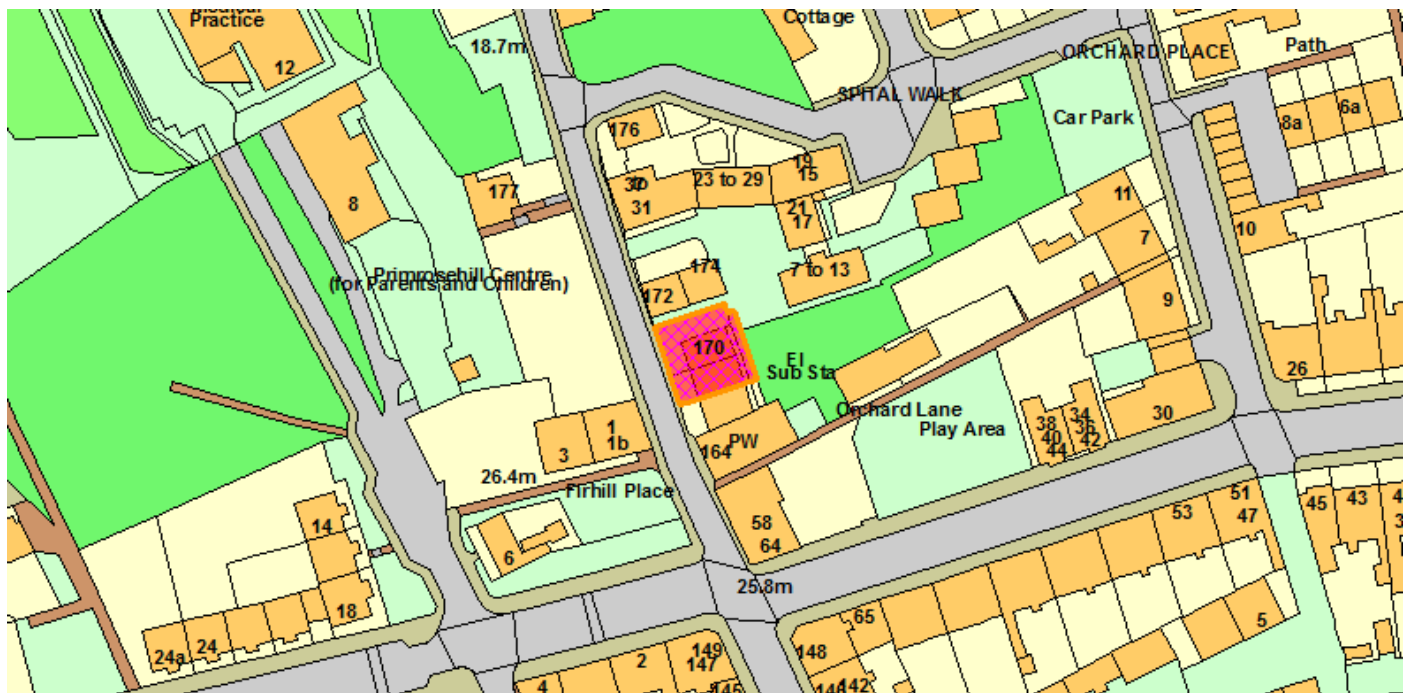


Site Address:	168 -170 Spital, Aberdeen, AB24 3JD
Application Description:	Change of use from Class 9 (dwelling house) to Class 10 (non-residential institutions) (retrospective)
Application Reference:	171356/DPP
Application Type	Detailed Planning Permission
Application Date:	9 November 2017
Applicant:	Aberdeen Mosque & Islamic Centre (AMIC)
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council	Old Aberdeen
Case Officer:	Linda Speers



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site is located on the east-side of College Bounds and 35 metres from the junction with Orchard Street / Sunnybank Road within the Old Aberdeen Conservation Area. The site comprises of 2no. terraced properties (168 and 170); 2-storey traditional granite and slate residential dwellings. The site is situated adjacent to the AMIC (Aberdeen Mosque & Islamic Centre) at 164 and 166 Spital which forms part of the terrace and currently occupied by the Mosque. The wider area is part of the University of Aberdeen campus but the site is bound by both mixed use and residential areas. The site is zoned as 'Existing Community Sites and Facilities' in the Aberdeen Local Development Plan.

Relevant Planning History

120739 – Planning permission granted (approve unconditionally) for Extension and Change of Use (Class 9 to Class 10) at 166 Spital in August 2012.

APPLICATION DESCRIPTION

Description of Proposal

Change of use from Class 9 (dwelling house) to Class 10 (non-residential institutions) for 168 and 170 Spital.

The application is retrospective; 168 and 170 have facilitated the adjacent Mosque for a number of years originally as residential accommodation and more recently as ancillary facilities for the Mosque such as teaching facilities. The properties are not interlinked and each has separate access. The Mosque is open daily from approximately 6.30am to 8pm. Peak usage times are Friday and other special occasions such as Ramadan. On Friday in particular when the occupancy is peak; 168 and 170 are used to accommodate the patrons.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OZ5G1TBZH1G00>

The following documents have been submitted in support of the application –

Supporting Statement: has provided the following main points:

The proposed change of use is required to formally change the residential property at 168 and 170 Spital to be an ancillary part of Mosque, to accommodate worshippers attending the Mosque at peak times and also to be used as a teaching facility.

