

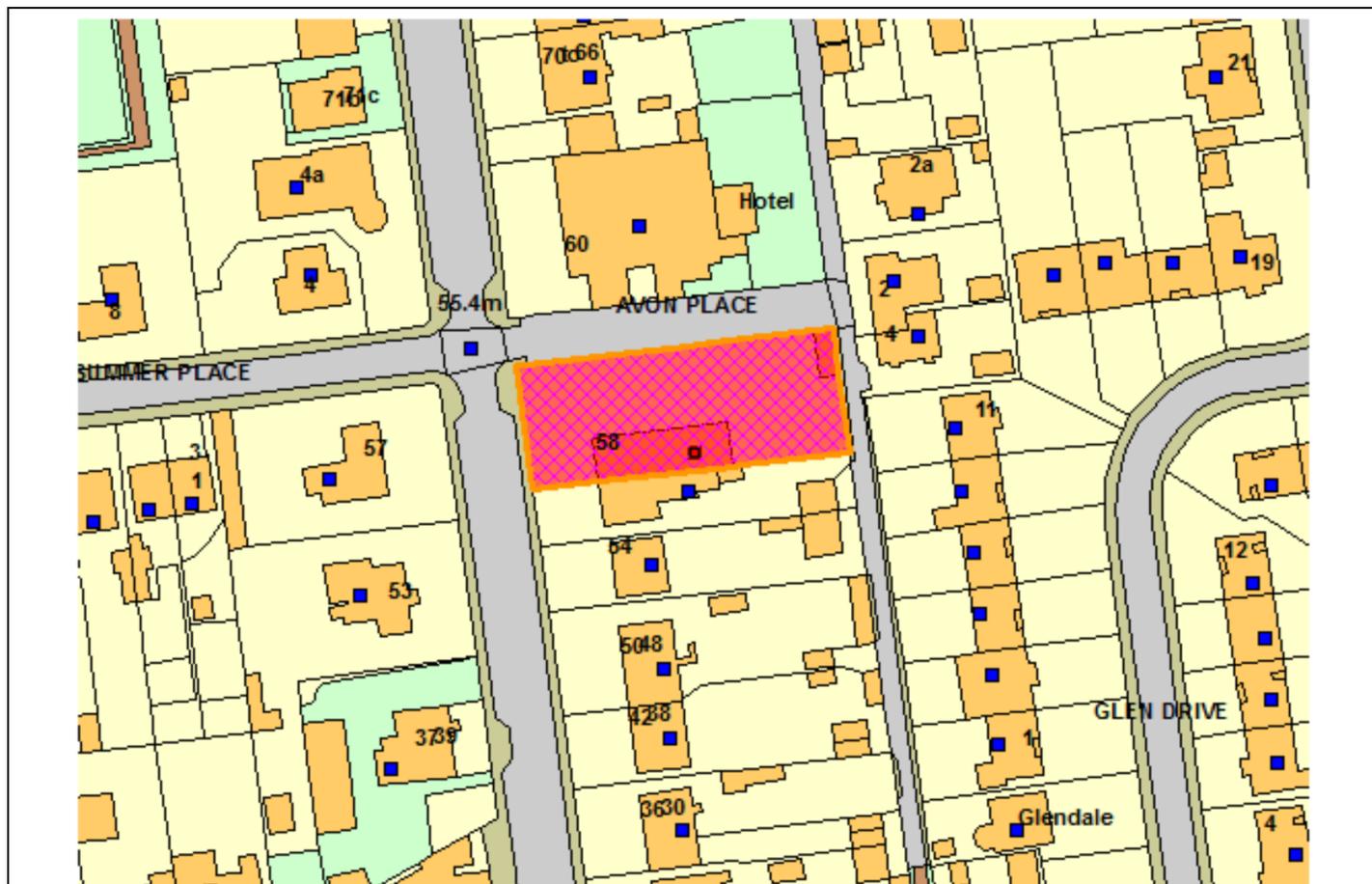


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 04 November 2021

Site Address:	Granville, 58 Victoria Street, Dyce, Aberdeen, AB21 7EE
Application Description:	Partial change of use of existing guest house to form class 3 (food and drink) and installation of flue
Application Ref:	210815/DPP
Application Type	Detailed Planning Permission
Application Date:	10 June 2021
Applicant:	Granville Guest House
Ward:	Dyce/Bucksburn/Danestone
Community Council:	Dyce and Stoneywood
Case Officer:	Aoife Murphy



RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application site lies on the east side of Victoria Street, at its junction with Avon Place. This corner site comprises a substantially extended 1½ storey traditional semi-detached property which is currently used as a guest house (Class 7). The site is fully enclosed with a low granite wall and hedge along the front boundary, and a 1.5m high granite wall along both the side (north/south) and rear (east) boundaries. Within the site, a 1.5m high granite wall extends from north to south, forming a division between the front and rear gardens. Vehicular access is provided via an existing entrance off Avon Place along the northern boundary. Two outbuildings can be found to the rear of the site.

Relevant Planning History

210316/DPP – Detailed Planning Permission for a partial change of use of the existing guest house to form hot food takeaway (sui generis) including formation of entrance with ramp and steps – Withdrawn 17 May 2021.

110579 – Detailed Planning Permission alterations to form new window for the formation of 4 bedrooms and en-suite – Approved, 13 June 2011.

APPLICATION DESCRIPTION

Description of Proposal

Permission is sought for a partial change of use from guest house to café (Class 3) which would consist of utilising the existing dining room to provide a seating area and servery. The existing utility will be converted into a storage area, while the kitchen will be retained and will be used to serve both the proposed café and the occupants of the remaining lettable rooms. It is also proposed to utilise an existing outbuilding, located on the north elevation for a pizza oven. The proposal will utilise the existing flue on the north elevation, but also proposes a further flue extending from the roof of the extension up the roof plane of the existing building, terminating above the existing ridge. The proposal would also see the formation of an internal WC, but this does not fall part of the application. As the works only involve part of the building, the remainder would be retained as a guest house falling within Class 7.

Initially it was proposed to alter the central window within the existing bay on the west elevation to form a doorway, however, in light of concerns highlighted by the Planning Service regarding the proposed works to the front elevation, the applicant has amended the proposal, so rather than altering the existing window, the existing door on the west elevation would be utilised and would serve both the existing guesthouse and proposed Class 3 use. The proposed steps and ramps initially proposed have also been removed and the existing path would be utilised.

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=QUBT5SBZKHH00>

- Design Statement
- Noise Impact Assessment
- Odour Impact Assessment

- Planning Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it has been the subject of six or more timeous letters of representation.

CONSULTATIONS

ACC - Environmental Health – having reviewed the Noise and Odour Impact Assessment's the Service advises that it has no objection to the development subject to conditions regarding mitigation and hours of operation and an advisory regarding an Odour Management Plan.

ACC - Roads Development Management Team – has advised that it has no objection to the proposal in terms of access, parking or accessibility.

ACC - Waste and Recycling – has no objection, but has provided general comments regarding commercial developments.

Aberdeen International Airport – has no objection subject to a condition relating to the submission and approval of a Bird Hazard Management Plan.

Dyce And Stoneywood Community Council – has objected to the proposal due to the impact on the existing character of the existing building due to the formation of a new door and impact of the proposed change of use on residential amenity due to parking, litter, odour and hours of operation.

REPRESENTATIONS

7 representations have been received (7 objections). The matters raised can be summarised as follows –

- Access to residential properties
- Concerns regarding deliveries
- Issues with traffic flow/congestion
- Parking concerns
- Road safety
- Hours of operation
- Proposed external works impacting on the appearance and character of the existing building
- Intensification and congregation of crowds
- Impact on residential amenity
- Litter
- Visual impact due to flue
- Noise Impact
- Odour Impact
- Sale of alcohol

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)

Aberdeen Local Development Plan (2017)

Policy H1 - Residential Areas

Policy D1 - Quality Placemaking by Design

Policy T2 - Managing the Transport Impact of Development

Policy T3 - Sustainable and Active Travel

Policy T5 - Noise

Supplementary Guidance

Harmony of Uses

Transport and Accessibility

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 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. 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.

The foregoing can only be assessed on a case by case basis. Policy H1 - Residential, Policy D1 - Quality Placemaking and Policy T3 - Parking are relevant in this case.

