

Planning Development Management Committee

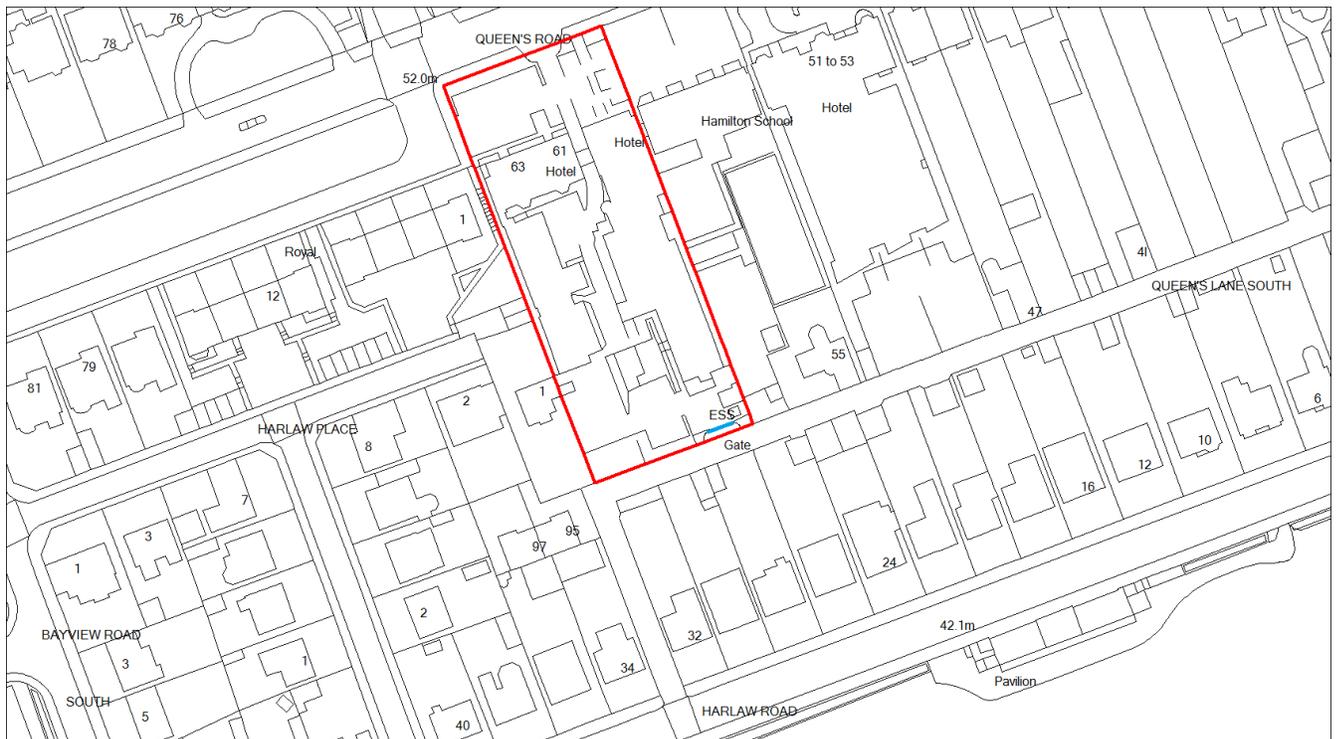
THE CHESTER HOTEL, 59-63 QUEEN'S ROAD,
ABERDEEN

VARIATION OF CONDITION 11 ATTACHED TO
APPLICATION REF NO: P121555 TO ALLOW
REAR USE OF ACCESS GATES

For: Chester Hotel Ltd

Application Type : Section 42 Variation
Application Ref. : P160341
Application Date: 23/03/2016
Officer: Matthew Easton
Ward : Hazlehead/Ashley/Queens
Greig/J Stewart/R Thomson/J Corall

Advert : Section 60/65 - Dev aff
LB/CA
Advertised on: 13/04/2016
Committee Date: 16/06/16
Community Council : No response



RECOMMENDATION: Approve Conditionally

DESCRIPTION

The 'Chester Hotel' is located on the south side of Queen's Road, between its junctions with Bayview Road and Queen's Gate. The hotel provides 54 bedrooms, a restaurant, private dining rooms, lounge bar and conference & function facilities for up to 350 guests.

