

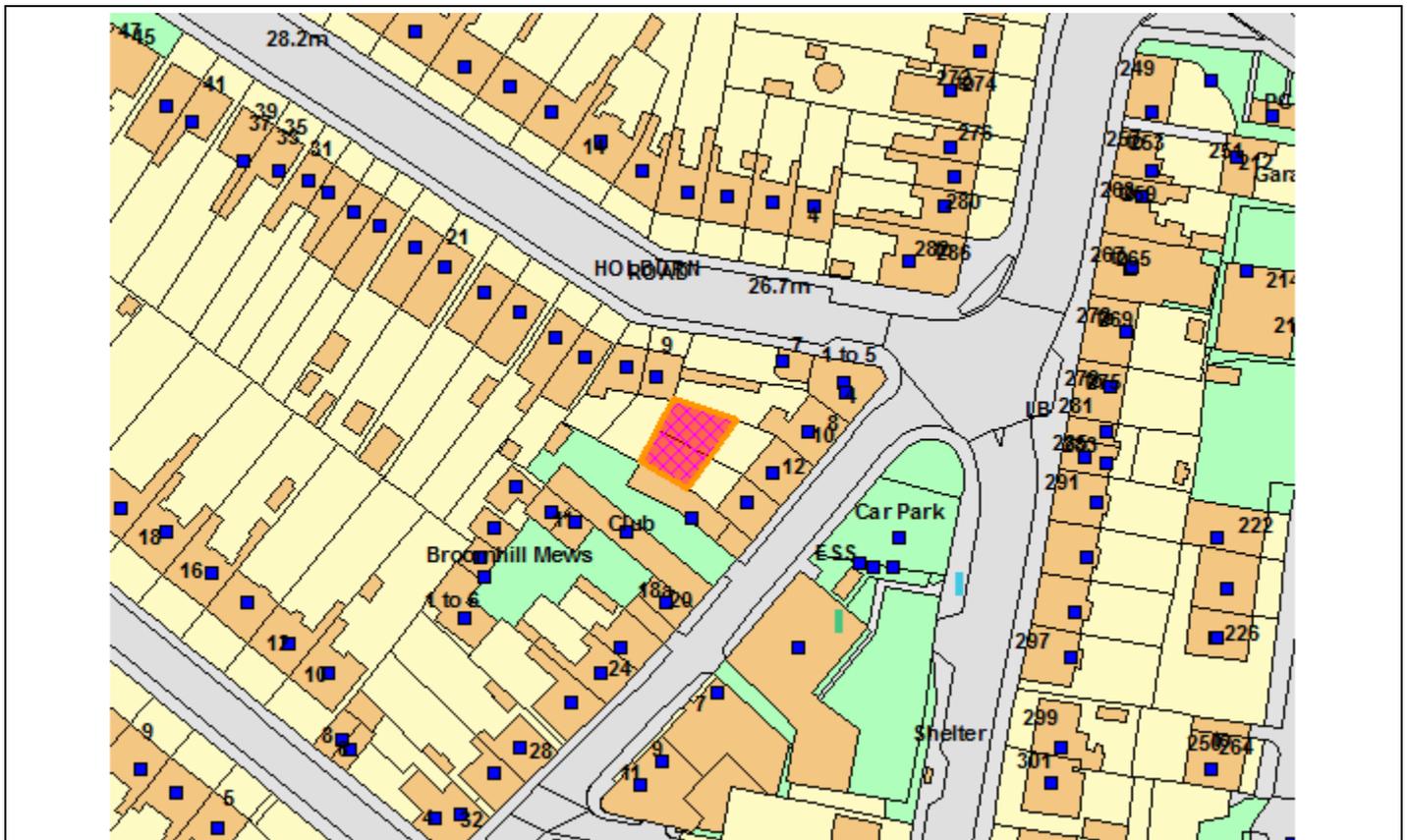


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 2 November 2023

Site Address:	Rear Of 12 - 14 Broomhill Road, Aberdeen
Application Description:	Change of use from amenity land to class 4 (business) including installation of fence and roller shutter doors associated with 16 Broomhill Road (part retrospective)
Application Ref:	230550/DPP
Application Type	Detailed Planning Permission
Application Date:	24 May 2023
Applicant:	AJM Plumbing
Ward:	Airyhall/Broomhill/Garthdee
Community Council:	Ashley And Broomhill
Case Officer:	Aoife Murphy



RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site relates to a small area of land to the north east of 16 Broomhill Road and to the rear of 12 - 14 Broomhill Road, close to its junction with Holburn Street and Holburn Road. The piece of land is noted on the application form as being within the sole ownership of the applicant, with the use noted as 'neglected garden ground'. The site is separated from the garden ground to the rear of 12 - 14 Broomhill Road that serves the flats within those buildings by a low lying wall and was at one point all overgrown. The site is bound to the north and west by a circa 2-2.4m high stone wall, where it shares a boundary with rear gardens of neighbouring residential properties on Holburn Road and Broomhill Road, and is bound on its south side by the existing store building at the applicant's premises at 16 Broomhill Road.