EVALUATION

Principle of Development

The site is located within the residential area of Dyce and as such requires to be assessed against Policy H1 - Residential Areas. H1 advises that proposals for non-residential uses will be refused unless they are considered complementary to residential use or it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

While a class 3 use is proposed, the principles contained within the Harmony of Uses Supplementary Guidance is valid as it highlights the need to protect the living conditions of residents in close proximity to a development. This forms a major consideration in assessing this proposal, especially given that uses such as this can generate unacceptable levels of noise, vibration, odour, traffic disturbance and litter. Furthermore, noise and vibrations generated from cooking and essential extraction equipment, along with increased levels of customer movement, can cause disturbance to residents. Therefore, 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 order to assess whether there would be a conflict with, or any nuisance to, the enjoyment of existing residential amenity, Environmental Health requested the submission of an Odour and Noise Impact Assessments.

Regardless of the outcome of these assessments, the Planning Service must also consider whether this location is the most appropriate for a development of this nature, taking into account the context of the surrounding area. In this case, the site lies adjacent to a Neighbourhood Centre to the west and a hotel to the north, however, the site is wholly contained within a residential area as designated by the Aberdeen Local Development Plan 2017, with several residential properties surrounding the property, including the adjoining property at 56 Victoria Street to the east. Additionally, and as noted above the building within the application site operates and would continue to partially operate as a guesthouse. While it is noted that a hotel is located to the north on the opposite side of Avon Place, these premises has been operating from its site since the late 80's/early 90's and is a standalone property, as such it does not set a precedent for other similar developments in the area and this application must be considered on its own merit.

The submitted planning statement makes reference to a previous approval, 181741/DPP, Café Twenty One located on Station Road adjacent the existing railway station. Given its surrounding context, which is not comparable to the current application site, the previous decision made by the Planning Service is not relevant to this proposal and does not set a precedent for the proposed change of use. Further claims are made that there are several other uses in the area, which are in close proximity to the application site. The Planning Service do not dispute that there are other uses in the area, but some of these premises are located within designated Neighbourhood Centre while other sites, like Café Twenty One, are not comparable to the current application site and therefore cannot be used as justification for this proposal.

The applicant also *“seeks to ensure the long-term sustainable use of the existing property on the application site and respond to economic challenges caused by the downturn in the oil industry and the coronavirus pandemic”*, however no information or evidence has been submitted to support this claim, bar the supporting statement stating that *“it is not anticipated that a significantly higher level of demand will return in future”*. The submitted statement does not serve as sufficient evidence or justification and merely makes assumption on the future of the business and therefore cannot be given any weight.

Furthermore, reference is made to the Scottish Government's Draft Advice on Net Economic Benefit and Planning, however as this is only in draft form it cannot be given any significant weight. Notwithstanding, no information on the net economic benefit has been provided by the applicant.

A consideration that does need to be taken into account is the fact that several representations have been submitted, which raise material concerns regarding the proposed change of use, this is in addition to the local Community Council, who advise that this development would have a negative impact on the levels of residential amenity currently enjoyed by those that live in the area.

At the time the Environmental Health Service requested further information in relation to odour and noise control, the Planning Service also raised and outlined its concerns regarding the development and given the issues relating to the principle of development, it was not considered appropriate to request any further information or put the applicant to further expense. Regardless of this the applicant carried out and submitted the relevant information. This has now been considered and reviewed by Environmental Health, who has advised that it finds the reports acceptable and has no objection to the proposal subject to conditions relating to mitigation as outlined in the assessments and an advisory regarding an odour management plan. However, it is noted that both assessments refer to a takeaway rather than the proposed Class 3 use, furthermore, the Noise Impact Assessment does not take into account other noise nuisance that may arise from the premises such as patrons entering and existing the premises.

Despite the positive response from Environmental Health, the Planning Service has concerns regarding the proposed use beyond whether the premises can operate without resulting impacts

from noise and odour and must assess if there would be an impact on the general amenity of the wider residential area.