The surrounding area contains a mix of uses. To the immediate west are two storey residential properties at Royal Court, Queen's Road and the house at 1 Harlaw Place. To the north, across Queen's Road is 64–70 Queen's Road which are granite villas currently used as offices. To the south across Queen's Lane South are residential properties fronting on to Harlaw Road and to the immediate east is the now vacant former Hamilton School.

The specific area which this application relates is the 5m wide vehicular gate between the site and Queen's Lane South. The lane is within a controlled parking zone with restrictions operating between 9am and 5pm, Monday to Friday.

RELEVANT HISTORY

- Planning permission (96/1957) for change of use from residential at 61-63 Queen's Road to hotel, bar and restaurant was approved in January 1997.
- Planning permission (A0/0272) for alterations and an extension to the hotel was approved in August 2000.
- Planning permission (A5/2137) for a four suite extension to the hotel was approved in April 2006.
- Planning permission (P121555) for redevelopment of the hotel to create the Chester Hotel was approved in February 2013.

PROPOSAL

The application is submitted under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) and seeks a modification to condition 11 of planning permission P121555. Condition 11 currently states –

“that the access gate from Queen's Lane South shall only be used by service vehicles and otherwise shall remain closed and locked at all other times. No customer or public access (vehicular or pedestrian) shall be permitted unless the planning authority has given written consent for a variation - in order to limit the potential for unauthorised parking on Queen's Lane South.”

The applicant has not provided a preferred re-drafting of the condition however the supporting statement indicates that the hotel would like to be able to unlock the gates between the hours of 8am and 1pm Monday to Saturday in order to allow delivery vehicles to enter and exit more efficiently.

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?ref=160341>

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

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee because six objections have been received. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Development Management – No response.

Environmental Health – No observations.

Communities, Housing and Infrastructure (Flooding) – No observations.

Queen's Cross and Harlaw Community Council – No response.

REPRESENTATIONS

Six letters of representation have been received, all objecting to the application. In summary they relate to the following matters –

1. An unlocked gate would result in indiscriminate parking within the lane which would reduce the level of residential amenity for neighbours.
2. It cannot be claimed that 8am to 1pm is not a peak period of parking demand as the hotel offers late checkout until 1pm and has meeting facilities which could be used for breakfast meetings.
3. The lane is not suitable for the current level of traffic and additional traffic would result in road safety issues.
4. There are already issues with delivery vehicles finding it difficult to manoeuvre in the lane, altering the condition would cause more problems.
5. Allow anyone to use the gate would create more noise and disturbance.
6. A key pad operated barrier would be more effective for controlling access than a pad-locked gate.

PLANNING POLICY

Aberdeen Local Development Plan (2012)

Policy T2 (Managing the Transport Impact of Development)

Policy B13 (West End Office Area)

Proposed Aberdeen Local Development Plan (2015)

Policy T2 (Managing the Transport Impact of Development) Policy B3 (West End Office Area)

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.

A restriction on the use of the rear gate has been in place since 1996 when planning permission was granted for the expansion of the former 'Belvidere Hotel' at 59 Queen's Road into 61 and 63 Queen's Road to create 'Simpsons Hotel'. The three separate accesses for each property were replaced with a single access to allow service vehicles to access the combined site. In order to prevent parking in the lane by customers a condition attached to the 1996 consent prevents public pedestrian or vehicular entrance or exit to the site into Queen's Lane South. This restriction was reaffirmed through planning permissions for the extension of the hotel in 2000, 2006 and 2013.

In support of the application the applicant states that deliveries are made to the hotel by a range of suppliers and there are currently over 25 deliveries each day and on occasion more than 40. Deliveries are typically made between 8am and 1pm Monday to Saturday with each delivery normally taking between 8-9 minutes. Two store persons are employed to assist with the reception of goods and the unlocking and opening of the gates. With a high frequency of deliveries taking place the hotel is finding it very difficult to adhere to the condition and ensure that the gates are locked between deliveries.

