hairdresser / beauty salon with access from the front (south). The adjacent units within the building are in class 1 use (a general store / post office / cold food shop).

The building is flanked by residential properties, primarily 2 storey terraced houses, with 3 storey flats to the rear (north). It has a granite parapet fronted façade and hipped roof clad with natural slate. The central section of the building has a flat roof. There is no servicing access to the rear of the premises or associated car parking area. Clifton Road functions as a bus route and provides on street parking for surrounding residents / customers.

Relevant Planning History

Application Number	Proposal	Decision Date
850709	Conversion for use as hot food take away	23.05.1985

The above was refused at committee on the following grounds -

1) that the proposal, if implemented, would be (a) detrimental to the amenity of the neighbourhood in general and of the adjoining dwellinghouses in particular by reason of the increased activity, noise, cooking odours and litter likely to be occasioned by the proposals; and (b) prejudicial to public safety by reason of the increase in traffic and parking which could reasonably be anticipated in an already heavily trafficked street; and (2) that the volume of local opposition to the proposal is such as to justify a refusal of the application.

Planning application 090534 was refused by Committee in May 2009 for a similar proposal nearby at 278 Clifton Road due to adverse impact on residential amenity and traffic congestion;

Planning application 060260 was refused by Committee in June 2006 for a similar proposal nearby at 306 Clifton Road due to adverse impact on residential amenity and parking / road safety risk. A subsequent appeal against this decision was dismissed in February 2007.

APPLICATION DESCRIPTION

Description of Proposal

Permission is sought for a change of use to form a hot food take away (fish and chip shop) with ancillary cold food sales / storage / staff facilities. The servery / kitchen area would include a fryer, with ventilation via an external flue connected to an extractor and terminating to an external flue. The public area would be located at the frontage of the site adjacent to the display window / servery. Bin storage is proposed within the rear part of the building.

The 600mm diameter flue would be of galvanised metal construction and would extend above the sloping roof plane of the frontage of the building by around 1m. It would be located in the central section of the building and would be visible from the street.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PRFVZHBZFXP00>.

Supporting Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the number of objections received (eight) exceeds the threshold figure specified in the Council's Scheme of Delegation.

CONSULTATIONS

ACC - Waste Strategy Team – No objection;

ACC - Environmental Health – Advise that the documentation submitted by the applicant does not fully demonstrate the effectiveness of the local extract ventilation (LEV) at addressing the risk of malodour from cooking activities, impacting on the amenity of neighbouring residential properties. Additionally, the installation of such a system at this location introduces the risk of noise impacting on the amenity of neighbouring residential properties.

ACC - Roads Development Management Team – Note that the site lies outwith any controlled parking zone. No objection regarding car parking impact / traffic generation / access. Request clarification of proposed bin storage arrangements.

Woodside And Hilton Community Council – No response received.

REPRESENTATIONS

A total of 8 valid objections have been received raising the following matters -

- Adverse impact on residential amenity (e.g. generation of odours / noise / litter / loitering of people / youths / anti-social behaviour);
- Traffic generation / road safety / adverse impact on residential parking;
- Conflict with local development plan policy H1 and guidance;
- Lack of demand for further hot food uses;
- Adverse impact on property value (n.b. this is not a material planning consideration and will not be addressed in the evaluation).

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 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.

National Planning Policy and Guidance

Scottish Planning Policy (SPP) regarding retail / town centres encourages their protection. Para 70:

“Decisions on development proposals should have regard to the context provided by the network of centres identified in the development plan and the sequential approach.”

Aberdeen City and Shire Strategic Development Plan (2014) (SDP)

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region’s built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

Aberdeen Local Development Plan (2017)

H1: Residential Areas

T5: Noise

NC7: Local Shop Units

Supplementary Guidance (SG) and Technical Advice Notes

Harmony of Uses

Noise

EVALUATION

Principle of Development

Due to the small scale of this proposal, it is considered to raise no strategic matters such that SDP and SPP are of limited weight in this instance. The acceptability of the development is dependent on detailed assessment, as addressed below.

