

DESCRIPTION

The application site is roughly square in shape and is situated on the northern bank of the River Dee, to the immediate south west of the Bridge of Dee which is Category 'A' Listed, and to the immediate south east of the Boots and PC World retail units and their associated car park. The site is bound on all sides by mature trees, whilst internally to the site there is a clump of mature trees near the centre. The site forms part of the flood plain and slopes down from the retail park towards the River Dee and is partially within the River Dee Special Area of Conservation (SAC). The River Dee Path (core path number 70) which is accessed from the bridge, runs through the trees at the river's edge and continues north and south of the application site. The topography of the majority of the site is fairly uneven with steep embankments along the north and west boundaries, and further embankments and mounds within the central area. The application site boundary is set back approximately 15m to the west of the River Dee. An area of the application site (around 20m x 70m) is currently used as formal car parking, yard area for Boots and a sprinkler system tank.

The site lies partly within an area zoned as Retail Park but mostly within land zoned as Green Space Network.

PROPOSAL

The planning application seeks detailed planning permission for the erection of 2 restaurant units, along with car parking, hard and soft landscaping and re-location of a sprinkler tanks and pumphouse.

The area of formal car parking and hardstanding would be re-orientated and extended to the east by around 15m to cover the existing embankment and around 45m adjacent to the western boundary to provide a total of 85 car parking spaces, some cycle stands and service area.

The proposed restaurant buildings would each have a footprint of around 15m x 25m, would have an easterly aspect facing towards the river. Access to the buildings would be taken from the west. A balcony area is proposed which would be accessed both from the restaurants and also from the car park area. The balcony would be between 3m and 7m wide, would be around 2m – 3m above ground level and be finished with a structural glass balustrade. There would be a galvanised steel fence underneath the balcony. The buildings would have a modern designed pitched roof, finished in metal standing seam cladding. The walls would be finished with facing blockwork with the doors and windows having a galvanised steel or aluminium face. The west and east elevations would be predominantly glazed with opaque panels at higher level. The units have been designed so that they can be sub-divided and an area within the roof is promoted for plant in that instance.

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?111641>

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

Design Statement;
Design Proposals;
Landscape Design Proposals and Tree Survey;
Transport Statement;
Drainage Assessment;
Flood Risk Assessment;
Protected Species & Phase 1 Habitat Survey

REASON FOR REFERRAL TO SUB-COMMITTEE

The application has been referred to the Sub-committee because the Scottish Environment Protection Agency (SEPA) and Scottish Natural Heritage (SNH) have objected to the proposal. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Projects Team – one additional disabled parking space is required; no cycle parking has been provided; the Traffic Impact Assessment needs to be resubmitted and take account of busy period of 2-4pm; lack of service vehicle information/swept paths; the drainage assessment needs to include 1 in 200yrs rainfall data and a cross-section view of the site showing how the additional discharges would be drained away from the restaurant. Given that the requested information has not been submitted, the Roads Projects Team object to this application.

Environmental Health – request made for condition to be added to any grant of permission regarding construction hours

Developer Contributions Team - a contribution is required towards core path improvements

Enterprise, Planning & Infrastructure (Flooding) - formally objects to the planning application due to the lack of drainage information, specifically in relation to the flooding of the site.

Education, Culture & Sport (Archaeology) – no comments received

Scottish Environment Protection Agency – object in principle to the proposed development on the grounds that it may place buildings and persons at flood risk, contrary to Scottish Planning Policy and PAN 69

Scottish Natural Heritage – object to the proposal due to the lack of information in respect to;

1. a geomorphological assessment of the impacts of the proposed works on the River Dee which assesses potential changes to the morphology of the river.;if the geomorphological assessment indicates that the proposed works may result in changes to the morphology of the River Dee, a survey for fresh-water pearl mussel should be carried out;
2. full details of the measures that would be employed to prevent pollution, in particular sediments and fines, to the River Dee SAC, during the earthworks to the floodplain, construction and operation of the development, and an assessment of their likely effectiveness.

Historic Scotland – no comments to make

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 subject policies relating to flooding and drainage are material considerations.

Planning Advice Note PAN69 – Flooding, provides advice to local authorities and developers to ensure that future built development is not located in areas with a significant risk of flooding, including functional flood plains.

