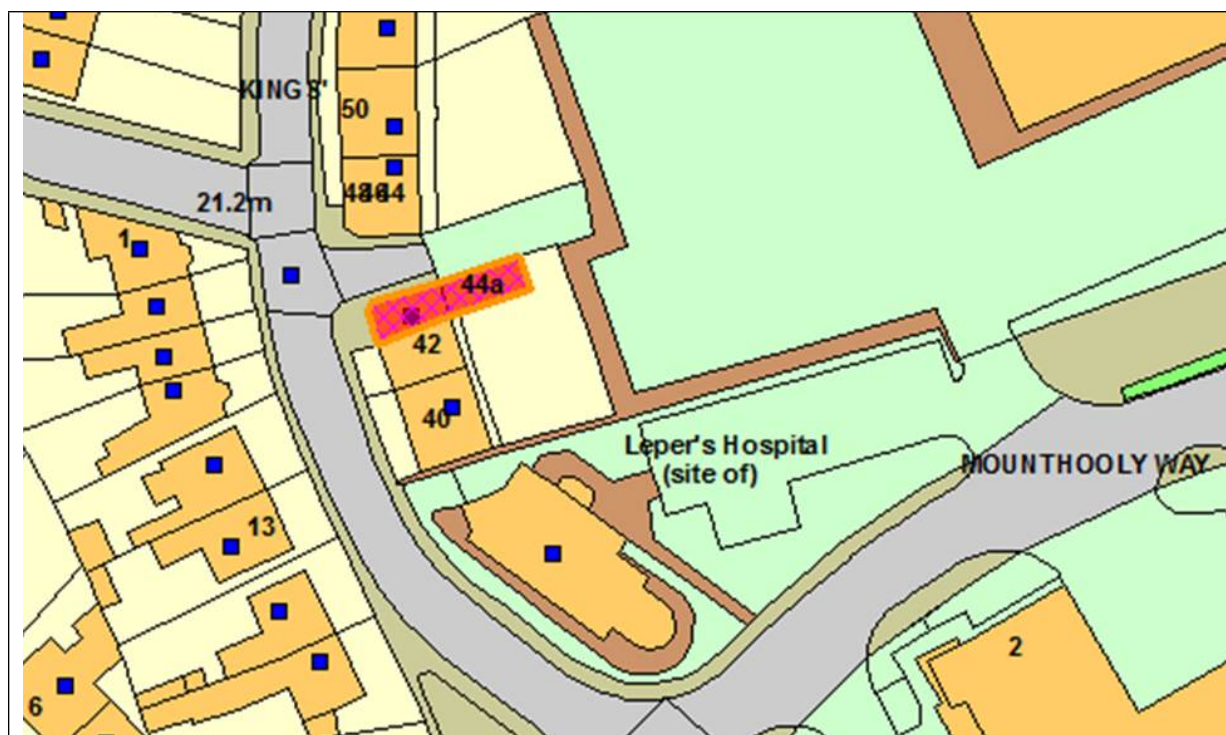


## Planning Development Management Committee Detailed Planning Permission

**161194/DPP:** Part change of use (rear former store room associated to shop) from retail (class 1) to gym (class 11) (retrospective) at 44 Kings Crescent, Aberdeen, AB24 3HL.

For: PatelMack Ltd

Application Date:	17 August 2016
Officer:	Sepideh Hajisoltani
Ward:	George Street/Harbour
Community Council:	Old Aberdeen
Advertisement:	Schedule 3 Development (Project of Public Concern)
Advertised Date:	14.September.2016



Location Plan

**RECOMMENDATION: Approve Conditionally**

### SITE DESCRIPTION

The application site is located to the east of Kings Crescent, almost opposite the junction with Jute Street. The property forms part of a traditional, 3 storey, granite-built, tenement block, the majority of which is in residential use. The application refers specifically to the ground floor, corner unit and the associated rear extension, which is currently classed as retail. The property was previously occupied by Grampian Electrodes, but is currently occupied by Granite Fight Factory – a new mixed martial arts stockist and combat training gym. Immediately to the north of the

property is short un-surfaced cul-de-sac, beyond which are tenements. Residential properties occupy the opposite side of Kings Crescent.

