

## Planning Development Management Committee

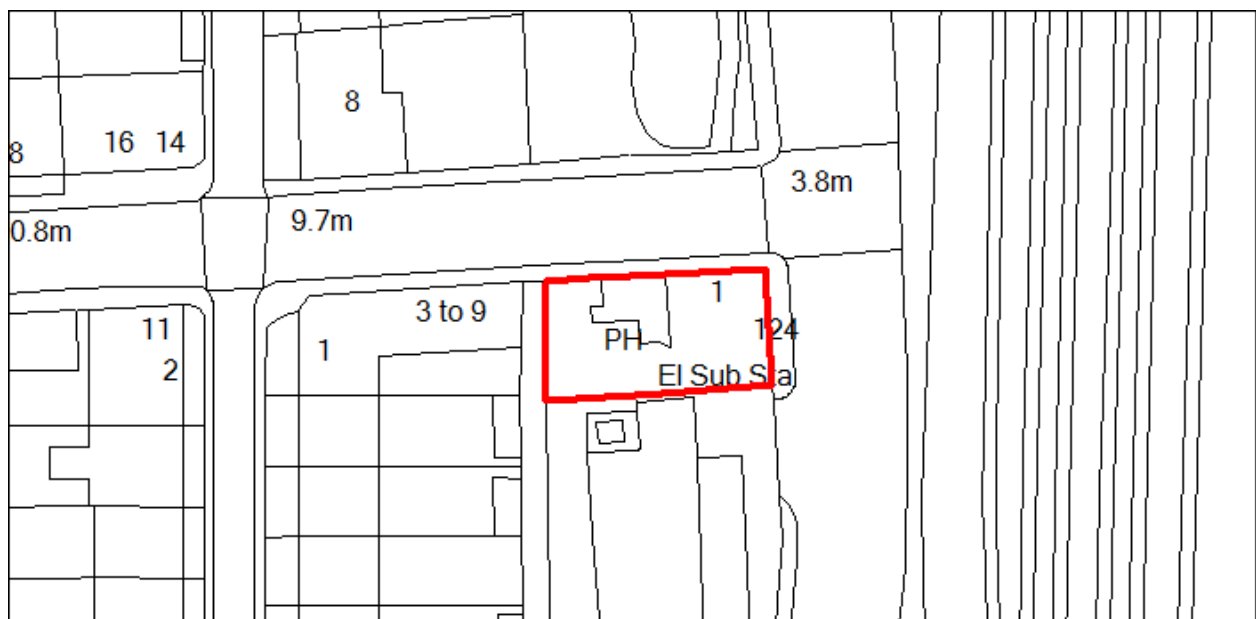
FERRYHILL TAVERN, 124 SOUTH COLLEGE STREET, ABERDEEN

CHANGE OF USE OF PUBLIC HOUSE TO CLASS 1 (SHOP), PARTIAL REPLACEMENT OF REAR EXTENSION, INSTALLATION OF PLANT EQUIPMENT TO ROOF AND INSTALLATION OF NEW SHOPFRONT

For: West Coast Estates Ltd

Application Type : Detailed Planning Permission  
Application Ref. : P160531  
Application Date: 28/04/2016  
Officer: Dineke Brasier  
Ward : Torry/Ferryhill (Y Allan/A Donnelly/J Kiddie/G Dickson)

Advert : Can't notify neighbour(s)  
Advertised on: 11/05/2016  
Committee Date: 16/06/2016  
Community Council : No Community Council



## **RECOMMENDATION:**

### **Refuse**

#### **DESCRIPTION**

The application site is located on the corner of Bank Street and South College Street. The original property is a traditional granite two storey building with additional accommodation in the roof space. The building has a more modern light rendered flat roofed part single/ part two storey rear extension. The ground floor was last used as a pub, whilst the upper floors accommodate three flats. The ground floor and the rear extension are the subject of this application.

Bank Street rises up steeply from South College Street. As such, even though the rear extension has two storeys, from street level it is perceived as a single storey.

#### **RELEVANT HISTORY**

Planning application P151865 for the change of use of the public house to a convenience store, partial replacement of rear extension, installation of plant equipment to roof and installation of new shop front was withdrawn in January 2016.

Planning application P141523 for the change of use of the public house to 10 serviced apartments was withdrawn in May 2015.

