

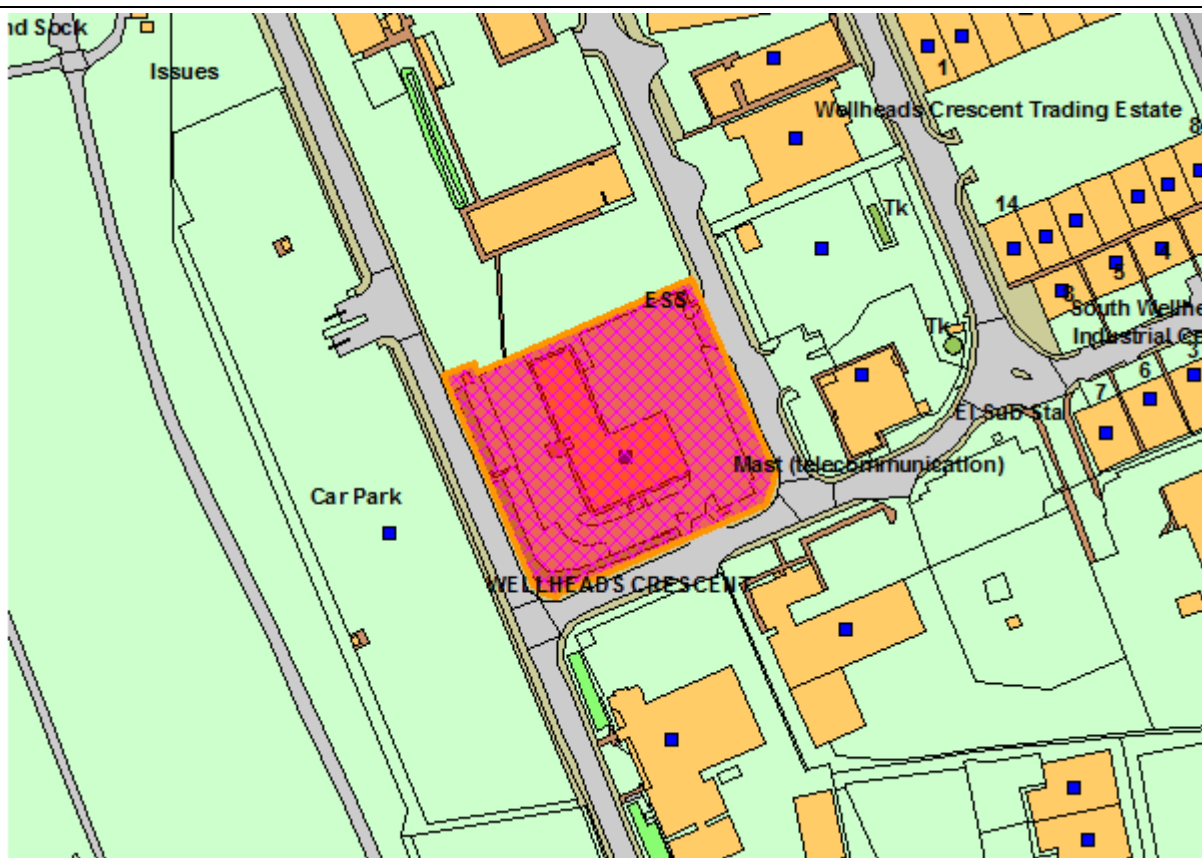


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 17 June 2021

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| Site Address: | Former Wood Group Building, Wellheads Place, Aberdeen, AB21 7GB |
| Application Description: | Change of use from office to private medical clinic |
| Application Ref: | 201292/DPP |
| Application Type | Detailed Planning Permission |
| Application Date: | 26 October 2020 |
| Applicant: | TAC Healthcare Group Ltd |
| Ward: | Dyce/Bucksburn/Danestone |
| Community Council: | Dyce and Stoneywood |
| Case Officer: | Matthew Easton |



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RECOMMENDATION

Willingness to approve and notify Scottish Ministers

APPLICATION BACKGROUND

Site Description

The application relates to an existing office building located on Wellheads Place within Wellheads Industrial Estate, Dyce.

The building is an L-shaped office pavilion of two-storeys, likely dating from the 1990s. It is set within a car park accommodating 99 spaces which surrounds it on three sides and features landscaping between it and the surrounding roads. Vehicular access is available from Wellheads Crescent and Wellheads Place.

