

UNION TERRACE GARDENS, UNION  
TERRACE

VARIATION TO CONDITION 1 OF PLANNING  
REF 120427 TO EXTEND CONSENT PERIOD  
FOR FURTHER 5 YEARS

For: Common Good Aberdeen Mr Steven  
Bothwell

Application Type : Section 42 Variation  
Application Ref. : P130238  
Application Date: 07/03/2013  
Officer: Tommy Hart  
Ward : Midsocket/Rosemount (B Laing/F Forsyth)

Advert :  
Advertised on:  
Committee Date: 13 June 2013  
Community Council : No response  
received



**RECOMMENDATION: Approved subject to conditions**

## **DESCRIPTION**

The application site is located beneath one of the existing archways and adjoining footpath on the Union Terrace side of Union Terrace Gardens. The archways are Category B-Listed and the gardens themselves are within the Union Street Conservation Area. The specific space beneath the archway and the adjacent area are not currently used for any definitive use.

## **RELEVANT HISTORY**

Planning ref 120427 for proposed temporary café with timber summerhouse and external seating area was approved subject to conditions by the Development Management Sub-Committee in June 2012. The Conditions were as follows; *(1) that the temporary building hereby granted planning permission shall not remain on the site after a period of one year expiring on 14/06/13 - that the character and siting of the structure is not such as to warrant its retention for a period longer than that specified in this permission; (2) that following the expiry of the one year period hereby granted, the approved development must be removed and the site shall be made good, in accordance with a scheme to be submitted and approved in writing by the Planning Authority, within 1 month of such removal - to minimise the level of visual intrusion and ensure the reinstatement of the site to a satisfactory condition.* This permission was not implemented.

## **PROPOSAL**

This application seeks to vary condition 1 of the original permission to allow the temporary building and seating to be on-site for a further 5 years.

The original application sought permission for the erection of a temporary café cabin underneath the archway, and an area adjacent to the archway to provide seating for customers. The proposal would, in essence, comprise of a timber clad and timber framed cabin and would not be physically connected to the archway itself. Located under cover of the archway, a timber screen would be fitted around the cabin to secure the unit and close off the areas surrounding it. Access to the areas behind this screen would be achieved through concealed, secure gates. The temporary nature of the unit is clear through the lack of foundations and minimum fixings to the existing fabric. Although described as a café, the precise nature of the unit would incorporate the preparation of food and drinks off-site to be delivered to the unit for serving to the public on a daily basis. In this sense there are no proposals for plumbing, sanitary/toilet provision, or areas of preparation within the unit. Power would be supplied via generator which would be located to the secure area behind the cabin, accessible only via the secure gates in the timber screening. It is noted that whilst the archway is listed, Listed Building Consent is not required as the proposal, whilst located under the archway, would not be physically connected to it with the exception of the timber screening.

## **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130238>

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

## **REASON FOR REFERRAL TO SUB-COMMITTEE**

The application has been referred to the Sub-committee because the Council has an interest in the land. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

## **CONSULTATIONS**

**Roads Project Team** – no observations

**Environmental Health** – no observations

**Enterprise, Planning & Infrastructure (Flooding)** - no observations

**Community Council** – no comments received

## **REPRESENTATIONS**

No letters of representation have been received.

## **PLANNING POLICY**

### **National Policy and Guidance**

Scottish Planning Policy (SPP) is the statement of Government policy on land use planning and includes the Government's core principles for the operation of the planning system and concise subject planning policies. The general policy on sustainable development and the subject planning policies relating to listed buildings and conservation areas are relevant material considerations

Historic Scotland Scottish Historic Environment Policy (SHEP) – the main principles of Historic Scotland's Scottish Historic Environmental Policy (SHEP), in terms of Development Management, is to ensure that any development within a Conservation Area or relating to a Listed Building enhances or preserves the area or building – in other words, the proposed development should not have a detrimental impact on the character of the area or the building.

### **Aberdeen Local Development Plan Policy**

OP98 Denburn Valley/Belmont Street/Union Terrace: options for the future of the gardens are currently under consideration.

Policy NE1 – Green Space Network: proposals for development that are likely to destroy or erode the character or function of the Green Space Network will not be permitted.