The application site is located within Old Aberdeen Conservation Area.

## **RELEVANT HISTORY**

None

## **DESCRIPTION OF PROPOSAL**

Detailed planning permission is sought retrospectively for part change of use for the rear former store room from retail (class 1) to gym (class 11). The front part of the premises will remain in retail use, selling martial arts products.

## **SUPPORTING DOCUMENTS**

All drawings and supporting documents listed below can be viewed on the Council's website at [www.publicaccess.aberdeencity.gov.uk](http://www.publicaccess.aberdeencity.gov.uk).

## **CONSULTATIONS**

**ACC - Roads Development Management Team** – The recommended maximum number of parking for this location would be 2 (1 per 40m<sup>2</sup> for retail shops and 1 per 22m<sup>2</sup> for the gym). Taking into consideration the overall size of the shop/gym and the hours of operation and accessibility of this location, the shortfall in the recommended number of dedicated parking is considered acceptable. The roads officer has also acknowledged the issue regarding the ownership of the adjacent alleyway (and the associated gate), however the road officer has clarified that discussions with the Council's Asset Management team for purchasing the lane would have no bearing on the above comments - No objection.

**ACC - Environmental Health**- No observations.

**Community Council**- Old Aberdeen Community Council has objected to the proposal due to concerns over parking issues on the adjoining side lane and has requested a condition for appropriate operating constraints.

## **REPRESENTATIONS**

Six letters of representation (including 2 objections) have been received, raising the following matters –

- 1) The gate at the adjacent lane has no consent and should be removed to provide short term parking to the public. There are also disputes on the ownership of the lane.
- 2) The information submitted on the application form including the address and access to 4 parking spaces are not correct.
- 3) The use of the building as a gym is not compatible with the character of the conservation area.
- 4) Detrimental impact on the residential amenity of the area.
- 5) There is an existing problem with illegal parking in the area.
- 6) Road safety issues and pressure on parking in the area.
- 7) Intensification of use.
- 8) Concerns over the use of the facility outside normal working hours.
- 9) There are other suitable areas in the city for the proposed use.

## REASON FOR REFFERAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee because Old Aberdeen Community Council has objected to the planning application. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

## PLANNING POLICY

### Historic Environment Scotland Policy Statement Scottish Planning Policy (SPP)

#### Aberdeen Local Development Plan (2012)

- Policy H2: Mixed Use Areas
- Policy D5: Built Heritage
- Policy RT4: Local Shops

#### Proposed Aberdeen Local Development Plan (2015)

- Policy H2: Mixed Use Areas
- Policy D5: Built Heritage
- Policy NC7: Local Shop Units

## EVALUATION

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.

### ***Policy H2: Mixed Use Areas***

Applications for change of use within Mixed Use Areas must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity. Where new uses are permitted, development should not adversely affect the amenity of people living and working in the area.

Although the surrounding area is almost entirely in residential use, the application property is currently operating as a non-residential development and there has been an established pattern of non-residential use for the property over the years. Policy H2 permits a range of uses provided any new use avoids undue conflict with the adjacent land uses; in this case the adjacent residential use. The applicant advises that the gym would serve a maximum of 8-10 people during each session. It is acknowledged that the number of users are more than what the existing retail unit (without the proposed gym) or the previous retail unit would be likely to or did attract and that there would be the potential for a group of people to attend at a similar time as opposed to individuals visiting a shop. However, it is considered that the maximum number of 10 users would not cause such an intensification of use nor significant impact on residential amenity that would justify refusal of this application. It is also worthy of note that a permitted change to an alternative class 1 retailer could potentially attract the same level or even more users to the unit.

It should also be noted that there has been no objection by the Council Environmental Health Team to the proposal. While the level of activity is considered appropriate during daytime hours, given the largely residential nature and character of the surrounding area, it is nevertheless appropriate to recommend that a condition is applied to restrict opening hours to protect residential amenity in the early mornings and evenings. This condition would also address the concerns raised by the Old Aberdeen Heritage Society on the tendency for gym users to congregate outside on the pavement to socialise or for people to take smoking breaks which can sometimes be a source of disturbance for surrounding residential properties in the evenings.