Having given full consideration to the above and the information detailed within the relevant policies and guidance, it is considered that this location would not be acceptable for a development of this nature and is likely to have a significant adverse impact on the surrounding properties due to the increase in the intensification of the site, which would include the guesthouse and this proposed class 3 use. The proposed floor plan submitted shows approximately 6 tables could be accommodated in the premises which could potentially accommodate up to 28 covers at one time, which means that 28 people could be entering and existing the premises at any one time throughout the day, the impact of which would be most apparent for the adjoining property at 56 Victoria Street, considering their front door lies less than 2m away from the main entrance of the application property, which has a mutual boundary consisting of low lying landscaping akin to a residential area. While the impact may be reduced if the operating hours were limited to daytime use, what is proposed in this case appears to be a café/pizza restaurant which according to the submitted noise impact assessment would operate into the evening and night. Although hours of operation could be conditioned, this should only be considered if the proposal as a whole is acceptable. In this instance, the proposed use in addition to the existing Class 7 use, would result in an intensification of the site that is unacceptable for a residential area and would have a direct impact on the amenity of the property at 56 Victoria Street, an impact that is considered to be unjustified.

It is understood that the applicant has seen a reduction in the demand for the guesthouse use and would like to see the existing premises being used to its full potential. However, the building's end use is limited as this site falls within a residential area, in which residents should be afforded a sufficient level of amenity, amenity that would be eroded should this application be supported.

Furthermore, the planning statement makes reference to ancillary takeaway use, advising that Circular 1/1998 states "*Where take-away is a minor component of the business and will not affect environmental amenity it should be treated as de minimus, i.e. as not requiring planning consent*". A specific takeaway use has not been proposed as part of this application and earlier this year the applicant was advised that such a use would not be supported, hence the withdrawal of the previous application. While an ancillary takeaway use may be considered de minimus according to the Circular subject to it having no impact on the environmental amenity, the Planning Service do have concerns that a takeaway element would not be "ancillary" given that the planning statement advises that a takeaway use would be used "*to meet customer demands*". This would suggest that if customer demand exists and increases, then a takeaway element would or could become a significant part of the business. Additionally, at this time the Planning Service cannot quantify what would be ancillary in terms of the proposed use or even advise if a takeaway element would be ancillary. Furthermore, the Service would be unable to restrict such an ancillary use via condition. It is considered at the element of a takeaway would exacerbate the concerns highlighted above and result in further impacts on the general amenity and specifically the amenity of 56 Victoria Street.

It is considered that a development such as this would be more suited to a designated centre, or potentially within a detached property, rather than a semi-detached property within residential area, especially given the level of people it has the potential to attract. Overall, it would be considered inappropriate and unacceptable to allow for a partial change of use within this building and it is considered that the proposed use does not fully comply with Policy H1 - Residential Areas and the Harmony of Uses Supplementary Guidance and therefore cannot be supported by the Service.

In respect of vibration, this is not considered to be an issue with a proposal of this nature. In relation to litter, given that the use would be Class 3 and not a takeaway this is not considered to be an issue.

External Alterations

Policy D1 - Quality Placemaking by Design requires all development to have high standards of design and have a strong and distinctive sense of place which is a result of context appraisal.

This proposal initially included a number of changes to the principal elevation of the property, which would result in the enlargement of the existing window opening to form a door and the installation of an external ramp. Overall, it was considered that the changes to the front elevation of the property, by enlarging the existing window to form a door would have a negative impact on this existing traditional granite building and would have an adverse impact on the character of the surrounding area, which is considered contrary to the criteria of Policy D1. An aspect that was also raised within submitted representations.

Given the issues with the principle of development, it was not considered necessary to request any changes to the proposed works to the front elevation, but in recognising the concerns the applicant amended the proposal and rather than forming a new entrance via the existing window the existing front door would be utilised to provide access to this Class 3 use and the existing guesthouse. The proposed external ramp has also been removed from the proposal, but this was not at the request of the Planning Service. The proposed flue would be located on the north elevation and would be visible from Avon Place, however given the scale in relation to the existing flue located on the same elevation it is not considered to be a concern. In light of the above, the proposal is therefore in compliance with Policy D1 - Quality Placemaking by Design.

Non-compliance with Policy D4 - Historic Environment has been raised within the comments from the local Community Council, but as this building is not listed or within a conservation area the assessment of any impact will need to be fully considered against Policy D1.