Impact on Residential Amenity

The site lies within an identified residential area, as designated in the ALDP. In such areas, the need to protect residential amenity is a key consideration in determining acceptable alternative commercial uses for the premises. This can take precedence over other considerations, notwithstanding the benefits of seeking active use of the premises.

Policy H1 states “Within existing residential areas, proposals for non-residential uses will be refused, unless -

(1) they are considered complementary to residential use; or

(2) it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity”.

The Harmony of Uses SG states “The protection of the living conditions of residents in close proximity to any proposed hot food shops....will form a major consideration in assessing applications of this nature”.... “Applications within close proximity to residential units will be refused where it is considered that there may be significant adverse impacts on residential amenity in terms of noise, vibration, odour, traffic disturbance, litter or hours of operation.”

It is noted that the site lies within a residential zoned area and there is a recent history of refusal of similar proposals nearby. The physical and policy context of the previous refusals at 278 and 306 Clifton Road were very similar to the current proposal and there has been no substantive change in the physical context of the site in the intervening period, such that these decisions are considered to have a degree of materiality, notwithstanding that the most recent decision was over 10 years ago. This is due to the generation of odours, litter and late-night noise. No technical supporting information has been submitted with the proposal demonstrating how these impacts could be satisfactorily addressed or mitigated and therefore it cannot be concluded that the proposal would accord with relevant local development plan policy and the Harmony of Uses SG.

Retail Impact

Although the existing retail unit is vacant and not located within a designated retail centre such that policy NC6 does not apply in this instance, this historic use provides a complementary supporting function to the residential area as a hairdresser / beauty salon. Policy NC7 (Local Shop Units), which relates to proposals for change of use away from retail premises located outwith any identified centre, does apply. It is apparent from Google Streetview imagery that although the unit was vacant / To Let in March 2019, the previous occupier (Halo Hair and Beauty) was in operation in July 2018. The proposed alternative hot food takeaway use conflicts with policy NC7, as it has not been demonstrated by the applicant that there is a lack of demand for the continued retail use of the premises. Further, it has not been demonstrated that the new use would cater for a local need. Additionally, the proposed use would conflict with the residential amenity of the area.

Related Technical Matters

No noise or odour impact assessments have been submitted in support of the proposal. Given that Aberdeen Local Development Plan Policy T5 (Noise) expresses a presumption against noise generating development being located close to existing housing, as reinforced by Harmony of Uses guidance, there is a fundamental conflict with this policy. Notwithstanding the potential introduction of ventilation at the premises, for which no technical details have been provided, there remains significant uncertainty that ventilation / odour control measures could be addressed such that there would be no conflict with residential amenity, as required by policy H1. In addition, the use is likely to be open later in the evening than the existing use and likely to generate activity on the street that could not be controlled by planning condition. It is considered that the amenity concerns raised by the proposal cannot be adequately addressed by condition, particularly given the absence of existing hot food premises in the area and the potential for increased disturbance to surrounding residents (e.g. due to potential anti-social activity / noise generation outwith the premises particularly late in the evening).

Although no specific evidence has been provided that the proposal would create a live / attractive frontage, as expected by policy NC7, the layout plan indicates that the existing window / access would remain. Were the use acceptable details of the window treatment could be conditioned.

No details of refuse storage have been provided, as expected by policy R6 (Waste Management) and related guidance. However, the layout plan indicates a refuse storage area within the premises and details of this / access arrangements could be required by condition.

Visual Amenity

The proposed flue is a feature which does not match the design or materials of the existing building or the traditional building materials prevalent in the surrounding area. It would be a relatively incongruous feature in the street scene and, crucially, set on the principal elevation which faces onto attractive Victorian terraced housing of traditional construction opposite the site. Although it would be set back from the frontage it would be clearly visible from adjacent roads / pavements. Thus, it is considered that the flue as proposed would have a detrimental visual impact and does not accord with the design quality expectation of local plan policy D1. An

alternative flue termination within the flat roofed section of the building, set back further from the frontage, may provide a more visually acceptable solution.