A parking survey has been submitted which covers one week in November/December 2015. It shows that the peak demand for parking at the hotel is on a Friday and Saturday evening when there would be one space available.

The condition currently requires the gate to be locked shut at all times other than when service vehicles are entering and exiting. The purpose of the condition was to minimise the potential for hotel guests from parking indiscriminately on Queen's Lane South, rather than to control how the hotel was serviced or the volume of traffic on the lane.

In considering the request for a variation to the condition it is necessary to have regard in first instance to the requirements of Circular 4/1998, which requires that any condition applied must not be unreasonable. This could be because it is unduly restrictive or the applicant cannot possibly comply with its requirements.

The hotel car park has a main access from Queen's Road which allows customer access. Therefore, there is an alternative means of vehicular and pedestrian access to the site and the restriction is not unduly onerous. The applicant has control of the land and operation of the gate and therefore has the ability to comply with the condition. However it is arguable whether in order to achieve the aim of minimising parking on the lane, a restriction which requires the gate to be locked at all times (apart from during deliveries) would be necessary.

To ensure that the condition remains reasonable, it is considered that it would be acceptable to allow the gate to be unlocked and open between the hours of 8am and 12pm, Monday to Saturday in order for deliveries to be made in an efficient manner. This would also minimise the time which service vehicles need to wait on the lane as the driver would be able to enter and exit the site immediately rather than wait for a member of staff to arrive, unlock and open the gate each time. The hotel has indicated that 1pm would be the preference however given that it is likely that people would be arriving for lunch after 12pm it is considered that to minimise the risk of indiscriminate parking that the gate is closed and locked after 12pm. There are two risks in taking this approach however it is considered that both are very low and that any impact would be negligible.

The first is the risk that hotel guests park on the lane. The parking survey submitted demonstrates that mornings are not a peak time for parking at the hotel; rather it would appear to be Friday and Saturday evenings when the situation is not proposed to change. Since the condition was first attached in 1996, Queen's Lane South has now become part of a controlled parking zone with restrictions operating between 9am and 5pm, Monday to Friday. This would deter indiscriminate parking as those doing so would risk a parking fine (*issue 1 in representations*).

The second is that guests use the rear gate to enter and exit the site, leading to an increase in traffic on the lane. As is the case for most hotels in Aberdeen, it is understood that majority of hotel guests arrive by taxi after traveling to Aberdeen by air or rail. This dramatically reduces the risk of a high number of guests using the gate. For those that do arrive by private car, the hotel's main entrance is on Queen's Road as is its postal address. Given that most people staying at the hotel would be unfamiliar with the area it is highly unlikely they would go to the effort of taking a convoluted route away from Queen's Road along a rear lane in order to enter the car park when there is a suitable entrance at the front. Similar reasoning applies to the suggestion that guests may leave the site via the gate along a lane which they are unfamiliar with. They are more likely to leave by the main access which leads to Queen's Road and other distributor routes beyond. Although it is acknowledged that breakfast meetings may take place at the hotel which may attract those based locally with more knowledge of local streets, again the likelihood of any significant number of people wishing to access the site via

this route is remote (*issues 2 and 3*). Therefore it is considered that the risk of hotel guests leaving the site via the gate whilst it is open for four hours in the morning is very low. In the unlikely event this did happen, the occurrences are likely to be minimal and the impact on volumes of traffic in the lane negligible.

Moving onto matters raised in representations which have not already been addressed, delivery vehicles finding it difficult to manoeuvre in the lane is not a matter that can be addressed through this application as it does not cover the number, frequency or type of service vehicles which supply the hotel (*issue 4*).

The proposal or recommendation is not to allow anyone to use the gate (*issue 5*)

It has been suggested that a key pad operated barrier would be more effective for controlling access than a pad-locked gate (*issue 6*). It is agreed that this would be a suitable means of controlling access and planning officers have approached the hotel's agents with this suggestion, however at the time of writing no response from the hotel has been forthcoming.

With regards to the other tests within Circular 4/1998, a condition must as well as being reasonable also be necessary, relevant to planning, relevant to the development to be permitted, enforceable and precise.

