

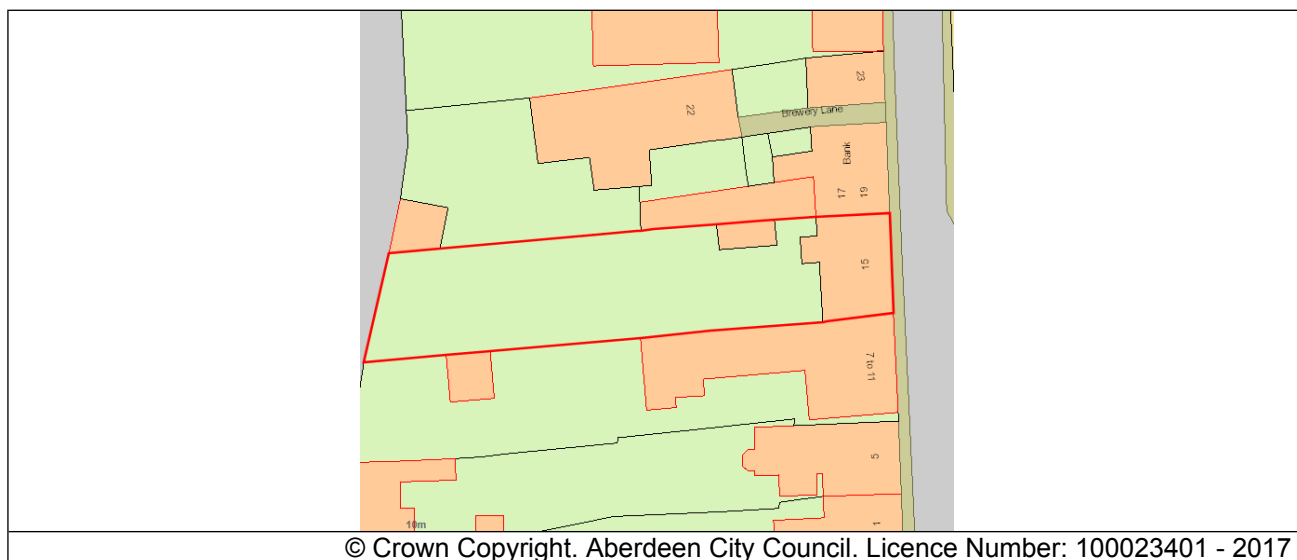


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date: 26<sup>th</sup> April 2018**

<b>Site Address:</b>	15 High Street, Aberdeen, AB24 3EE,
<b>Application Description:</b>	Change of use of from residential (Class 9) to public house (Sui Generis), and installation of ventilation duct to rear
<b>Application Reference:</b>	170710/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	6 July 2017
<b>Applicant:</b>	Mr Juliusz Matraszek
<b>Ward:</b>	Tillydrone/Seaton/Old Aberdeen
<b>Community Council</b>	Old Aberdeen
<b>Case Officer:</b>	Jamie Leadbeater



### **RECOMMENDATION**

**Approve Conditionally**

## APPLICATION BACKGROUND

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### Site Description

The site comprises the ground floor of a vacant late 18<sup>th</sup> Century category B-listed dwellinghouse on the western side of High Street in Old Aberdeen within an area identified as being associated to the University of Aberdeen (UoA).

The principal elevation abuts the pedestrian walkway on High Street, with a garden area including detached storage building to the rear. A building in office use associated to the UoA office adjoins the northern side elevation, whilst a catholic chaplaincy abuts the southern boundary. To the east beyond High Street is an area of open space (Elphinstone Lawn) flanked by listed buildings such as: King's College Chapel ('A' listed); King's College; and the King's College New Building, both 'B' listed.

In terms of land use designations, the site is zoned within a wider 'Existing Community Sites and Facilities' area, as shown on the Proposals Map to the Aberdeen Local Development Plan 2017 (LDP) and within the Old Aberdeen Conservation Area.

### Relevant Planning History

Application No.	Proposal	Decision Date
170709/LBC	Listed Building Consent (LBC) for Internal alterations to building to form Public House	Pending consideration, and presented elsewhere on this PDMC Agenda.

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## APPLICATION DESCRIPTION

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### Description of Proposal

Change of use from dwellinghouse (Class 9) to Public House (a *Sui Generis* use) and installation of ventilation duct to rear elevation. Submitted Drawing No L(00)04 Rev B sets out the internal arrangement of the proposed public house.