Traffic / Road Safety Impact

Although it is likely that many potential customers would be nearby residents, with a notional similar catchment to the last retail use, the location of the site and nature of the use has potential to draw increased car borne custom. Notwithstanding the possibility that the proposed use may increase numbers of drivers stopping at the premises (e.g. in relation to collection / delivery of food), given the absence of objection from ACC Roads officers on parking or safety grounds, it is considered that the traffic generation and any potential road safety impact of the development would not be so significant as to warrant refusal.

Matters Raised in Representation

These are considered to raise valid planning considerations which are addressed in the above detailed analysis. The alleged lack of demand for further hot food uses in the area is not a material consideration which would justify refusal of the application.

Conclusion

The proposed change of use would be detrimental to residential amenity due to increased generation of odour, litter and noise (e.g. from ventilation systems and increase in vehicle traffic late in the evening). Further it has not been demonstrated that there is a lack of demand for continued retail use of the premises. The proposed flue would have an unacceptable visual impact on the streetscene. As a result, the proposal is contrary to policies H1, NC7 and D1 of the local development plan and the associated supplementary guidance.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

01. The proposal would be likely to result in adverse impacts on, and thus conflict with, residential amenity due to increased generation of odour, litter and noise (e.g. from ventilation systems and increase in vehicle traffic / activity late in the evening) and therefore conflicts with Aberdeen Local Development Plan policy H1 (Residential Areas) and related supplementary guidance regarding Harmony of Uses.

02. The proposal conflicts with Aberdeen Local Development Plan policy NC7 (Local Shop Units) as it has not been demonstrated that there is a lack of demand for continued retail use of the premises and the proposed use would conflict with the amenity of the area.

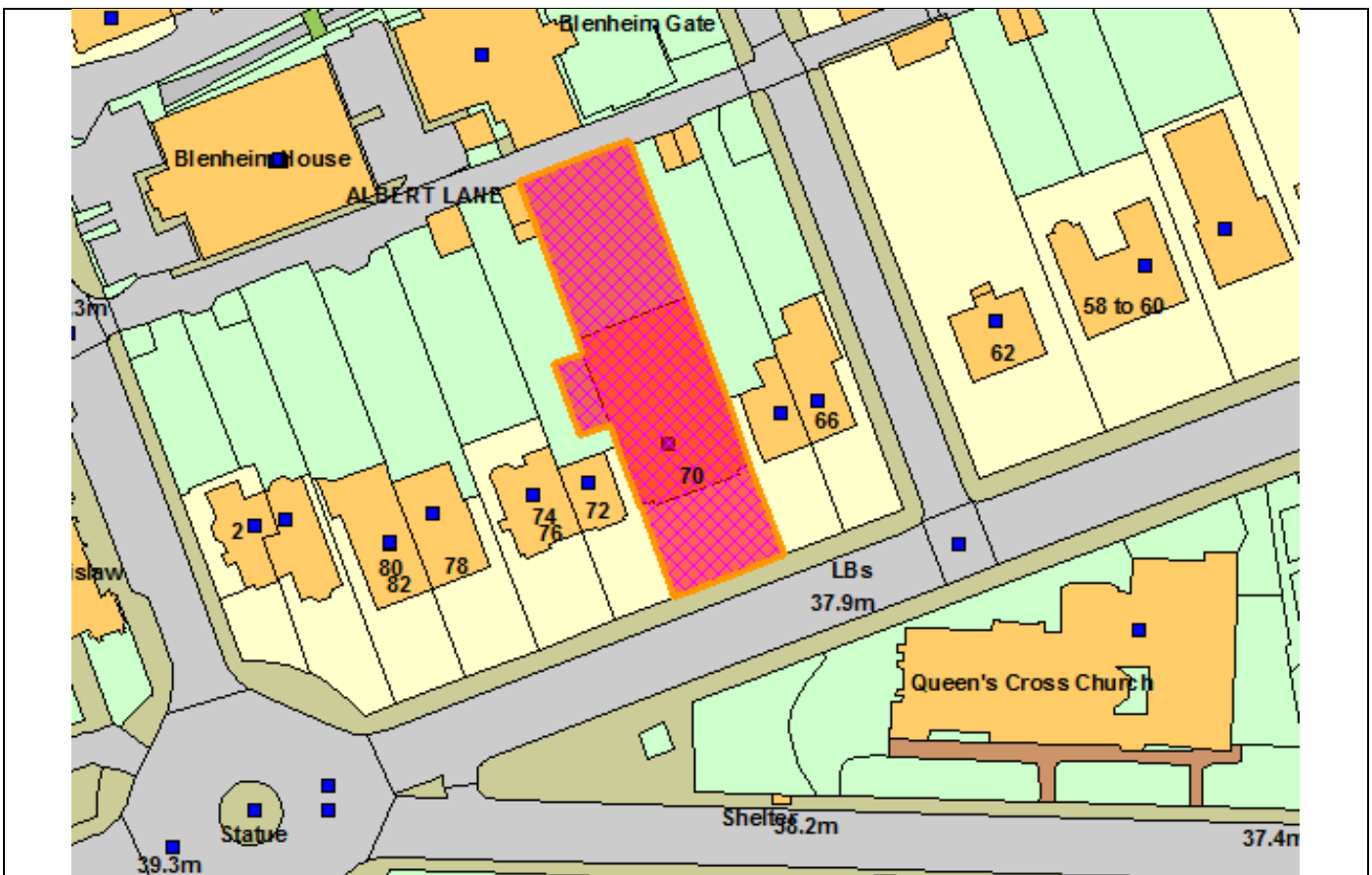
03. The proposed flue, as currently sited / designed, would have an unacceptable visual impact and does not accord with the design quality expectations of Aberdeen Local Development Plan policy D1: Quality Placemaking by Design