Since July 2020, around one-third of the building has been occupied by TAC Healthcare Group, which uses it as an administrative base, with the remainder being vacant. Prior to 2020, the building had been entirely vacant since 2014.

To the west across Wellheads Drive, is a long-stay airport carpark, beyond which is the airport itself. Otherwise, the site is surrounded by various business and light industrial premises, including a gas storage depot operated by Calor Gas which is located to the east on the opposite side of Wellheads Place, with a distance of 12m between each site boundary. The application site is located within the inner consultation zone of the gas depot which is identified by the Health and Safety Executive (HSE) as a major hazard site.

Relevant Planning History

None

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for a change of use of the building from office (Class 4 business) to a private medical clinic, a Class 2 (financial, professional and other services) use. No external changes to the building or site are proposed through this application. It is understood that the existing office accommodation would be fitted out as a medical centre, although these details do not form part of this application and do not require approval – therefore, only the principle of the change of use is to be considered through the current application.

The applicant has advised that the facility would provide occupational health services to local businesses. Activities which would take place there include diagnostic procedures and tests (X-rays, MRI scans and other tests), various minor procedures, physiotherapy and COVID-19 testing. Procedures are expected to take less than 20 minutes with clients expected to be mobile, self-caring and have no minor or comorbid disease.

Amendments

Since submission, the application has been amended from a proposal for a hospital style facility with patients staying overnight, to a medical clinic with the activities described above and no overnight stays.

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=QISU8WBZLHV00>

- Noise Impact Assessment
- Planning Statement
- Transport Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because if approved it would require to be the subject of formal notification to the Scottish Ministers. The notification is required because, following consultation, the Health and Safety Executive has advised against the granting of planning permission.

CONSULTATIONS

ACC - Environmental Health – No objection. The noise impact assessment report the noise levels over a 16 hour period opposed to the 1 hour period referred to within the noise guidance related to medical facilities (the Department of Health – Special Services - Scottish Health Technical Memorandum HTM 08-01 Acoustics). The report has not demonstrated compliance with the relevant standard namely LAeq,1hr 40 dB for private offices, small treatment rooms, interview rooms, consulting rooms and small meeting rooms.

ACC - Roads Development Management Team – No objection.

- The site is well served in terms of direct public adopted footpath links onto Wellheads Place and Crescent which connects to the wider Dyce area, that includes the nearby rail station and bus stops located on Wellheads Drive.
- It is noted the site shall remain as existing in terms of building footprint and surrounding car parking, therefore retaining the existing 99 spaces. It is proposed to increase the volume of disabled spaces, which is welcomed and acceptable.
- It is proposed to provide secure and covered cycle parking, the proposed location for 11 spaces is acceptable but although adequate provision is provided as per SG it is requested that further provision be provided to promote such use.
- The proposed change of use would be a betterment on the road network with the vehicular in/outs associated with the site being less during the morning and evening peak periods than the current use.

Dyce and Stoneywood Community Council – No response

Health and Safety Executive (HSE) – Object. HSE's assessment indicates that the risk of harm to people at the proposed development site is such that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case. This is based on the change in use from a class 4 office use, considered as a 'workplace' to the medical centre representing an 'indoor use by the public' not being supported by HSE.

REPRESENTATIONS

One representation was received which noted that the initial submission had an error in terms of the address of the site. This error has since been rectified and person who submitted the representation has been advise by e-mail.

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 was approved on 18 December 2020. In February 2021, a Judicial Review of the decision of the Scottish Ministers on 18 December 2020 to amend Scottish Planning Policy (2014) as set out in 'Scottish Planning Policy Finalised Documents' and to publish 'Planning Advice Note 1/2020' was lodged with the Court of Session. As it stands, SPP2020 remains in place and is a relevant consideration in the determination of all planning applications.

Aberdeen Local Development Plan (2017)

- Policy B1 (Business and Industrial Land)
- Policy B6 (Pipelines, Major Hazards and Explosives Storage Sites)
- Policy CF2 (New Community Facilities)
- Policy T2 (Managing the Transport Impact of Development)
- Policy T3 (Sustainable and Active Travel)

Supplementary Guidance and Technical Advice Notes

- Transport and Accessibility Supplementary Guidance
- Noise Supplementary Guidance

Proposed Aberdeen Local Development Plan (2020)

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP.
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis.