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 RT1 – Sequential Approach and Retail Impact

All retail, commercial, leisure and other development appropriate to town centres should be located in accordance with the hierarchy and sequential approach as set out; Tier 1: Regional Centre; Tier 2: Town Centres; Tier 3: District Centres; Tier 4: Neighbourhood Centres; Retail Parks. The potential catchment area of the proposal dictates where the proposed development should be located. In all cases, proposals should not detract significantly from the vitality or viability of any first, second, third or fourth tier retail location.

Policy RT2 – Out of Centre Proposals

Retail, commercial, leisure and other development appropriate to town centres, when proposed on a site that is out-of-centre, will be refused planning permission if it does not satisfy certain criteria; 1. no other suitable location is acceptable in terms of policy RT1 is available; 2. there will be no significant adverse effect on the vitality and viability of any retail location; 3. there is, in qualitative or quantitative terms, a proven deficiency in provision of the kind of development that is proposed; 4. the proposed development would be easily and safely accessible by a choice of means of transport; 5. the proposed development would have no significant adverse effect on travel patterns and air pollution.

Policy D1 – Architecture and Placemaking

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

Policy NE1 – Green Space Network

The Council will protect, promote and enhance the wildlife, recreational, landscape and access value of 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

Development on areas of land designated for Urban Green Space 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; there is no loss of established trees; replacement green space of similar or better quality is located in or immediately adjacent to the same community; they do not impact detrimentally on lochs, ponds, watercourses or wetlands in the vicinity of the development.

Policy NE5 – Trees and Woodlands

There is a presumption against all activities and development that will result in the loss of or damage to established trees and woodlands that contribute significantly to nature conservation, landscape character or local amenity, including ancient and semi-natural woodland which is irreplaceable.

Policy NE6 – Flooding and Drainage

Development will not be permitted if; it would increase the risk of flooding or it would be at risk itself to flooding.

EVALUATION

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

Principle of development

The principle of development is not acceptable on this site for a number of reasons namely; flooding; impact on protected species; impact on green space network and urban green space; loss of trees; and design, scale and form of development, which shall be discussed in more detail below.

Flooding

The conclusion of the Flood Risk assessment submitted in support of the application acknowledges that *the predicted 1 in 200 year flood extents would inundate the application site with flood waters from the River Dee routing through the site and into the existing retail park to the west. The river would initially overtop its banks in the south of the site, at which point the bund which is currently located in the centre of the site would route these flood waters north to the flood relief tunnel beneath the A90. Larger flood events would overtop this earth bund and extend to the embankment in the west of the site, and route into the parking area of the Bridge of Dee Retail Park, with a maximum flood level*

estimated to be approximately 6.98m AOD. As such, it is considered that the site is at high risk of fluvial flooding from the River Dee, with an influence caused by the tide to marginally increase flooding.

To mitigate against the flooding it is proposed to raise the building above the 1 in 200 year flood level with a freeboard allowance of at least 500mm as recommended by SEPA. The buildings and car parking would be located on ground level at the western end of the site, with the eastern extent of the building being lifted on stilts. The development would result in the loss of flood storage

The comments received from SEPA in relation to flooding give little scope for any development on this site. They state “given the location of the proposed development within the undeveloped/sparsely developed functional floodplain, we do not consider that it meets with the requirements of Scottish Planning Policy and our position is unlikely to change. We have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance. There are exceptions to this, such as where a site has been previously developed and is in need of redevelopment, where the site is in a built-up area where flood defences to the appropriate standard already exist, or where the location within the floodplain is essential for operational reasons such as harbour or water-based recreation uses. We do not consider that the proposed development falls within the scope of these exceptions and so do not accept there is an overriding need to develop within the floodplain as proposed. Further, in order to develop as the application proposes, new measures to manage flood risk would be required as there are no existing flood prevention measures in place. Scottish Planning Policy is clear that any proposals that require new flood risk management measures should be brought forward through the development plan process. We are not aware that this is the case in this instance.”

SEPA have confirmed that, in their opinion, there is no technical solution to managing flood risk at this site which meets the requirements of Scottish Planning Policy (SPP). National advice relating to flooding contained with PAN 69 (paragraph 2 & 11) seeks to ensure that future built development is not located in areas with a significant risk of flooding, including functional flood plains. Further, paragraph 197 of SPP states that development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should not be permitted.

Taking account of the information provided by the applicant and the response by SEPA and the objection from the Council's 'Flooding' Team, it is considered that the application cannot be supported as the development goes against the objectives of Scottish Planning Policy, PAN 69 and Aberdeen Local Development Plan policy NE6 by virtue of the increased risk of flooding due to the proposed development.