Works have recently taken place on site to remove all vegetation from the site, which does not constitute development. Further to this, the low boundary wall that lay along the centre of the site has also been removed and a new blockwork wall measuring 1.8m high has been installed along the south east boundary

16 Broomhill Road comprises a 1½ storey building and area of hardstanding, both associated with the applicant's business, AJM Plumbing, an established Class 4 (Business) use. The premises provide office, storage and yard facilities associated with that business. The application site is located within a residential area as defined in the Aberdeen Local Development Plan, but the area directly to the south east falls within the designated neighbourhood centre of Holburn Street, consisting of retail units and professional services. The immediate area has a mixed-use character, with 16 Broomhill Road having long been in commercial use.

Relevant Planning History

211030/DPP – Detailed Planning Permission for the erection of single storey extension to side and window enlargement to form door (amendment to prev. approved application ref. 201240/DPP) to include additional windows and doors (retrospective) – Approved 06.10.2021.

201240/DPP – Detailed Planning Permission for the erection of single storey extension to side and window enlargement to form door – Approved 15.10.2020.

APPLICATION DESCRIPTION

Description of Proposal

Permission is sought for a change of use of the site from residential amenity land to class 4 (business) use, which would be associated with the existing plumbing business at 16 Broomhill Road. The proposal would also see the installation of a 2m high stained timber fence, around the site on the north east and south east boundaries, which would sit inside the existing walls, and the formation of an opening on the north east elevation of the existing building to allow access to the site. This opening would measure 3.5m by 2.3m, this would be infilled by a roller shutter door. It should be noted that the applicant has started works on the site with the opening in the wall already formed, thus the application is part retrospective.

The land subject to the application would be taken into the curtilage of 16 Broomhill Road for the purposes of storage of ladders and scaffolding associated with the existing business. These would be used on occasional plumbing projects to meet health and safety requirements. As noted above, as part of the development, the applicant has removed the centre wall, solely the part that

falls within the application site, which runs north west to south east between 12 and 14 Broomhill Road and remove any overgrown grass and vegetation. It is proposed that the 168m² area would then be laid with a weed suppressant layer of geo-textile fabric with stone chippings on top.

It is understood that the application site would have once formed part of the domestic curtilages of the tenements at 12 and 14 Broomhill Road but this is no longer the case.

Amendments

The application description has been amended by the Planning Service as it is considered that the proposed use is ancillary to the existing Class 4 business. It was not considered necessary to re-notify neighbours as the comments made are still relevant to the proposal and will be taken into account in the subsequent evaluation.

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=RU4XGQBZJ7V00>

- Supporting Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the Planning Service has received six or more timeous representations all objecting to the development, as such the proposal requires to be determined by Planning Development Management Committee.

CONSULTATIONS

ACC - Environmental Health – no concerns or observations with this proposal.

ACC - Roads Development Management Team – no objection to this proposal.

Ashley and Broomhill Community Council – no comments received.

REPRESENTATIONS

Seven representations have been received all objecting to the proposal. The matters raised can be summarised as follows –

- Area is being considered for redevelopment by local residents
- Impact on private garden area and use of private garden area/amenity space
- Impact on local amenity
- Impact on privacy and overlooking
- Impact on sunlight
- Impact on visual amenity
- Increase in traffic and vehicles Noise and disturbance
- Impact on residents due to construction
- Light pollution
- Impact on habitats
- Expansion of business not compatible with area and expansion opportunities in Aberdeenshire
- Environmental concerns due to increase in vehicle usage and storage of other goods

- The representations also raised the following concerns that are not material to the assessment of this planning application and therefore will not be considered: Devaluation of property
- Ownership of land
- Security risk
- Object to the description of 'neglected garden area'
- Sink hole on public road
- Impact on domestic pets

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where making any determination under the planning acts, regard is to be had to the provisions of the Development Plan; and, that any determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Development Plan

National Planning Framework 4

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan. The relevant provisions of NPF4 that require consideration in terms of this application are –

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 3 (Biodiversity)
- Policy 14 (Design, Quality and Place)
- Policy 23 (Health and Safety)

Aberdeen Local Development Plan 2023

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking)
- Policy D2 (Amenity)

EVALUATION

National Planning Framework 4 (NPF4)

NPF4 sets out a number of policies that aim to meet the six overarching spatial principles. In this case, five policies are relevant, Policy 1 (Tackling the Climate and Nature Crises), Policy 3 (Biodiversity), Policy 14 (Design, Quality and Place) and Policy 23 (Health and Safety).