- Policy B1 (Business and Industrial Land)
- Policy B6 Pipelines, Major Hazards and Explosive Storage Sites)
- Policy CF2 (New Community Facilities)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy WB3 (Noise)

Other Material Considerations

- [HSE's Land Use Planning Methodology](#)
- [Planning Circular 3/2015 \(Planning Controls for Hazardous Substances\)](#)

EVALUATION

Principle of Development

Land Use Zoning

The site is located within an area zoned as business and industrial where Policy B1 of the ALDP states that such areas “*shall be retained for Class 4 (Business), Class 5 (General Industrial) and Class 6 (Storage and Distribution) uses and safeguarded from other conflicting development types. Other uses which may be suited to a business and industrial location, such as car showrooms and bus depots, shall be treated on their own merits.*” It goes on to state that “*facilities that directly support business and industrial uses may be permitted where they enhance the attraction and sustainability of the city’s business and industrial land. Such facilities should be aimed primarily at meeting the needs of businesses and employees within the business and industrial area.*”

Although the use would not be within Classes 4, 5 or 6, the proposal would support other businesses by providing occupational health services in the Dyce commercial area. It is acknowledged that the clinic would be serving a larger catchment than the industrial estate itself, however, it is considered to be a suitable alternative use for the building which would otherwise in all likelihood become vacant again should the proposed use not be supported. The applicant’s agents have confirmed the limited chances of success in letting the remaining part of the building as office space to an alternative occupier, due to the current oversupply of office accommodation.

The proposed use is not a disruptive one in terms of the amenity of the area and it would not conflict with the activities of surrounding businesses, or vice versa.

In terms of any impact on the supply of class 4 (business) space in Aberdeen, the size of the premises represents an insignificant proportion of the overall floor space within Wellheads Industrial Estate and its loss from business use would not adversely affect the available supply of such space as there is a significant number of vacancies across the city.

Its therefore considered the proposal is in accordance with Policy B1.

New Community Facilities

As a new community facility, Policy CF2 (New Community Facilities) applies. The policy states that “*Proposals for new community facilities shall be supported, in principle, provided they are in*

locations convenient to the community they serve and are readily accessible, particularly to public transport, pedestrians and cyclists.”

The use would have a city-wide catchment and is in a reasonable location, being within the urban area and accessible by walk and cycling. The nearest bus routes would be on Stoneywood Road around 900m away. There are closer bus stops on Wellheads Drive, however they are currently not in use by any services. The railway station is also within a reasonable walking distance (1400m). It is considered that the location is acceptable in terms of Policy CF2.

Major Hazard Site

The neighbouring depot operated by Calor Gas is identified by HSE as a major hazard site and has consent to store up to 198 tonnes of liquified petroleum gas (LPG). HSE sets a consultation distance around major hazard sites after assessing the risks and likely effects of major accidents at the major hazard. The consultation distance is split into outer, middle, and inner zones and in this case the application site is within the inner zone.

Policy B6 (Pipelines, Major Hazards and Explosives Storage Sites) indicates that where certain types of new development are proposed within the consultation zones of major hazards, the Council will be required to consult the Health and Safety Executive (HSE) to determine the potential risk to public safety. The Council will take full account of the advice from the HSE in determining planning applications.

HSE has been consulted and has advised that the risk of harm to people at the proposed application site is such that its advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.

HSE's guidance explains that its approach balances the principle of stabilising and not increasing the numbers at risk with a pragmatic awareness of the limited land available for development in the UK. Officers have discussed the objection with HSE further and HSE have confirmed that no weight is given to the existing use rights of the building as office accommodation. With that in mind the development would attract an objection from HSE irrespective of whether an existing building benefiting from consent for an existing use was present on the site. The HSE's justification for their 'advise against' response hinges upon the perceived increased risk in the part of the building being used by 'visiting members of the public', a higher risk use category when compared with office use as a workplace. The Planning Service does, however, seek to be reasonable in its decision making, and a key consideration in any change of use planning application is the existing authorised use of the site.