Impact on protected species

Information was sought in the form of a geomorphological assessment of the impacts of the proposed works on the River Dee which assesses potential changes to the morphology of the river. This information was not received and therefore the potential impacts the development may have on the morphology of the river cannot be fully assessed. Further, no fresh-water pearl survey has been submitted for consideration so again it is difficult to determine whether or not the development would have any detrimental impact on the protected species. Lastly, no information was submitted to show full details of the measures that would be employed to prevent pollution, in particular sediments and fines, to the River Dee SAC, during the earthworks to the floodplain, construction and operation of the development, and an assessment of their likely effectiveness. Due to the lack of information, it is difficult to see how any potential pollution would be mitigated against. This lack of information has resulted in an objection from Scottish Natural Heritage (SNH).

Impact on Green Space Network

The Council will protect, promote and enhance the wildlife, recreational, landscape and access value of 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. The application site forms part of a significant green corridor along the northern bank of the River Dee, which is important both visually in terms of the setting and in terms of the natural habitat value. The proposed development would change the character of the immediate area in that the trees along the western boundary would be removed and the landform would be altered. Further, two sizeable buildings would be constructed within the site. Whilst the boundary treatment along the other 3 boundaries would not be altered, it is considered that the proposed development would detrimentally impact on and indeed erode the character of this green corridor which forms part of the Green Space Network and the development is therefore contrary to Aberdeen Local Development Plan Policy NE1.

Impact on Urban Green Space

In relation to the policy on Urban Green Space, the development is considered to enhance public access by virtue of creating an additional link to the core path along the waterfront. The application site is considered to be of high value in terms of visual amenity and natural heritage as part of this green corridor on the northern bank of the River Dee. The proposed development is considered to have a negative impact on the Urban Green Space by virtue that it would have a significant impact on the wildlife value of the site; would result in the loss of the established trees within the central area and along the western boundary; there is no replacement green space proposed; and there is likely to be a detrimental impact on the River Dee by virtue of the increased risk of flooding and how this might impact on the river. With the above in mind, the application is considered to be contrary to Aberdeen Local Development Plan Policy NE3.

Impact on Trees

The development would mean the loss of 21 trees within the central area to accommodate the development, which are mainly Goat Willow. The trees proposed to be removed are, individually, of relatively poor quality, being graded

'C'. Nevertheless, the trees, collectively have an important habitat and visual value in terms of the setting of the River Dee. In addition to this, the wooded embankment along the boundary with the Boots retail unit to the north west of the site is also proposed to be removed. There is a mixture of Lawson Cypress, Cherry, Rowan, Beech, Laurel and Sycamore which are considered to be of poor quality and graded 'C'.

The landscape plans indicate that new trees would be planted to replace those being lost. A new hedge is also proposed around the restaurant units on the north, east and south elevations. Lastly, high and low maintenance grass would be introduced throughout the site. Part of the site would be mounded to provide enclosure and also to help improve drainage to the proposed grass areas and to enhance the setting. These areas would also help to act as a flood relief area.

Notwithstanding the compensatory planting proposed, it is considered that there is conflict with Aberdeen Local Development Plan Policy NE5 in that these established trees contribute significantly to the visual amenity of the site, as well as having an important role in terms of natural habitat, which would be lost if the trees were to be removed.

Design, Scale and form of Development

Aberdeen Local Development Plan policy D1 states that *new development must be designed with due consideration to its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, the proportions of building elements, together with the spaces around buildings, including streets, squares, open space, landscaping and boundary treatments, will be considered in assessing that contribution.* The application site constitutes an important area of green space which forms part of a green corridor along the River Dee. It has a relatively natural character by virtue of the large mature trees surrounding the site, the green space within it and the close proximity to the river. This green corridor is important in terms of landscape value and the application site is an important part of that. Although the proposed restaurants are of a massing, size and scale which is compatible with the adjacent Boots and Currys/PC World retail units, it is considered that the size and scale of development is not acceptable in this specific location as it is felt they would make a negative contribution to the natural setting of the application site and would erode the character of the immediate area. Further to this, the buildings would be set on stilts which would further increase the visual impact of the development. Also, the development would remove the established trees and other landscape features which are an important habitat and also have visual value. Accordingly, the proposal does not comply with Policy D1.