Planning application P100807 for the removal of condition 1 of planning permission 90/0969 (that the accommodation hereby granted planning permission shall be used solely for staff accommodation employed at the Ferryhill Tavern and for no other purpose) was approved in June 2010. This permission enabled the separation of the flats above the pub from the pub itself.

#### **PROPOSAL**

Planning permission is sought for the change of use to Class 1 (Retail), partial replacement of the rear extension, installation of plant equipment to roof and installation of new shop front. In effect the proposal is the same as that withdrawn earlier this year in January. The main changes are the inclusion of a Transport Statement and Planning Statement with the submission, which provides additional detail on the potential transport impacts of the proposal. Furthermore, the size and shape of the plant on the roof has been altered to a longer rectangular unit, which would be clad in 'Rockpanel Woods' screen cladding. The elevation of the first floor extension facing the existing flats in the building would also be finished in this material.

#### **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=160531>

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

Transport Statement  
Planning Statement  
Noise Impact Assessment  
Social Media Survey

### **REASON FOR REFERRAL TO COMMITTEE**

The application has been referred to the Planning Development Management Committee because 174 letters of objection and 4 letters of support have been received. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

### **CONSULTATIONS**

**Roads Development Management** – Recommends refusal on three grounds:

1. Parking availability as shown in the Parking Survey includes spaces on South College Street, and the use of these spaces is not appropriate on road safety grounds;
2. Delivery arrangements to Bank Street would require the use of heavy goods vehicles in residential areas, which could result in further road safety concerns;
3. South College Street should be safeguarded for possible improvements to the road network as set out in policy T1 (Land for Transport) of the Aberdeen Local Development Plan.

**Environmental Health** – No objection subject to conditions implementing recommendations from the Noise Impact Assessment.

**Communities, Housing and Infrastructure (Flooding)** - No observations

**Community Council** – No Community Council

### **REPRESENTATIONS**

174 letters of objection and 4 letters of support have been received. The objections raised relate to the following matters. The main bulk of the letters of objection raise four distinct areas: parking, deliveries, congestion and competition

1. Parking: No customer parking provided. There is existing pressure on parking spaces. The proposal would provide an insufficient level of parking, and would aggravate the existing parking situation for residents. Inconsiderate and potential illegal parking would present a safety hazard for pedestrian and would add to existing congestion.
2. Deliveries: Stopping of delivery vehicles would result in congestion on Bank Street and/ or South College Street. They would present a safety hazard and Bank Street would be too narrow to accommodate the larger delivery vehicles. Swept paths as shown in the Transport Statement would assume that all cars would be parked neat and tidy within their bays as otherwise the delivery vehicle would not be able to round the bend from

- Bank Street into South Crown Street or vice versa. Delivery vehicles would block/ use on-street parking bays preventing residents from using these.
3. Congestion: South College Street is a very busy road, and any additional traffic or vehicle manoeuvres associated with this proposed development would add to this congestion, aggravating an existing situation.
  4. Competition: There are various small local shops whose trade could be affected by the proposed development.

Other issues raised are:

5. Proposed development might impact on potential future works on South College Street;
6. Alternative uses for the building should be explored, e.g. flats; Pub should be retained
7. A comparison cannot be made with the Rosemount Co-op as these are in two completely different locations;
8. The proposal would facilitate the sale of alcohol in the neighbourhood, which could result in anti-social behaviour;
9. No cycle parking would be provided;
10. Proposal would have adverse impact on safe routes to schools;
11. Proposed first floor extension would have adverse impact on residential amenities of first floor flat, including loss of light, privacy and outlook. Plant on roof could cause noise pollution.

The letters of support cite reuse of an existing empty building and increase in employment.

## **PLANNING POLICY**

### **Aberdeen Local Development Plan**

D1 – Architecture and Placemaking

T1 – Land for Transport

T2 – Managing the Transport Impact of Development

H1 – Residential Areas

RT1 – Sequential Approach and Retail Impact

RT2 – Out of Centre Proposals

### **Proposed Aberdeen Local Development Plan**

D1 – Quality Placemaking by Design

T2 – Managing the Transport Impact of Development

T5 - Noise

H1 – Residential Areas

NC4 – Sequential Approach and Impact

NC5 – Out of Centre Proposals

## **Supplementary Guidance**

Transport and Accessibility Supplementary Guidance

Householder Development Guide – This document is relevant as the proposal has an impact on the residential amenity of flats above the proposed retail unit.