Policy NE3 – Urban Green Space: permission will not be granted for any use other than recreation or sport. Development will only be acceptable provided that there is no significant loss to the landscape character and amenity of the site and adjoining areas; public access is either maintained or enhanced; the site is of no significant wildlife or heritage value; and there is no loss of established or mature trees.

### **Supplementary Guidance**

The Council's supplementary guidance on temporary buildings is a relevant material consideration.

## **EVALUATION**

Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the planning authority in determining the application only to consider the

question of the condition(s) subject to which the previous planning permission should be granted. The planning authority has the option to approve the permission subject to new or amended conditions or to approve planning permission unconditionally. Alternatively the planning authority can refuse the application, which would result in the conditions on the original application remaining.

### **OP98 Denburn Valley/Belmont Street/Union Terrace**

The application is to be assessed on its own merits having regard for the existing use of the site. By way of its temporary nature, the proposed development would not conflict with, or have any impact on the consideration of any future scheme for Union Terrace Gardens.

### **Impact on Green Space Network**

Although located within Union Terrace Gardens, the application site refers specifically to the area underneath the archway and the immediate area of land adjacent to this, the nature of which is not considered to have any direct contribution to the Green Space Network. By way of its location, nature and temporary time-scale, the proposed development would not have any impact upon the wider character or function of the Green Space Network within Union Terrace Gardens.

### **Impact on Urban Green Space**

For the same reasons there would be no loss of landscape character or amenity within the site and adjoining areas. There is sufficient space to accommodate the seating and tables without causing hazard to pedestrian users or their movement within the gardens. There would be no impact on wildlife, existing trees or landscaping within the gardens.

### **Impact on Historic Environment**

The heritage value of the archway is acknowledged through its listing, however the application site, being the area of ground underneath the arch and the space adjacent to it, is not considered in its own rights to be of any significant value. The proposed cabin and seating area would not be considered detrimental to the character of the conservation area or listed archway, indeed they may actually enhance this character through the provision of an additional, active public feature. The cabin would not be physically attached to the archway, only the timber screening. Such a proposal would have no impact on the structural integrity of the archway or Union Terrace. On account of minimal fixings, the proposed scale and the temporary nature of the proposal, the long term viability and visual aesthetics of the listed archway would be relatively unaffected. There would be no conflict with Scottish Planning Policy not Historic Scotland's SHEP.

### **Proposed Timescale**

The Supplementary Guidance allows for certain types of temporary buildings to be 'on-site' for an initial period of 5 years, with consideration given to shorter periods up to ten years if certain criteria are met. Permissions will only be granted for more than ten years in exceptional circumstances. The summer house is considered to fit comfortably into the category of temporary building given that there are no permanent fixtures into the urban fabric (the timber structure would

sit on steel shoes). With regards to the specific circumstances of this application, permission was previously granted for one year although this was not implemented.

In the long term, and having regard for the nature of the proposed use, it is considered that a time-scale of 5 additional years is acceptable and justifiable in this specific circumstance as this considered acceptable within the supplementary guidance for other similar temporary structures. In this respect, conditions are attached to ensure that the site is reinstated to its current state, in full, following expiration of 5 years from the date of decision.

## **RECOMMENDATION**

### **Approved subject to conditions**

## **REASONS FOR RECOMMENDATION**

The proposed temporary building and seating is considered to have no detrimental impact on the Listed arch, the Union Street Conservation Area or the Green Space Network within the gardens and as such the provision of a temporary building and seating is not considered to conflict with Scottish Planning Policy subject policies regarding listed buildings and conservation areas, Historic Scotland's Scottish Environmental Policy or Aberdeen Local Development Plan Policies NE1 and NE3.

With respect to the timescale, it is considered that allowing an additional 5 years would not go against the principles of the Supplementary Guidance: Temporary Buildings and as such allowing an additional 5 years is acceptable in this specific circumstance.

## **CONDITIONS**

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

(1) that the temporary building and associated seats hereby granted planning permission shall be removed from the site on or before the expiry of a final period terminating on 13/06/2018 and shall not remain on the site thereafter - that the character and siting of the structures are not such as to warrant their retention for a period longer than that specified in this permission.

(2) that following the expiry of the one year period hereby granted, the approved development must be removed and the site shall be made good, in accordance with a scheme to be submitted and approved in writing by the Planning Authority, within 1 month of such removal - to minimise the level of visual intrusion and ensure the reinstatement of the site to a satisfactory condition.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.