The properties at 168 and 170 Spital have been used as over spill to the main Mosque and teaching rooms for around five years and the proposed change of use will not lead to any new usage or additional worshippers.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the application has received in excess of 5 valid objections and thus falls outwith the Council's Scheme of Delegation.

CONSULTATIONS

ACC - Roads Development Management Team – have no objection subject to the following conditions applied to the consent to minimise car travel to the site:

- A travel plan; and
- A scheme detailing cycle storage

ACC - Environmental Health – have no objection to the proposed development. An environmental health assessment has been carried out, including a site visit and concluded a statutory nuisance did not exist. Noise emanating from services within the premises is considered unlikely to create a statutory nuisance.

ACC - Waste Strategy Team – have advised of waste management requirements for the proposed development. An associated informative has been added to the planning consent.

ACC - Flooding And Coastal Protection – have no objection to the proposed development.

REPRESENTATIONS

The application has received a total of 8 valid representations objecting to the proposal. The following material matters of which have arisen:

Use

The residential buildings (168 & 170) used in association with the Mosque does not have the relevant consent from the Planning Authority.

Noise

Noise associated with the entering and exiting of the facility at peak times and the impact from this additional footfall on residential amenity.

Parking

No parking available for the site and the consequent impact on residential parking. Congestion at peak times (Friday). Breaching parking regulations including parking on double yellow lines.

4 invalid representations were received. The scheme of delegation states that a representation will only be counted if it is from a specified e-mail address or street address. The 4 invalid representations did not have either.

A query regarding the proposed facility at Nelson Street was raised by an objector. The Mosque at Nelson Street is an independent and completely different mosque from AMIC.

MATERIAL CONSIDERATIONS

Legislative Requirements

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.

National Planning Policy and Guidance

- Scottish Planning Policy (SPP)
- Historic Environment Scotland Policy Statement (HESPS)

Aberdeen Local Development Plan 2017 (ALDP)

- Policy CF1: Existing Community Sites and Facilities
- Policy T5: Noise
- Policy T2: Managing the Transport Impact of Development
- Policy D4: Historic Environment

Supplementary Guidance and Technical Advice Notes

- Noise (Supplementary Guidance)
- Transport and Accessibility (Supplementary Guidance)

Other Material Consideration

- Residential Amenity

EVALUATION

Policy CF1- Existing Community Sites and Facilities

The application site falls within an 'existing community sites and facilities' designation on the ALDP 2017 Proposals Map and designated for 'further education and research' purposes in association with Aberdeen University. The AMIC own the buildings and have done so for circa 30 years; the permitted use is for Class 9 residential and in the past the dwellings have been used as residential accommodation serving the Mosque.

While the AMIC has no association with the University of Aberdeen, the propose use (Class 10) accords with the general principles of Community Facilities; notwithstanding this the proposal is required to be assessed in accordance with the provisions for change of use within Policy CF1 which states;

'Where the CF1 area contains uses other than that for the which the area has been designed i.e. further education and research use, and these uses make a positive contribution to the character and community identify of the area, any proposals for development or change-of-use, whether or not for the use associated with community use recognised in this land-use designation, will be opposed if a likely result would be significant erosion of the character of the area or the vitality of the local community.'

The AMIC caters for the Muslim community close to the University and neighbouring areas and is the largest and main prayer location in Aberdeen. The Mosque also provides a teaching facility for children and a lecture venue for various subjects. The buildings at 168 and 170 provide ancillary facilities for the Mosque; in the past this has been residential accommodation for guests or new patrons and more recently teaching space and additional space for worshippers at peak times. It is not considered that using these properties for ancillary facilities in relation to the existing mosque would have a negative impact on the local community or erode the character of the area. It has been noted from reading the letters of representation to this application that there has been growing concerns for the volume of worshippers at this site; arguably given the large congregation the Mosque is required to serve; the proposed change of use of the residential units would provide essential accommodation for the Mosque and in particular at peak times when over-spill is likely. Without this additional space the likelihood of worshippers having to stand outside would be increased. The supporting statement suggests that the usage would be unaffected; given the fact that the site has been operating as an over-spill area for 5 years this is tenable. The AMIC would continue to provide an essential service to the local community and the proposal is considered to enhance the vitality of the local community rather than adversely affect it.

Policy T5 – Noise

The Supplementary Guidance for noise states that *'New commercial developments where amplified music, singing and speech are proposed must be designed to ensure that noise is contained within the development boundary and is inaudible within any neighbouring noise-sensitive property'*. Environmental Health carried out an assessment of the application and concluded that noise emanating from services within the premises is considered unlikely to create a statutory nuisance. The objectors have voiced concern for the noise associated with the worshippers entering and leaving the facility and particularly at peak times; and specially relates to the present situation. Notwithstanding the concern, the proposal would not lead to any new usage or additional worshippers; by refusing this application the present situation would not change and in fact may lead to further noise related issues with the congregation having difficulty accessing the facility. The noise impact from the proposed change of use is not considered to adversely impact the site and therefore does not warrant a refusal of the application.