CONDITIONS

In the event that Members are minded to grant the change of use, conditions relating to limiting the hours of operation, the provision of details of ventilation to prevent odour nuisance, the provision of a noise assessment, details of display window treatment and details of refuse / waste storage are recommended.

 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p>Committee Date:</p>

Site Address:	Soju Bar and Diner, 70 Carden Place, Aberdeen, AB10 1UL
Application Description:	Variation of condition 2 (roof terrace operating hours) of planning permission 180390/DPP to extend operating hours on roof terrace
Application Ref:	190760/S42
Application Type	Section 42 (Variation to Conditions)
Application Date:	10 May 2019
Applicant:	Elements Scotland Ltd
Ward:	Hazlehead/Ashley/Queens Cross
Community Council:	Queen's Cross And Harlaw
Case Officer:	Jamie Leadbeater



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The curtilage of a detached 1½ storey Victorian villa with modern flat roof extension to rear, the building is in use as a public bar (Sui Generis) at ground floor level and office space at the floor levels directly above and looking onto the roof terrace. The property is sited on the northern side of Carden Place, to the east of the Queen's Cross roundabout. The bar is served by a surface car park within the undeveloped rear curtilage, with access off Albert Lane.

In terms of wider context, the nearest residential properties are located c. 37m away to the west on Carden Place and over 50m away on Blenheim Place to the north-east, whilst the nearest residential unit on Fountainhall Road to the west is approximately 95m away. Offices exist outwith the same structure of the application property which sit immediately adjacent to the site on both sides and directly opposite to the rear c. 30m away, on the northern side of Albert Lane which look directly over the car park and roof terrace contained within the site's bounds.

In terms of designations, the site falls within the West End Office Area and the Albyn Place/Rubislaw Conservation Area as designated in the Aberdeen local Development Plan 2017.

Relevant Planning History

Application Number	Proposal	Decision Date
190177/DPP	Erection of outdoor bar enclosure unit on first floor terrace area with associated works (part retrospective)	03.04.2019 Status: Refused
180390/DPP	Proposed use of roof space to rear to form outdoor seating area, and alteration and extension to existing adjoining courtyard area including installation of replacement doors	03.07.2019 Status: Approved Conditionally

APPLICATION DESCRIPTION

Description of Proposal

Permission is sought to vary the terms of Condition 2 (roof terrace operating hours) pertaining to the planning consent granted under application 180390/DPP which sought to formalise use of a first-floor open terrace to accommodate patrons from the bar-restaurant contained within the envelope of the building, as extended, at ground floor level.

At present, Condition 2 controls hours of using the open first-floor terrace from 6pm to 11pm, Monday to Friday, and 12pm to 11pm on Saturday and Sundays. The proposal under this application seeks to extend hours of using the terrace from 12pm until 11pm from Monday to Friday.