In respect of proposed servicing arrangements, deliveries are expected to be taken on Elphinstone Road to the rear (west) and into the premises via the rear 'garden' area. A detached building within this rear area, close to the rear elevation, will act as a storage facility. Opening hours are proposed to be midday to midnight, Monday to Sunday.

### Supporting Documents

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

<https://publicaccess.aberdeencity.gov.uk/onlineapplications/applicationDetails.do?activeTab=documents&keyVal=ORJ7SEBZLKH00> .

- Conversation Noise Assessment
- Noise Impact Assessment

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because the local community council has objected and the application has received in excess of 5 valid objections.

### **CONSULTATIONS**

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**ACC - Environmental Health** – No objection. Attended during ‘conversation noise’ assessment with the applicant’s Noise Acoustician, and on review of the written findings, do not consider predicted noise levels would be audible within adjoining premises. Furthermore, if planning permission is to be granted it is recommended that a condition be attached restricting use of the rear garden area to staff only.

**ACC - Roads Development Management Team** – No objection. Note there is no dedicated parking, but that the application property is easily accessible by foot and well served by cycle routes and by a number of public transport connections within a 400m radius, some of which run past the application property.

**ACC – Waste Strategy** – No objection. Premises would be served by a business waste collection. ACC is not the only commercial waste collector and the applicant would need to make their own arrangements for the collection of waste. The business would be required to make provision for recyclable and food waste. Waste should not be stored on street.

**Old Aberdeen Community Council** – Object, for 3 main reasons: proposed use would degrade a listed building; severely degrade the ability of the adjoining chaplaincy to meet the needs of students in need; and, the proposal will have an adverse effect on Old Aberdeen.

**Police Scotland** – No objection, but offer the following observations. General layout is good from a crime prevention perspective. Advise there is a low-crime rate locally. Note that the proposal could change the crime profile of the area, if left un-checked, through an increase in anti-social behaviour and public disorder. However, this could be mitigated through use of: CCTV; and/or staff monitoring of customers within the premises; and use of good quality lighting within and outside the premises. It is recommended the applicant liaises with Police Scotland’s Architectural Liaison Officer at each stage of the development process for purposes of designing-out crime and it is encouraged the applicant obtains secures the ‘Secured By Design’ award to demonstrate safety and security have been proactively considered and the development meets high standard in this respect.

### **REPRESENTATIONS**

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The application has received a total of 630 representations (396 in support and 234 against), the following material matters of which have arisen can be summarised as:

### Reasons to Support:

- Provide platform to enhance community spirit and raise morale;
- Would bring a long-term vacant building back into use;
- Any disruption arising would be minimal;
- Aberdeen has a huge problem with underused properties
- Good location in relation to the University of Aberdeen as the designated 'existing community facility';
- Noise concerns overplayed;
- High Street is already a busy public thoroughfare and this use would not significantly affect this;

### Reasons to object:

- Noise from the pub would disturb adjoining chaplaincy building;
- The building is not derelict;
- Adverse impact on local residents in terms of noise and general disturbance;
- The application property should remain as a dwellinghouse;
- Pub would give rise to an incongruous mix of uses;
- Use would adversely affect the peaceful and leafy character of Old Aberdeen;
- Proposed use would give rise to road safety implications through increase in drop-offs and unauthorised parking;
- The adjoining chaplaincy has a residential nature to its use;
- Proposals contrary to the Council's local planning policies;
- Proposal would be 'alien' to the established character of Old Aberdeen;
- Proposed use would change the 'residential nature' of High Street;
- Proposed use would spoil the setting of King's College opposite;
- Proposed opening hours of 12pm to 12am are unacceptable;
- Proposals conflicts with the Council's SG on 'harmony of uses';
- Fails to comply with Scottish Government's policy on 'sustainable development';

### Issues raised in representations which are considered non-material to determination

- Students are transient people by nature and therefore their support for this project should be meaningless;
- There is not an under provision of licensed premises in Old Aberdeen;
- Litter arising from the use would have an unacceptable impact on High Street;
- The number of houses within in Old Aberdeen in gradually diminishing, which is adversely affecting local community character;
- Excessive alcohol consumption in society is a serious problem and this would only serve to exacerbate this issue;
- Proposed use would adversely affect the existing public houses businesses in Old Aberdeen, specifically the St. Machar Bar;
- Proposed use would give rise to an increase in anti-social behaviour;