Policy T2 – Managing the Transport Impact of Development

Policy T2 in the ALDP states that new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel. Roads Development Management has been consulted on the application and has no objection subject to the applicant detailing a travel plan to mitigate the lack of parking associated with the site. The travel plan would be expected to promote more sustainable travel choices to and from a site, with an emphasis on reducing reliance on the private car, thereby lessening the impact of that site on the surrounding road network. The site benefits from good walking, cycling and public transport accessibility; currently there is no cycle storage available at the site and 3no. Sheffield stands are recommended in this location; which can be controlled through condition in order to promote sustainable and active travel in accordance with policy and supplementary guidance: Transport and Accessibility.

It's acknowledged that the site is very active and at peak times may lead to congestion in the immediate area and similar to other areas of the University Campus where public parking availability is limited. College Bounds, Sunnybank Road and Orchard Street are within control parking zones. Indiscriminate parking is considered a separate issue and can be dealt with through effective enforcement of parking restrictions.

Taking the aforementioned considerations into account, it is not considered the proposed use pose any undue road safety impacts along the local road network. To this end, the proposal is rendered compliant with the relevant expectations of Policy T2 in the ALDP.

Policy D4 – Impact on Historic Environment

The property lies within the Old Aberdeen Conservation Area and thus Historic Environment Scotland Policy Statement (HESPS) must be referred to in determination of the application. HESPS states that the planning authority must pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area when determining applications. No external changes to the building are proposed which would affect the built fabric of the building or the character and appearance of the Old Aberdeen Conservation Area. It is not considered the proposed change of use is at odds with the relevant expectations of Policy D4.

Impact on Residential Amenity

The site lies in close proximity to a number of residential properties on Spital Walk and Orchard Street. The Mosque has coexisted with the local community for 30 years and provides an essential service to the local and wider area. The proposed change of use does not significantly alter the way the existing site operates and therefore is not considered to impact residential amenity. The issues with noise and parking affecting neighbouring properties raised by objectors have been addressed and not considered material to warrant refusal of this application.

Matters raised within public representations

The matters relating to use, noise and parking have been addressed within the above evaluation.

Conclusion

To conclude, the proposal for change of use would provide essential ancillary facilities to the existing Mosque and additional accommodation in times of peak use. The AMIC is considered a service which caters for the demands of the local community and enhances the vitality of Old Aberdeen. It is considered the merits of the proposed use would outweigh any possible drawbacks and it has been operational for 5 years. The proposal would comply with the relevant policies in the ALDP 2017 and the application is recommended for approval subject to the relevant conditions.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The change of use from Class 9 (dwelling house) to Use Class 10 (non-residential institutions) is considered acceptable in the context of the site; using these properties for ancillary facilities in relation to the existing mosque would not have a negative impact on the local community or erode the character of the area of the Old Aberdeen and is more likely to enhance its vitality. The proposed change of use does not significantly alter the way the existing site operates and therefore is not considered to impact residential amenity in terms of noise and parking. Taking the above factors into account the proposed use as Class 10 is considered to be compliant with the relevant provisions of Policy CF1: Existing Community Sites and Facilities, Policy T2: Managing the Transport Impact of Development and Policy T5: Noise and D4: Historic Environment of the Aberdeen Local Development Plan 2017 and the Historic Environment Scotland Policy Statement and the associated Supplementary Guidance: Noise and Transport and Accessibility.

CONDITIONS

- 1) That the use hereby approved shall not continue beyond 3 months of the date of this decision unless there has been submitted to, and approved in writing by the planning authority a detailed travel plan, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets and associated penalties for not meeting targets:-

Reason: In order to encourage more sustainable forms of travel to the development.

- 2) That the use hereby approved shall not continue beyond 3 months of the date of this decision unless a scheme detailing cycle storage (minimum 3no. Sheffield stands) provision has been submitted to, and approved in writing by the planning authority, and the said scheme has been implemented in full:-

Reason: In order to encourage more sustainable forms of travel to the development.

ADVISORY NOTES FOR APPLICANT

Waste Management

As this is a non- residential development; this type of development is supplied with the following:

1 x180l general waste wheeled bin

1x 240l mixed recycling wheeled bin

1x 240l garden waste wheeled bin

Over and above this provision, the developer will have to purchase bins and set up a Trade Waste Agreement.

Please note food waste is a **chargeable trade waste service**

If you require further trade waste information please contact the officers at businesswaste@aberdeencity.gov.uk

General points

- All the waste containers must be presented on **(insert name of road) only** on the collection day and must be removed from the kerbside as soon as possible. No containers should be permanently stored on the kerbside.
- **No excess** should be stored out with the containment provided. Information for extra waste uplift is available to residents at either www.aberdeencity.gov.uk/wasteaware or by phoning 03000 200 292.