Impact on Retail Park

The application site lies partly within land zoned as a Retail Park, and takes up an area of around 1600sqm with that specific area of land being part of the car park adjacent to retail units. The area of land within the Retail Park land designation which lies within the application site is approximately 17%, meaning the other 83% is covered by the Green Space Network & Urban Green Space land designation and comprises natural grassed area and a mixture of self-

seeded and landscape planted trees and lies partially within the River Dee SAC. In terms of policy RT1 and RT2, the development is not for retail so in that respect a retail impact assessment is not required. It is unlikely that these two restaurants would detract significantly from the vitality or viability of any first, second, third or fourth tier retail location.

The catchment area of the restaurants is unknown but there is the potential that it would be city-wide and in that respect the preferred location would be the City Centre. The site is easily accessible in terms of public and private modes of transport. There is a restaurant on the southern bank of the River Dee adjacent to 'Goals'. Without any report, it cannot be established whether there would be any impact on that restaurant but given the lack of restaurants within around 1 mile, it is considered that the likelihood of a negative impact is limited. Although the food and drink uses are also 'town centre uses' it is considered that these uses would provide some form of facilities of benefit to the local community and it is not considered that these uses in themselves have the same draw as Class 1 retail floorspace, but act in a more ancillary capacity.

Only part of the proposed car park would be within the retail park land designation, it is considered that this in itself would not cause any significant conflict with Aberdeen Local Development Plan policy RT1 or RT2. Whilst on this particular issue the proposal would be satisfactory, for the reasons explained above, the principle of development of the site is unacceptable.

Traffic Impacts, Access Arrangements and Car Parking

The Roads Projects Team had requested further information and amendments to the planning application. Unfortunately, the requested information and amendments have not been forthcoming and therefore a full assessment of the traffic impact, access arrangements and the car parking could not be undertaken, hence the Roads Projects Team object to the application.

Impact on Listed Structure

The main principles of Historic Scotland's Scottish Historic Environmental Policy (SHEP), in terms of Development Management, is to ensure that any development involving or affecting a Listed Building enhances or preserves the building – in other words, the proposed development should not have a detrimental impact on the character or setting of the building. The proposed new restaurant buildings would be around 50m to the south of the Category 'A' Listed Bridge of Dee. This distance, and the existing trees just outwith the northern boundary of the application site which are being retained, help to ensure that the impact on the bridge would be limited and its character would be preserved. Further, it is worth noting that Historic Scotland did not submit any comments against the proposal.

Conclusion

The application as proposed is not acceptable in terms of its impact on flooding, potential impact on protected species, negative impact on green space network and urban green space, loss of trees and design scale & form of development and is therefore recommended for refusal for the reasons explained above.

However, If the Committee are minded to recommend approval of the application, the application is required to be referred to the Scottish Government because of the objection from SEPA in relation to flooding and SNH in relation to potential impact on the River Dee SAC.

It is recommended that suitable conditions would need to be attached to any grant of permission relating to car parking; confirmation and samples of external finishing materials; landscaping, tree protection and planting; and flood prevention. However, it should be noted that implementation of appropriate compensatory measures would be difficult to achieve because of the limitations of the site meaning there is no additional space for flood prevention measures.

RECOMMENDATION

Refuse

REASONS FOR RECOMMENDATION

1. That the location of the proposed development within the undeveloped/sparsely developed functional floodplain, would not meet with the requirements of Scottish Planning Policy, Planning Advice Note PAN 69 and Aberdeen Local Development Plan Policy NE6 (Planning and Flooding) by virtue of the increased risk of flooding and could have a potentially detrimental impact on the River Dee Special Area of Conservation (SAC).
2. That the proposed development, by reason of its height, bulk, scale and massing would result in the creation of an obtrusive and incompatible form of development which would fail to respect the character and appearance of the application site and its immediate surroundings which forms part of a natural green corridor on the north bank of the River Dee. The development has not been designed with due consideration for its location and, as such, the development is contrary to Aberdeen Local Development Plan Policy D1 (Architecture and Placemaking).
3. That the proposed development would be contrary to Aberdeen Local Development Plan policies NE1 (Green Space Network), NE3 (Urban Green Space) and NE5 (Trees and Woodlands) by virtue of the loss and erosion of the Green Space Network, the loss of established trees on site and the loss of urban green space to the detriment of the visual amenity and natural habitat value of the application site.
4. That the full impacts of the proposed development cannot be assessed as the applicant has failed to submit the necessary specialist information which was requested in order to fully assess the potential impact on the River Dee Special Area of Conservation (SAC), and in order to fully assess the traffic impact, drainage and car parking provision of the application site.

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