- Proposed use would result in students congregating outside the premises on High Street resulting in increase in litter.
- Safety concerns for pedestrians walking-up High Street late at night;
- No details have been given about signage;
- There are already sufficient employment opportunities for students;
- Old Aberdeen needs more family homes as opposed to student bars to make it better;
- Unethical to have a public house next to a place of worship which accommodates classes for children;
- There is no evidence that the Bobbin and St. Machar Bar do not meet the needs of locals
- Removal of beer garden element would just transfer noise from the rear of the property to the front of it, on High Street;
- Proposed use would reduce tourist's interest in Old Aberdeen;
- Would create jobs;
- No Student's Union at present, university lacking its own dedicated student bar;
- Existing pubs in Old Aberdeen are not student-friendly;
- In sufficient capacity in The Bobbin to cater for all students;
- Would help community cohesion in Old Aberdeen;
- A place for new students to meet;
- Proposed use would help to revitalise the local economy of Aberdeen;
- Proposed use could help reduce anti-social behaviour by increasing social interactions;
- Objections are based on prejudice against students;

## **PLANNING POLICY FRAMEWORK AND MATERIALITY**

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### **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 Policy and Guidance**

- Scottish Planning Policy (SPP)
- Planning Advice Note 1/2011: Planning and Noise (PAN 1/11)

### **Aberdeen Local Development Plan 2017 (ALDP)**

- Policy CF1: Existing Community Sites and Facilities
- Policy D4: Historic Environment
- Policy T5: Noise
- Policy T2: Managing the Transport Impact of Development
- Policy R6: Waste Requirements for New Development

## **Supplementary Guidance (SG) and Technical Advice Notes (TAN)**

- Noise (SG)
- Transport and Accessibility (SG)
- Resources for New Development (SG)

## **EVALUATION**

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### **Main Issues**

The main issues are: firstly, whether the proposed development is acceptable in principle; and secondly, whether the proposal is compatible with the character of the area and amenity of neighbouring uses.

### **Assessment of Main Issues**

#### Principle of Development

Policy CF1 of the LDP will permit in principle the re-use of buildings within Existing Community Sites and Facilities for alternative uses where land and buildings have become surplus to requirements, subject to being compatible with the character of the area.

The University, via its Estates Department, has conveyed its desire to seek an alternative use for the building on the basis that it is surplus to their current and anticipated future academic and non-academic needs. Therefore the principle of the development is acceptable subject to its compatibility with the character of the area.

#### Affect upon Character of the Area

##### *Compatibility with Character of the Area*

The character of an area is more than the component buildings and the spaces they create, it embodies a range of differing and competing uses. In this regard the character of the area includes St. Machar Bar and Red Lion pub which has proven to be a part of a congruous mix of uses along High Street and College Bounds respectively. Therefore the proposed use is not unique or out of character with the area.

With regard to the proposed use as a public house, this is considered to fall within the scope of a 'community facility' and the development thus accords with the character designation set out in the ALDP.

##### *Impact upon Amenity*

It is accepted that privacy and the protection of general amenity constitutes a material consideration in determining development proposals and is also an important objective in ensuring that residents of properties bounding any development site feel at ease within and without their accommodation. This position is covered by LDP policy T5 and its explanatory text at paragraph 3.54:

*The planning system has a role to play in ensuring new development does not result in increasing numbers of people exposed to adverse noise impacts*

The primary consideration in this respect is whether the proposed use would harm the amenity of the area by way of excessive noise generation and its migration. The neighbouring chaplaincy express concerns over noise generation impacting on the tranquillity within their place of worship, as well as resident staff having their amenity degraded.

To investigate noise issues a noise assessment was undertaken in the chaplaincy building in the presence of their representatives. The Council's Environmental Service having reviewed the assessment and visited the site conclude that likely noise generation would not pose an unacceptable impact to adjoining properties (including the chaplaincy). It is therefore considered that the proposed development accords with policy T5 of the LDP.

The proposed hours of opening are a matter which are best controlled via the licensing process and it would not be appropriate to apply separate control via a planning condition. However the use of external areas as beer gardens or a street café has not been considered in this assessment and would require a further application to be made. An appropriately worded planning condition can confirm this limitation/ requirement.