Policy 1 (Tackling the Climate and Nature Crises) states that significant weight will be given to the global climate and nature crises, however, it is not considered that the proposed change of use to this area would result in any detrimental impact on climate change.

Policy 3 (Biodiversity) seeks to protect biodiversity and reverse biodiversity loss, with section a) advising that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. In this case, the proposal would result in a loss of vegetation and thus opportunities for biodiversity. This is in direct conflict with Policy 3 and therefore raises some concerns. Such matters have also been raised within the submitted representations and has been discussed with the applicant. In light of this, amended plans has been submitted highlighting that a soft edge would be provided against the northern boundary wall, where the ground is to be left to 'naturalise'. It would be planted initially with a wild flower mix to encourage pollinators, attracting bumblebees, moths and goldfinches, the mix to include a local Biennial and perennial wildflowers.

Further to this, three wall mounted bird houses would be installed along the wall to the north west of the site. As such, it is considered that the proposal is acceptable when assessed against Policy 3 (Biodiversity), subject to a condition ensuring these biodiversity enhancements are implemented prior to the area being brought into use.

Policy 14 (Design, Quality and Place) seeks to ensure that proposals are designed to improve the quality of an area whether in urban locations and regardless of scale and Policy 23 (Health and Safety) seeks to protect people and places from environmental harm, such as noise. Both matters will be considered in full below.

Principle of Development

With respect to the Aberdeen Local Development Plan (ALDP), the site is located within a designated residential area and thus Policy H1 (Residential Areas) is the principal policy. Policy H1 advises that within existing residential areas, proposals for non-residential uses will be supported if they are considered complementary to the residential use or it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

In this case, the proposed use would be associated with an existing business which falls within a Class 4 use, which is a use that is considered appropriate in residential areas. As such the use class in itself is not considered to be an issue. However, a relevant consideration with this proposal is the possible impact on amenity, specifically the general amenity currently experienced by the surrounding residential properties, with respect to the reduction in outlook owing to the erection of the fence and the use of this area as storage associated with existing business. All of these matters have been raised as concerns within the submitted representations. The ALDP, specifically paragraph 7.6, when addressing amenity states that it *'has an influence on the quality of life of individuals and communities. Poor amenity can have detrimental impacts on health and wellbeing'*. It goes on to advise that consideration should be given to neighbouring properties to ensure there are no unreasonable impacts on daylight, sunlight, noise, outlook and privacy and overlooking.

In terms of the current situation, the Planning Service has been advised that this 168m² area is residual land retained by a developer following extensive refurbishment of both tenement blocks and gardens at 12 - 14 Broomhill Road, with the application site recently purchased by the applicant. Having reviewed the historical maps and the title deeds for 12 - 14 Broomhill Road it is clear that while the site once formed part of the adjacent rear gardens, it is no longer part of the residential curtilage of 12 – 14 Broomhill Road, nor within the ownership of those that live in the flats. It is therefore a landlocked area that currently remains within residential use. It has been established that the existing Class 4 business is a use that can be appropriately sited in a residential area and while the proposal would represent an extension of that use, it is considered that such a change would result in the loss of established garden ground. However, as noted the site, albeit in residential use, does not form part of the defined curtilage of any residential property and is not available for the use of residents. While it is noted that works have been undertaken to the rear of 14 Broomhill Road, where a portion on the wall separating the rear garden area from the site has been removed and the overgrown vegetation cleared, evident from photographs submitted with the application, it is not clear when this work took place. The Planning Service has been advised that this section of wall would be reinstated during the course of the works currently proposed by the applicant. In terms of the removal of the section of wall, this would not require consent and as the use of the area is residential there has been no breach from a land use perspective. It appears that the works that have taken place and the use of this area as part of the garden space of 14 Broomhill Road relate to an ownership issue rather than use, an area that the Planning Service have no remit in. As such, and given the highlighted ownership situation, it is not considered that there would be an impact on any existing private garden area associated with 12-14 Broomhill Road.

Turning now to the proposed use, as has been outlined above, the applicant wants to use this area as ancillary storage for the existing plumbing business. The Planning Service has been advised that this area would be used to store scaffolding and ladders, essential equipment for the safe running of the business. It is also acknowledged that if permission is granted, the site could be used for the storage of any materials/equipment associated with the existing business. Therefore, the Planning Service need to determine if the use of this area of land as Class 4 would be harmful to or impact on general amenity of the area.