Transport Impacts

In relation to transport impacts associated with this proposal, Roads Development Management have reviewed the proposal and notes that the applicant has indicated that the site has four existing car parking spaces. Upon review it is assumed that these spaces relate to parallel parking along the south side of Avon Place, a privately owned road and used for parking by the neighbouring premises including residential properties and the Dunavon.

The associated provision of four spaces is marginally below the maximum parking requirement of six spaces outlined within the supplementary guidance for such a use and while such existing provision is also there to serve remaining guest house extents, it is noted that there is further on-street parking available within the lay-by along Victoria Street which would accommodate short term parking. It is also considered that such use would likely predominantly serve the local area, community and residents which lends itself to less reliant on private car travel to/from the proposed use. Therefore, the associated parking would be considered acceptable and allow for alternative travel to/from the proposed café.

In terms of sustainable travel, the site is served by direct access onto publicly adopted footpaths on Victoria Street which provides connectivity to the wider Dyce area. In terms of cycle access to the site this would be on-street until the connections with 'National Cycle Network – Route 1' along the old railway, referred to as Formartine and Buchan Way as well as this same route along Riverview Drive. This route provides connections directly into the City Centre and connections to other cycle infrastructure to other areas of the city. Furthermore, Victoria Street forms part of regular bus service routes in and out of the City, with such bus stop provision within approximately 150m of the site. Additionally, Dyce is served by its own rail station with regular services in and

out of the city and other areas surrounding Aberdeen, with the station located within 400m to the site.

It is noted that a large proportion of the representations raise parking as a concern, however on-street parking is available on Victoria Street, where there are generally no parking restrictions. Should there be an issue with indiscriminate or illegal parking then this falls within the remit of Police Scotland rather than a material planning consideration for the Planning Service.

Concerns regarding an increase of traffic, both vehicular and pedestrian as a result of this development have been raised, however, the development is adjacent a main road with sufficient footpaths, as such any increase in traffic should not impact the surrounding network and this is not a concern that was raised by the Council's Roads Development Management Team. Further concerns relating to road safety have also been raised, but again this is not a concern raised by the Roads Team.

In light of the positive response from Roads Development Management and despite concerns raised through representations, it is considered that the proposal complies with Policy T2 - Managing the Transport Impact of Development and Policy T3 - Sustainable and Active Travel.

Representations

The following concerns have been raised through representations; all concerns not addressed above will be considered below.

- Access to residential properties – *development would and should not impede access to existing residential properties.*
- Concerns regarding deliveries – *given the availability of on-street parking it is considered that the site would be able to receive deliveries without impacting the surrounding area.*
- Issues with traffic flow/congestion – *addressed above but a concern not raised by Roads Development Management owing to the location of the development.*
- Parking concerns – *addressed above but a concern not raised by Roads Development Management owing to the location of the development.*
- Road safety – *addressed above but a concern not raised by Roads Development Management owing to the location of the development.*
- Hours of operation – *no hours of operation have been proposed and given the issues relating to the principle of development no details regarding this aspect were sought. However, it is noted in the supporting assessments that the applicant has advised that the premises would not operate beyond 11pm. If it was likely that the application would be approved then hours of operation would be a key condition attached to any grant of permission.*
- Proposed external works impacting on the appearance and character of the existing building - *Those works are no longer part of the proposal.*
- Intensification and congregation of crowds – *addressed above.*
- Impact on residential amenity - *addressed above.*
- Litter – *addressed above, but the responsibility would be on the owner/occupier of the premises to keep the areas clear of litter and provide appropriate waste facilities should it be required*
- Visual impact due to flue – *addressed above.*
- Noise Impact – *addressed above.*
- Odour Impact – *addressed above.*
- Sale of alcohol – *not a material planning consideration and would fall under separate licencing legislation.*

Proposed Aberdeen Local Development Plan

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

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

That the proposal, if approved, would be contrary to Policy H1 – Residential Areas of the Aberdeen Local Development Plan 2017 for the reason that the proposed use would be unacceptability located within and not suited to an existing residential area whereby it would have an adverse impact on the general residential amenity of the area and specifically a significant adverse impact on the level of amenity currently enjoyed by the occupants of the adjacent property, namely 56 Victoria Street, due to the increased and significant level of activity and thus disturbance, arising from customers entering and leaving the premises, including during the evening and night time.