To assist in assessment of the matter further, the applicant has provided information on the existing authorised use and the proposed use. The notional capacity of the building in its authorised use as an office is 325 people (191 on the ground floor and 134 on the first floor). This is based on the floor space of 2,300m² and the occupancy standards contained in the Building Standards Technical Handbook 2020 (Non-domestic), related to ensuring occupants can escape from fire. For the medical clinic use, it is anticipated that around 120–130 people (approximately 20 admin staff, 5-10 clinical staff 40-80 patients) would be using the building over a day, with a smaller number being present at any one time.

Therefore, on numbers alone, the proposed use would entail less people being present on the site than could occupy the existing office. However, the inherent vulnerability of the exposed population and the associated ease of evacuation or other emergency procedures for the type of development proposed must also be considered. Some categories of development (for example

schools, hospitals or prisons) are regarded as more sensitive than others (for example light industrial or a shop), and HSE's advice is weighed accordingly.

In assessing the matter, HSE's Land Use Planning Methodology attributes sensitivity levels to different uses. The methodology indicates that the existing office use (categorised as a workplace with over 100 people in it – development type DT1.1 x1) would be categorised as a sensitivity level 2 (SL2). This is based on the general public involved in normal activities. Although the building has not been used to its full capacity as an office at present, it could be fully occupied without a further grant of planning permission as that is the authorised use.

The proposed use as a medical clinic (developments for use by the general public where total floor space (of all floors) is from 250m² up to 5000m² – DT2.4) would also be SL2. This is considered the appropriate category to apply to the proposed use as those attending would generally be able-bodied, would be undergoing minor procedures or tests without general anaesthetic, would not be staying overnight and would typically be there for a short period of time.

Initially, the treatment of in-patients was proposed which would categorise the use as a 'hospital' (DT3.1). Such uses have a higher sensitivity level (SL3) as they are places providing an element of care or protection. Because of age, infirmity or state of health, such occupants may be especially vulnerable to injury from hazardous events. Emergency action and evacuation may be very difficult. Acknowledging this, the applicant amended the proposal from hospital to medical clinic, so there would be no vulnerable occupants or overnight stays.

Therefore, to summarise, the sensitivity level of both the existing authorised use and the proposed use is the same in terms of HSE's methodology. When considering a Sensitivity Level 2 use in the Inner Zone of a hazardous installation, the HSE advice is to 'advise against' the granting of planning permission, applying to both office or medical clinic use.

Planning Circular 3/2015 indicates that HSE's advice is provided so that any risks can be given due weight and balanced against other relevant planning considerations by planning authorities in making planning decisions. It goes on to say that in view of its acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from HSE that planning permission should be refused for development near a major hazard site should not be overridden without the most careful consideration.

Whilst acknowledging the above, the planning authority needs to consider all material considerations. In this case, the authorised office use and physical form of the building would allow more people to be present at the site if it were to continue to operate as an office than would be the case in the proposed use. The existing capacity of the building could be fully utilised without a further grant of planning permission. Taking this into account, together with the identical HSE sensitivity levels of the existing and proposed uses, it is the opinion of the Planning Service that the change of use would not represent an increase in the number of people at risk should an accident occur at the gas depot.

In order to ensure that the situation remains as close to that described by the applicant as possible it is proposed to attach conditions preventing any overnight stays by patients or the undertaking of any procedures which would require a general anaesthetic, and removal of permitted development rights which allow change of use to other uses within class 2 (financial, professional and other services) or a change from class 2 to class 1 (shops).

Should committee members support the recommendation in this regard, the notification requirements explained below would apply.

Noise

Being located adjacent to the airport there is the potential for the proposed new use to be adversely affected by noise from aircraft. Policy T5 (Noise) indicates that noise sensitive developments will not normally be permitted close to existing noisy land uses without suitable mitigation measures in place to reduce the impact of noise.

A noise impact assessment (NIA) was submitted which considered the initial proposal to have patients staying overnight at the premises. Since the proposal was changed to medical clinic with no overnight stays, that assessment is no longer relevant. The NIA did not however consider medical clinic aspect in terms of the standards contained within the relevant for guidance medical clinics (Department of Health – Special Services - Scottish Health Technical Memorandum HTM 08-01 Acoustics). However, as a medical clinic is not a particularly sensitive use in terms of noise, it is considered reasonable to condition the submission of details demonstrating compliance with the guidance.

Traffic and Parking

Policies T2 (Managing the Transport Impact of Development) and Policy T3 (Sustainable and Active Travel) require developments to demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.