Supporting Documents

All drawings can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PR530XBZFS000> .

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the application has been subject of 6 or more objections and thus falls outwith the Council's Scheme of Delegation.

CONSULTATIONS

ACC - Environmental Health – Object.

The area surrounding the licensed premises comprises a mixture of business and residential uses. A number of complaints have been received by the Environmental Health Service pertaining to noise emitting from the outdoor seating area causing disturbance to offices close by. In addition, such complaints have arisen from nearby residents who have expressed concern that existing licensing conditions have not been adhered to, resulting in action being taken by the Council's Licensing Team and Police Scotland.

Queen's Cross & Harlaw Community Council – Strongly object, as owners seem to have difficulty in adhering to present licensing conditions.

In September 2018, the Community Council reluctantly agreed to license the premises (including the open terrace) to operate 6pm -10pm Monday to Friday and 12pm to 10pm on Saturdays and Sundays. Other licensing requirements include: no cooking on the terrace, no bar on the terrace, the terrace to be staffed at all times by at least one of staff, and no music to be played on the terrace. Despite these licensing conditions being in place, management of the licensed premises has "flouted" with conditions pertaining to its license agreement to the extent that the Police has had to become involved in a problem at the premises recently. Questions are raised about the number of customers allowed on the roof terrace at any one time.

REPRESENTATIONS

The application has received 7 written representations (6 objections, 1 support) which raise the following points:

Reason(s) to object

- The two offices (occupied by Bidwells and Lefevre Litigation respectively) within the same building as the licensed premises operate between 9am – 5pm, Monday to Friday, and are located immediately adjacent to the roof area covered by the application. The proposed extension in operating hours would amount to noise interference which adversely affects the professional demands of each business's operations and subsequent ability to run businesses effectively;
- Surrounding area is heavily residential in nature, with school children passing the site. Extending the hours of operation before 4pm would be unacceptable if the owners of the bar-restaurant are to respect the needs of local residents and professional businesses;
- Noise disturbance has been bad enough at weekends on Blenheim Place, and would hate to be subject of the same disturbance during the week. Soju needs to respect the general living demands of those who live and work in the west end.
- Present owners of the Soju have shown blatant disregard for current licensing and planning conditions, evidenced by a "Sunday all-day party" in March on the roof terrace.
- When used, the roof terrace/balcony is very spacious and accommodates a large number of people who cause noise disturbance to nearby residential properties on Carden Place by shouting, use bad language, laughing and playing music under the influence of alcohol. This is particularly apparent when windows within residential properties are open. If the application were to be approved, then this impact on residential properties would be worsened.

Reason(s) to support

- Extension to operating hours of the terrace would support local businesses to stay open;
- As resident nearby at 71 Blenheim Place, never been disturbed by noise emanating from the roof terrace.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 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.

Notwithstanding the above, section 42 of the 1997 act allows the planning authority to consider only the question of the conditions subject to which the planning permission should be granted.

National Planning Policy and Guidance

- Scottish Planning Policy
- PAN 1/2011 – Planning and Noise

Aberdeen City and Shire Strategic Development Plan (2014) (SDP)

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

Aberdeen Local Development Plan (2017)

- Policy B3 – West End Office Area
- Policy T5 – Noise

Supplementary Guidance

- Noise

EVALUATION

The primary issue in determining this application is whether or not the proposed extended hours of using the open terrace would be to the undue detriment of the adjoining offices and the wider amenity of nearby by residents. In reaching a conclusion, the most defining factor to consider is whether or not the likely additional/more prolonged noise output arising from increased operation would be of an acceptable level or not.

In order to investigate whether the likely increase in noise output arising from the more prolonged operation of the roof terrace would be acceptable, the Council's Environmental Health Service has been consulted. They have objected to the proposals citing concerns about the likely adverse noise impact arising from the proposed extended hours on the adjoining offices, as the proposed extended hours of operation coincide with the greater proportion of hours that offices adjoining are in operation, 9am to 5pm. The existing condition was specifically imposed on the existing consent to make use of the roof space acceptable by avoiding conflict with the function of the offices. It should be noted from the letters of objection that the applicant's landlord has objected to the proposal citing concerns about the likely adverse impact it would have on the offices, as well as representatives of each of the two tenants occupying each of the offices themselves objected to the above effect. Whilst the Community Council have objected, their concerns relate more to the conduct of how the licensed premises has been run relative to existing licensing and planning conditions, including the very condition which is being sought to be varied under this application.