## **Other Issues**

### Impact on Historic Asset

Policy D4 of the LDP, building upon national advice, actively encourages the productive re-use of vacant listed buildings to uses that will maintain their long term conservation and physical upkeep. The proposal meets these requirements, mindful that a number of minor internal alterations are addressed in the accompanying Listed Building Consent application.

The only external physical change to the listed building is the introduction of a small ventilation duct within the rear elevation wall, to serve the proposed toilets. Given the form and scale of the vent it would not have an undue adverse impact upon the character and appearance of the Listed Building or the Conservation Area. This aspect of the proposal is considered to accord with LDP policy D4.

### Transport and Accessibility

The site occupies a highly sustainable location and is accessible by a full range of modes of transport, outwith the private motor car, and therefore complies with policy T2 of the LDP.

### Waste Management

The submitted site plan shows waste facilities to be located in the rear garden area, which would be accessible to staff only. Waste Strategy have no objection to the proposals. It is considered that the waste arrangements, incorporating collection off Elphinstone Road, accord with LDP policy R6.

## **Residual matters from those raised in public representations**

The following material matters raised in letters of objection are addressed as follows:

- *Proposed use would spoil the setting of King's College opposite* – The proposal does not incorporate any tangible changes to the building thus there would be no physical impact on the setting of the surrounding listed buildings;
- *Proposals conflicts with the Council's SG on 'harmony of uses'* – Given the site's land-use designation (CF1), this referenced supplementary guidance is not applicable (relating to only H1 and H2 areas).
- *The application property should remain as a dwellinghouse* – The proposal before us is for the change of use of the premises and this must be determined on its own merits;
- *Use would adversely affect the peaceful and leafy character of Old Aberdeen* – The proposal would not affect the visual character of the area and would not affect trees. Peaceful is a subjective term and is down to personal interpretation, however the submitted noise assessments demonstrates that building is already constructed to a standard which suitably retains noise. As such the impact on amenity is considered acceptable.

### **Conclusion**

The proposal would comply with the aforementioned policies of the LDP underpinned by relevant national planning policy and guidance and in the absence of any overriding other material considerations the application is recommended for approval.

### **RECOMMENDATION**

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**Approve Conditionally**

### **REASON FOR RECOMMENDATION**

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The principle of development is considered acceptable, the proposed use would accord with the existing character of the area and the proposal would aid the conservation of a long-term vacant category B-listed building, considered surplus to current and anticipated future requirements by the owner. Further, the proposed use would not cause undue detriment to the function and amenity of adjoining uses, and amenity of the wider Old Aberdeen Conservation Area. Finally, the proposed use would be accessible by a range of transport modes and suitable storage arrangement can be accommodated within the site. Taking these aforementioned factors into account, the proposal is considered compliant with the relevant national policy and guidance, and the following policies in the Aberdeen Local Development Plan 2017: Policy CF1: Existing Community Sites and Facilities; Policy D4: Historic Environment; Policy T5: Noise; Policy T2: Managing the Transport Impact of Development; and, Policy R6: Waste Requirements for New Development, as well as their relevant associated supplementary guidance. Therefore the proposal is considered acceptable.



## **CONDITIONS**

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- 1) That, for the avoidance of doubt, the garden space within the rear curtilage of the application property shall not be used by customers of the public house at any time.  
Reason: In the interests of local residents' general amenity.

## **ADVISORY NOTES FOR APPLICANT**

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- 1) Express Advertisement Consent is likely to be required should the applicant wish to affix any signage to the application property. It is therefore recommended that the applicant contacts the Planning Service to establish if an application would be needed.
- 2) Listed Building Consent (LBC) may be required for any external or internal changes to the building to facilitate public house use – including advertisements. It is therefore recommended that the applicant contacts the Planning Service to establish if an application would be needed.
- 3) The applicant is responsible for arranging business waste collection from the premises. Aberdeen City Council is not the only waste collection operators in the city. ACC Waste services can be contacted by phone on: 03000 200 292.
- 4) It is recommended that the applicant/developer liaises with Police Scotland's Architectural Liaison Officer to discuss possible measures associated to 'designing-out crime' and securing a 'Secured By Design' award.
- 5) The applicant/operator is required to obtain an appropriate operating licence from the Council's Licensing Department to legally bring the public house proposals into use. ACC Licensing can be contacted by phone on: 01224 522449 or by email at: [licensing@aberdeencity.gov.uk](mailto:licensing@aberdeencity.gov.uk).