## **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 the development:

The site was last used as a public house. It is located within an existing residential area and policy H1 applies. This policy sets out that non-residential uses would only be acceptable if it would be considered complementary to the residential use, or if it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

A convenience store could be considered complementary to a residential use and subject to the proposal not having an adverse impact on the residential amenity of the neighbouring properties, the principle of the change of use could be acceptable.

The gross floor space of the proposed retail unit would be approximately 300m<sup>2</sup>, which is significantly less than 2,500m<sup>2</sup>, and a Retail Impact Assessment would therefore not be required. The site is located near the city centre, and, due to its small size, would serve local needs. It is therefore unlikely to have a detrimental impact on any retail locations listed as a neighbourhood shopping centre in the Hierarchy of Uses SG. A large number of representations have listed the impact of competition from the proposal on surrounding similar small convenience stores. However, competition in itself is not a material planning consideration, and this is therefore not discussed further.

The site is located near the city centre, and it is therefore unlikely that there is a proven deficiency in retail units nearby. However, due to the size of the proposed shop, it would clearly serve a local area, and this would not be an issue.

Due to its proximity to the city centre, the site would be easily and safely accessed through a range of transport methods, including walking and cycling. As such, the proposal would generally comply with the criteria as set out in policies RT1 (Sequential Approach and Retail Impact) and RT2 (Out of Centre Proposals) and the principle of the change of use based on this policy would be acceptable.

### Physical alterations to the building

The existing first floor extension partly runs parallel to Bank Street, and is partly set in. It has a flat roof and a parapet wall to the rear adjacent to the tenement building on Bank Street. The proposal is to square this extension off and raise its height to the top of the parapet wall overall. The distance between the rear

elevations of the first floor flats above the Ferryhill Tavern would be 3m. On top of the roof, 2m set in from Bank Street and to the rear of the building would be a 2.4m high plant enclosure measuring a width of 2.9m by a length of 9.8m. This plant enclosure would be clad in 'Rockpanel Woods' screen cladding, which would also be used for the gable of the first floor extension facing towards the first floor flats.

The site has an open aspect when approaching from both the north and the south in South College Street. The previous proposal included a plant that was shorter, but higher and wider, and which would be clad in aluminium louvres. The proposed cladding, although a functional material, would aid in blending the appearance of the plant into the overall building and street scene. When compared to the previous aluminium structure on the roof, albeit still clearly a functional addition, its impact on the surrounding area would be considered acceptable.

#### Impact on residential amenity:

##### *Daylight and outlook*

The existing first floor extension is stepped at 1.6m, 3m and 8m from the rear elevation of the first floor flats above the Ferryhill Tavern. It is proposed to square this elevation off at 3m from these flats and to raise the height by 1m to 3.5m. The Householder Development Guide sets out that, when considering loss of light to development right opposite a window, a line drawn at a 25° angle should be from the centre of the affected window. If this line goes through the proposed development, then there would be a significant loss of daylight. In this case, this line would stay just clear of the proposed development. However, due to the increase in height from approximately 2.5m to 3.5m and the reduction in the distance between this rear elevation and the extension, it is considered that this would have an unacceptable impact on the outlook of especially the middle and the window nearest Bank Street. These windows would have a very enclosed outlook, and on balance, this is considered to have an adverse impact on the residential amenity of the residents of these flats. Compared to the previously withdrawn proposal, the outlook for these windows would be further restricted as the plant on the top of the roof would be longer and nearer Bank Street. This would be contrary to policies D1 (Design and Architecture) and H1 (Residential Areas) of the Aberdeen Local Development Plan.

##### *Noise*

The proposal includes the construction of a large plant incorporating both air conditioning and a ventilation system for the refrigeration/ freezer units on top of the first floor extension. The distance between this plant and the gable wall of the adjoining tenement building would be 2.8m. This gable wall contains some windows. A Noise Impact Assessment has been submitted setting out that the proposal could have some impact on the residential amenity of neighbouring residents. However, this could be mitigated through design and the inclusion of an acoustic enclosure. The Council's Environmental Health Service are satisfied with the noise mitigation measures as set out in the Noise Impact Assessment and as such the proposal, would not have an unacceptable impact on residential

amenity of neighbouring properties. However, the proposed design might need to be altered to allow for sufficient mitigation measures.