***Policy D5: Built Heritage***

Proposals affecting Conservation Areas will only be permitted if they comply with Scottish Planning Policy. The proposal is for a change of use and no physical alterations have been proposed. It is considered that the proposal fully accords with the provisions of this policy and would have no detrimental impact on the distinctive character of the conservation area.

***Policy RT4: Local Shops***

Local shops not located in any of the identified retail hierarchy also fulfil an important role in serving the communities around them. There is a presumption against the loss of retail premises to other uses. However it is noted that this application is a part change of use and a significant part of the unit (i.e. that parting fronting on to the street) would continue to operate as a retail unit and as such would not result in a conflict with policy RT4.

***Car park and Accessibility***

Council road officers have indicated that they are satisfied with the proposal and they do not anticipate any significant effect on the parking in the area. It is also noted that the application site has good access to public transport. As a result considering the size of the gym and total number of users, the proposal is considered to be acceptable with no parking spaces being proposed. Accordingly the discussions on the ownership of the adjacent lane would not be relevant to this assessment as the proposal would be acceptable even with no access to these parking spaces.

***Other Matters Raised in Representations:***

Objection 1 relating to the existing gate and disputes over the ownership of the lane is not directly relevant to this application as the lane does not form part of the application site. The applicant has clarified that the proposed development has no access to parking spaces and the assessment has been done on this basis. Accordingly the discussions on ownership of the lane and access to it are not relevant to this assessment.

Objection 2 relating to the inaccuracy of the address has been addressed and re-notification of the neighbours has taken place with the correct address. The applicant has also amended the application form to state there are zero parking spaces on site. Accordingly the initial application form has been superseded.

Objections 3 & 4 relating to the impact of the proposed use on the character of the conservation area and also residential amenity are material planning considerations and have been considered in the evaluation above.

Objection 5 relating to existing problems with unauthorised parking in the area is not a relevant material planning consideration for assessment of this application.

Objection 6 relates to the impact of the development on parking arrangements in the area. There has been no objection by the Council's Roads Development Management Team to the proposal and it is considered that the submitted proposal would raise no road safety issues.

Objection 7 regarding the intensification of use has been considered in the evaluation above.

Objection 8 relates to the limitations on the decision for protection of residential amenity. This has been considered in this assessment and a condition is recommended with regards to operating hours.

Objection 9 relates to the other suitable sites for the proposed use. It is undoubtedly the case that this facility could be provided in other locations. However, this application requires to be assessed on its own merits having regard to the development plan and other relevant material considerations. As demonstrated in the evaluation above, the proposal complies with the development plan and as such the premises are considered suitable for the proposed use.

Full regard has been given to all concerns raised in representations, but neither do they outweigh the policy position as detailed above, nor do they justify further amendments to the plans or refusal of the application.

#### 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 and the Reporter has now reported back. The proposed plan 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 comment by the Reporter; and
- the relevance of these matters to the application under consideration.

The Reporter's response does not affect policies in a manner that is relevant to this application. In relation to this particular application proposal policies in the Proposed LDP are not materially different from those in the adopted LDP.

Approval to adopt the LDP will be sought at the Full Council meeting of 14 December 2016. The actual adoption date is likely to be around the third week in January 2017.

**RECOMMENDATION: Approve Conditionally**

**REASONS FOR RECOMMENDATION**

Subject to a condition limiting the hours of operation, the proposed part change of use to gym complies with Local Development Plan policy D5: Built Heritage and Policy RT4: Local Shops and would have no significant detrimental impact on residential amenity in compliance with Policy H2: Mixed Use Areas and equivalent policies in the Proposed Aberdeen Local Development Plan. The proposed Development also complies with Scottish Planning Policy and Historic Environment Scotland Policy Statement and would not have an adverse impact upon the character of the Conservation Area.

**CONDITIONS**

- 1) That the class 11 unit hereby approved shall not be open for business outwith the hours of 1000 to 2000 on any day - in the interest of residential amenity.