Necessary – The test in this instance is whether planning permission would have been refused if the condition were not imposed. If it would not, then the condition requires precise and special justification. The purpose of the condition is to address the specific potential problem of indiscriminate parking which continues to be relevant. Therefore the condition is considered necessary.

Relevance to Planning and Development Permitted – The matter of controlling overspill parking in order to protect residential amenity is considered to be a legitimate planning matter and is covered by Policy H1 (Residential Areas) of the Local Development Plan which requires new non-residential uses to demonstrate that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity. Although the hotel is zoned under BI3 (West End Office Area), the lane and adjacent residential properties are zoned as Policy H1 and therefore it is considered relevant. The revised West End Office Area Policy in the proposed plan reinforces the protection of residential amenity.

Relevance to Development Permitted – Unless a condition fairly and reasonably relates to the development to be permitted, it would be beyond the planning authority's power to impose it. In this instance the condition relates directly to the impact which the expansion of the hotel has on the surrounding area and is therefore considered to be relevant.

Enforceable – A condition should not be imposed if it cannot be enforced. Although difficult to gather evidence due to resource constraints, it is possible to detect an infringement. Those affected by any indiscriminate parking as a result would be in a position to report such infringements to the planning authority.

Precise – The planning authority cannot attach a condition which is not sufficiently precise for the applicant to be able to ascertain what he must do to comply with it. The drafting of the condition however is considered to be sufficiently clear as to what it is restricting and the circumstances in which the gate may be used. The hours which the gate may be unlocked are clearly specified.

In summary it is considered that such a condition would meet the six tests. The following condition is therefore recommended –

“that the access gate from Queen's Lane South shall only be used by service vehicles and shall remain closed and locked other than (a) between 0800 and 1200 Monday to Saturday; or (b) when service vehicles are entering or exiting the site – in order to limit the potential for unauthorised parking on Queen's Lane South.”

Other conditions which were attached to the original planning permission and which are no longer applicable or relate to submission of details prior to development commencing have been removed.

Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. 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:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis. In this instance the relevant policies largely reiterate the policies of the existing plan.

RECOMMENDATION: Approve Conditionally

REASONS FOR RECOMMENDATION

In order to ensure that the condition remains reasonable it is considered that allowing the gate to be unlocked during the mornings (8am-12pm) Monday to Friday would be acceptable. The risk of hotel guests utilising the gate to enter or exit the hotel site is considered to be low. The residential amenity of the area would therefore be maintained in accordance with the aims of Policy BI3 (West

End Office Area) and the traffic management aspects of Policy T2 (Managing the Transport Impact of Development).

CONDITIONS

(1) that the development hereby approved shall not be occupied unless the car parking areas both at the rear and front of the hotel buildings have been constructed, drained, laid-out and demarcated in accordance with drawing 013(Rev.D) 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.

(2) that no development shall take place unless a further detailed scheme of cycle and motorcycle storage provision has been submitted to and approved in writing by the planning authority. The scheme shall be implemented in full accordance with agreed details prior to occupation of the development and thereafter remain in place - in the interests of encouraging more sustainable modes of travel.

(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) that service deliveries and collections to the premises and the disposal of refuse and empty drinks containers to receptacles outwith the fabric of the building shall not take place outwith the hours of 0700 to 1900 Monday to Saturday and 1000 to 1900 on Sundays - in order to protect surrounding residents from noise disturbance at unreasonable hours.

(5) that the four suites shown on drawing number 038(Rev.C) of the plans hereby approved shall at no time be subdivided internally to form additional rooms without the written approval of the Planning Authority - in order to ensure that the parking demand on the site is not increased beyond what is capable of being accommodated.

(6) that the access gate from Queen's Lane South shall only be used by service vehicles and shall remain closed and locked other than (a) between 0800 and 1200 Monday to Saturday; or (b) when service vehicles are entering or exiting the site – in order to limit the potential for unauthorised parking on Queen's Lane South.

(7) that the development hereby approved shall not be occupied unless the lower section of the first and second storey windows on the east elevation of the proposed extension have been obscured. The method and extent of obscuration shall be the subject of details to be agreed with the planning authority prior to their implementation - in order to reduce the potential for overlooking into the adjacent school playground.