Impact on local highway conditions, especially in relation to deliveries and parking:

*Parking:*

South College Street is a busy road corridor providing a link between the south of Aberdeen and the city centre. It is congested at times, especially during peak hours. Immediately in front of the Ferryhill Tavern are double yellow lines, with parking provided opposite in front of the Arches. These parking spaces are officially or parallel parking, even though the majority of spaces are used 'end-on', which involves vehicles being parked partly on the public footway. This method form of parking by drivers is unauthorised. Whilst it technically increases the number of parking spaces in the immediate area, these cannot be counted as part of the parking supply, given the unauthorised nature of the parking. Parking on Bank Street is controlled through pay and display and residents-only permits. There are double yellow lines around the corner with South College Street for approximately the first 10m into Bank Street for road safety reasons and to ensure visibility.

The Transport Statement submitted with the application showed that sufficient parking spaces were available in the area surrounding the Ferryhill Tavern. However, the Transport Statement uses the full length of Bank Street and Prospect Terrace to demonstrate parking availability. In reality, it is more likely that prospective customers would park in the first section of Bank Street between the junctions with South College Street and Prospect Terrace as these would be nearest the store. Prospect Terrace is a narrow one way street that would require drivers to drive all the way round in this residential area, which would be unlikely behaviour. The spaces at the far end of Bank Street are too far removed from the store, and would also unlikely be used by customers. In addition, these spaces would be nearer to another convenience store. As such, these spaces should be discounted from the assessment. When assessing the parking survey, this document showed that parking spaces in the first section of Bank Street as described above, were used consistently, with generally only one or two spaces being available at any one time. One of these spaces has to be discounted as a parking bay as it is permanently occupied by communal bins for the residential flats on Bank Street. Parking requirements for the store would be 8 spaces according to the guidelines set out in the Transport and Accessibility Supplementary Guidance. As such, this area of Bank Street would not be able to accommodate the parking demand for the proposed store.

Furthermore, the Transport Assessment included spaces associated with the businesses underneath The Arches on the opposite side of South College Street. These spaces are uncontrolled and as mentioned above, vehicles are usually parked perpendicular to the road in a way that obstructs the public footway. Use of these spaces would increase the number of reversing manoeuvres either into or out of these spaces directly onto South College Street. This would give rise to safety concerns on a very busy, congested part of the road network. Finally, there is no direct safe pedestrian crossing near the Ferryhill Tavern, and

pedestrian desire lines to access the store would increase the risk to pedestrian safety near the site.

Following on from the above, it has not been satisfactorily demonstrated that parking demand for the convenience store can be accommodated in the area immediately surrounding the Ferryhill Tavern. There would be an inherent risk of cars parking on double yellow lines, which would have an unacceptable impact on road and pedestrian safety.

#### *Servicing and deliveries:*

The side door fronting onto Bank Street leads directly to the main storage area serving the proposed convenience store. This would be on the first floor and a lift would take goods down to the shop floor. The Transport Statement sets out that any deliveries would be from Bank Street, and the applicant has indicated willingness to provide alterations to the road layout preventing delivery vehicles from stopping onto South College Street. Alterations could potentially be made to the road layout of Bank Street to provide a loading bay for limited hours of the day, which could still be used as an additional parking bay for the remainder of the day. This would involve moving the communal waste bins in front of the tenement building to the opposite side of Bank Street. However, this in itself would be undesirable as it would be likely to result in the loss of at least one on-street parking bay. Furthermore, the proposed loading bay would be created right in front of a residential building. The majority of deliveries would take place in the morning with delivery windows generally extending between 7am and 1pm, six times a week, including Saturdays. Deliveries are generally accompanied by noise consisting of the parking and manoeuvring of a delivery lorry, rattling of cages, slamming of doors etc. Even though the Transport Statement sets out that drivers would be instructed to be quiet, this would not be enforceable. As such, and given the nature of the surrounding residential area, deliveries in this location, and especially in the proposed loading bay, would have an unacceptable impact on the residential amenity of the occupiers of the tenement building fronting onto Bank Street due to an increase in noise levels early in the morning. In addition, Bank Street is a steep road, and the viability of using a loading bay on a gradient is questionable on safety grounds.

Bank Street is the entrance into a residential area. It is a steep, narrow street with parking on both sides. A Vehicle Swept Path was part of the Transport Statement, which shows that a HGV with a length of 11.3m could just round the corner from Bank Street into South College Street. However, the size of a HGV cannot be conditioned, and any larger vehicles would be unlikely to be able to manoeuvre round the road junction. This would raise further road safety concerns

#### *Pedestrian Safety*

As set out above, the combination of delivery vehicles in narrow residential streets, and the likely increase in parking on the opposite side of South College Street is likely to have an adverse impact on pedestrian safety in the surrounding area.