There are 99 parking spaces (including two accessible spaces) associated with the site at present. Three spaces will be marked as accessible spaces which would result in a drop to a total of 97 spaces, five of which will be accessible. The level of parking is accepted by the Road Development Management Team.

It is proposed to provide 11 secure and covered cycle parking spaces close to the building entrance. A condition is proposed requiring the specification of the stands and enclosure prior to the use commence.

The proposed change of use would be a betterment on the road network with the vehicular traffic spread throughout the day rather than occurring and at morning and evening peak times.

It is considered the proposals are in accordance with Policies T2 and T3.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (PALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is acceptable in terms of both Plans for the reasons previously given.

Notification to Scottish Ministers

Should the Committee support the recommendation, due to the objection from HSE, there would be a requirement for the planning authority to notify Scottish Ministers of their intention to grant conditional planning permission. Scottish Ministers will then consider whether to call-in the application for their own determination or clear it back to the authority to decide the matter as it thinks fit.

HSE guidance states that it will normally request a call-in only in cases of exceptional concern. However, if HSE decides not to make such a request this does not mean that it has withdrawn its advice against permission, which remains on file. A decision not to request call-in does not negate HSE's advice.

RECOMMENDATION

Willingness to approve and notify Scottish Ministers

REASON FOR RECOMMENDATION

In terms of Policy B1 (Business and Industrial Land) it is acknowledged that the clinic would serve a wider catchment than solely the business area within which it is located but it is considered a suitable use for a business and industrial area and the impact on the supply of Class 4 (business) space in Aberdeen would be insignificant. The use would take place within the existing building and considered that it would not conflict with the activities of surrounding businesses or vice versa.

The site is in a reasonable location for such a use, being located within the urban area and accessible by sustainable means of transport in accordance with Policy CF2 (New Community Facilities).

In relation to the nearby major hazard site and Policy B6 (Pipelines, Major Hazards and Explosive Storage Sites), HSE advise against the granting of planning permission. It was found however that the authorised use and physical form of the building would allow more people to be present at the site than would be the case in the proposed use and that the sensitivity levels derived from HSE's Land Use Planning Methodology for the existing and proposed uses would be the same. Taking these aspects into account it is therefore considered that the change of use would not represent an increase in the number of people at risk should an accident occur at the nearby gas storage depot. Restrictions are proposed via conditions to ensure that the vulnerability of the population attending the site remains as described in the application.

Otherwise, subject to several planning conditions the proposal is considered to meet relevant technical and design criteria relating to accessibility, traffic and noise.

CONDITIONS

(1) NOISE

That the medical clinic use hereby approved shall not be implemented unless (i) details of compliance with the noise levels (LAeq,1hr 40 dB) for private offices, small treatment rooms, interview rooms, consulting rooms and small meeting rooms containment within the Department of Health – Special Services - Scottish Health Technical Memorandum HTM 08-01 document and (ii) and any mitigation measures required have been implemented.

Reason – to ensure occupants of the building are protected from any unreasonable levels of noise.

(2) CYCLE PARKING

That the medical clinic use hereby approved shall not be implemented unless (i) details of the location and design of the proposed secure and covered cycle store have been submitted to and approved in writing by the planning authority and (ii) the cycle store has been installed and is available for use.

Reason – to encourage travel to and from the site by cycling.

(3) ACCESSIBLE PARKING

That the medical clinic use hereby approved shall not be implemented unless the parking spaces identified on figure 4 of the Transportation Statement (A/200859 (November 2020) by Cameron + Ross) have been converted to accessible spaces and are available for use.

Reason – to ensure sufficient availability for those requiring an accessible parking space.

(4) RESTRICTED ACTIVITIES

The medical clinic hereby approved shall not be operated unless –

- No patients are permitted to stay at the premises overnight.
- No procedure where any patient is under a general anaesthetic is undertaken at the premises.

Reason – to ensure that the vulnerability of the population attending the site remains as described in the application.

(5) RESTRICTION ON CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER USES) USE

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) and the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), this planning permission allows for use as a medical clinic only. No other uses within Class 2 (Financial, Professional and Other Uses) or a change of use to Class 1 (Shops) are permitted.

Reason – to ensure that the vulnerability of the population attending the site remains as described in the application.