By means of comparison, since the consent was granted for use of the open terrace a retrospective application under ref: 190177/DPP for a freestanding bar dispensing unit on the terrace has been refused by officers in April 2019. Setting aside the impact on the historic environment, the primary concern arising from that proposal was that it was designed to increase use of the open terrace and make it a more integral and central feature of the licensed premises, which consequently would give rise to an uplift in noise disturbance to surrounding properties. That proposal conflicted with the underlying purpose of condition 1 pertaining to the planning consent issued under application 180390/DPP and this proposal now conflicts with the underlying purpose of applying the current condition being considered (condition 2) to the same consent. The consent granted under that application was only meant to serve as a compromise position between formalising an intermittent arrangement not benefitting from planning permission whilst safeguarding the interest of adjoining offices and nearby residential properties. The primary purpose of Policy B3 in the ALDP, which relates to the West End Office Area, a prestigious high-quality office location on the edge of the city centre, seeks to safeguard existing offices and promote their expansion. Should the proposed variation be approved, based upon the consultation comments and concerns outlined by objectors, the likely impact on the offices would be a negative one – particularly as there are two offices contained within the same built structure as the licensed premise which look out directly onto the terrace - and therefore would conflict with the policy's intended purpose. It should also be noted that the likely negative impact on offices strays beyond these offices, but into those immediately adjacent and those directly opposite on the northern side of Albert Lane by virtue of the roof terrace's proximity, open and uncontained arrangement relative to these neighbouring premises. No mitigation has been put forward by the applicant to address the two latter design flaws and it is considered unlikely that any proposals could achieve the desired effect whilst also suitably respecting the site's conservation area context – issues very much at the heart of refusing application 190177/DPP for retrospective bar dispensing unit.

Furthermore, Policy B3 and its pre-text, recognises that the West End Office area comprises residential uses which require protection and states that new development within the designation which does not protect residential amenity will be refused. Whilst the proposed variation to the condition does not constitute "development" in itself, it would materially alter the consented development in its present form and therefore consideration of this inadvertent issue is relevant. The local community council and objectors residing along Carden Place and Blenheim Place have expressed concern about the likely increase in noise disturbance if this application were approved. In all reality, whilst it is likely the greater proportion of nearby residents may not be in residence between 12pm and 6pm, there may equally be a number of residents which work unsociable hours or who are retired. Mindful that may be the case, the extended hours of operation would likely pose an increased risk to those resident's 'quiet enjoyment' of their residential properties, particularly in the summer months when the terrace is likely to be in greatest demand and when local residents with gardens use their gardens most. Subsequently, on balance, it is considered that the proposed extension to the operating hours would pose a threat to residential amenity and therefore creates a

tension with the provisions of Policy B3 in the ALDP. In addition, given that the extended hours may adversely affect the noise sensitive developments i.e. existing buildings in part or wholly residential use, the proposal poses a tension with the aims of Policy T5 in the ALDP as set out both within the policy and its pre-text.

In conclusion, it is considered permitting the proposed variation to the existing condition by would have an undue adverse impact on the amenity and subsequent function of existing adjoining offices, as well as giving rise to the potential of adversely impacting on nearby residential properties. To this end, the proposal is considered to be at odds with Policy B3 and T5 in the Aberdeen Local Development Plan 2017. The application is therefore recommended for refusal.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

The proposed extension to the existing permitted hours of operation of the open terrace is unacceptable due to the likely adverse impact it would have on the amenity and subsequent function of adjoining offices, as well as the amenity of nearby residential properties, as a consequence of likely more prolonged noise disturbance from patrons of the bar and restaurant. As such, the proposal is considered to contravene the core aims of Policy B3 (West End Office Area) and Policy T5 (Noise) in the Aberdeen Local Development Plan 2017.