Due to the combination of the difficulty of providing satisfactory parking and servicing/delivery arrangements and the inherent impact of these difficulties on road and pedestrian safety, and adverse impact on residential amenity, the proposal is considered to fail to comply with the requirements of policy T2 (Managing the Transport Impact of Development), H1 (Residential Areas) and the Transport and Accessibility Supplementary Guidance.

#### *South College Street Road Improvements*

The site is shown in the Aberdeen Local Development Plan surrounded by land part of policy T1 (Land for Transport), where land has been safeguarded for transport projects. However, the change of use would not be considered to impede any proposals for these road improvements as it would be similar to the Ferryhill Tavern still occupying the building.

#### Other Matters:

1. The vast majority of letters of objection state that there are sufficient convenience stores in the immediate surrounding area, and that the proposal could result in the loss of several of these stores. This is not a material planning consideration and is not further discussed.
2. The Transport Statement provides a comparison between the proposed store and the existing store in Rosemount. The store in Rosemount does not provide a compatible scenario as the local circumstances between the two stores are entirely different. The Rosemount store is located centrally within a residential area, whereas this store would be on the periphery with a residential area to the west, but the railway and business and industrial land to the east. Furthermore, the Rosemount store is located on a route that is much more likely to be used by pedestrians going to and from the city centre, whereas South College Street is much more dominated by cars and is part of a major commuter route south out of Aberdeen. For these reasons, the existing Co-op in Rosemount is not accepted as an appropriate or relevant benchmark in this case.
3. Some letters of objection state that alternative uses should be sought prior to this application being made. The Local Planning Authority does not control what planning applications are lodged, and each needs to be considered on its own merits. It is agreed though that the building is in a decent state and that conversion to alternative uses could be explored in stead of this current proposal that is recommended for refusal.
4. Two letters of objection state that the proposal would facilitate the sale of alcohol, which could result in antisocial behaviour in the immediate surrounding area. This is not a material planning consideration and is not further discussed.

All other matters raised in the letters of objection have been discussed in detail in the above sections of the report.

## 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 case, policies D1 (Quality Placemaking by Design), T1 (Land for Transport), T2 (Managing the Transport Impact of Development), T5 (Noise), H1 (Residential Areas), NC4 (Sequential Approach and Impact) and NC5 (Out of Centre Proposals) are relevant. All of these have received representations and carry limited weight. The outcome of the proposal would not have been different if judged against these policies.

### Suggested potential conditions:

The proposal is recommended for refusal, however, if the Planning Committee is minded to approve, then the following conditions would be suggested:

1. Submission of details of a service/delivery management plan
2. Submission of plant specification and suitable enclosure design, including external materials, to ensure the mitigation measures as set out in the Noise Impact Assessment are implemented in full.
3. Limitation of servicing/delivery hours.

## **RECOMMENDATION**

### **Refuse**

## **REASONS FOR RECOMMENDATION**

1. Due to the increase in height and the small distance between the proposed first floor extension and the existing rear windows serving the first floor flat, the proposal is considered to have an adverse impact on the residential amenity of the occupiers of the first floor flat as the outlook from their property would be severely restricted. This would be contrary to the requirements of planning policies D1 (Architecture and Placemaking) and H1 (Residential Areas) of the Aberdeen Local Development Plan, D1 (Quality Placemaking by

Design) and H1 (Residential Areas) of the Proposed Local Development Plan and the Householder Development Guide.

2. Due to the combination of insufficient parking, the inherent issues of using Bank Street for deliveries due to its residential nature, and steep and narrow layout, and the nature of South College Street as an important and busy thoroughfare between the city centre and the south of Aberdeen, the proposal could result in severe congestion and would have a detrimental impact on road and pedestrian safety. This would be contrary to the requirements of policy T2 (Managing the Transport Impact of Development), H1 (Residential Areas) and the Transport and Accessibility Supplementary Guidance.
3. The proposed location of a loading bay would be in front of a residential building on Bank Street. Due to their nature, deliveries of goods to convenience stores would result in an unacceptable increase of noise, potentially early in the morning, which would have an unacceptable impact on the residential amenity of these residential dwellings. This would be contrary to policy H1 (Residential Areas) and D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan and policies H1 (Residential Areas), D1 (Quality Placemaking by Design) and T5 (Noise) of the Proposed Local Development Plan.