Concerns have been raised that the storage of equipment or material as proposed could harm residential amenity in terms of noise. The supporting statement advises that office operating hours are currently 8am to 5pm Monday to Friday and generally there is no presence on the premises in the evenings or over the weekend. The Planning Service did request information in relation to any works being carried out outwith office hours and was advised that access to this area would be limited to the aforementioned office hours. Currently, the site at 16 Broomhill Road is bounded by a high wall, furthermore, the rear elevations of the surrounding properties, specifically 10, 12 and 14 Broomhill Road and 9 Holburn Road are separated from the business' current premises by long gardens and this existing area of vegetation. The proposed change of use of this area of land would mean that the Class 4 use will be closer to the elevations of the aforementioned properties and also closer to their external amenity space, which currently benefits from a degree of separation. As such, there is a concern that the noise that would be a direct result of scaffolding/equipment being loaded and unloaded from vehicles could impact the general amenity. However, given that the activity within the site would be during daytime office hours (as advised by the applicant) and planning condition is proposed in this regard. Furthermore, the applicant also advised that all the equipment will be unloaded and loaded manually from the business vans with employees parking within the grounds of 16 Broomhill Road and not accessing the site with vehicles. It is also considered that the provision of the fence and the wall the has been erected would act as a form of acoustic barrier, somewhat protecting amenity for the surrounding properties. Environmental Health were consulted on this proposal, but the Service has raised no concerns or observations with this proposal. As such, no additional information is required to support the proposal.

In relation to daylight and sunlight, there are concerns, highlighted through representations, that the development could have an impact due to the installation of a 2m high fence along the north east and south east boundaries. Overall, it is considered that a fence of this height and finish is similar to that of a domestic property within an urban area. Additionally, having undertaken calculations via the 45° test to understand what the impact relating to sunlight/daylight will be, it is considered that the proposed fence would have no significant impact on the rear garden of 12 and 14 Broomhill Road.

In respect of outlook, privacy and overlooking, given the proposed use, it is unlikely that any significant impacts would occur owing to the proposed use and overall level of development. In terms of outlook, the site would be cleared of vegetation and a fence would be installed, while the area would be used for storage, the level of outlook is unlikely to change. In considering privacy and overlooking, given the nature of the proposal and the proposed fence, it is unlikely that any overlooking would occur, and the fence itself would reduce any impacts on privacy to the rear garden areas of 12 and 14 Broomhill Road.

With regards to lighting, a matter which has been raised within representations, the applicant has advised that LED lighting will be installed at low level on the fence yard side providing a safe working lighting level for staff, with the installation on the fence ensuring a physical shield that would limit light spill beyond the yard. It is recognised that the provision of lighting here would allow for a glow while the lights were in use. However, the applicant has advised that the lighting would be controlled on an 8.30am - 5.00pm timer Monday to Friday, and only triggered by a passive infrared sense and movement between these hours. It is recommended that a condition is

applied to the planning permission requiring full specified details of the lighting to be provided prior to any lighting being installed.

Therefore, while concerns relating to the impact on local amenity in respect of noise and disturbance, daylight, sunlight, outlook and privacy and overlooking have been raised through submitted representations, as outlined above the Planning Service do not have significant concerns regarding these aspects and none that would warrant the refusal of this application. In terms of impact on visual amenity, given the area is located to the rear of a number of properties, there would be no impact on visual amenity from any public viewpoints. While the site would be visible from the surrounding properties, the degree of change is not sufficient to consider it to be an impact on visual amenity. The applicant is seeking to bring this site back into use and has proposed suitable mitigation measures to resolve any issues highlighted through representations.

In light of the above, it is considered that the proposal is considered acceptable when assessed against Policy H1 (Residential Areas) of the ALDP as it is considered that the proposed use is complementary to the existing residential use and would therefore cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity, in line with Policy D1 (Quality Placemaking) and Policy D2 (Amenity) of the ALDP and Policy 14 (Design, Quality and Place) and Policy 23 (Health and Safety) of NPF4.

Other Matters raised through Representations

A number of matters have already been addressed through the above assessment, those remaining will be considered below.

- Increase in traffic and vehicles with the increase storage space – *given that this is an extension of an existing use and incorporates a small area of 168m², it is not considered that there would be any increase in the intensification of the use in terms of vehicular movements. Further to this, Roads Development Management Team has advised that it has no concerns with the proposal.*
- Impact on residents due to construction – *given the nature of the development, it is not considered that there will be any long term impacts from construction. The Planning Service will advise the applicant of the proper hours of construction work, to limit any impacts.*
- Expansion of business not compatible with area and expansion opportunities in Aberdeenshire – *a Class 4 use is compatible within a residential area as has been highlighted above. The Planning Service cannot comment on opportunities in Aberdeenshire.*
- Environmental concerns due to increase in vehicle usage and storage of other goods – *given that this is an extension of an existing use and incorporates a small area consisting of 168m², it is not considered that there would be an increase if vehicle numbers related to this business as highlighted above. Furthermore, while other good could be stored in this area as noted above, fundamentally the use is still Class 4, which is considered to be complementary to a residential area*

RECOMMENDATION

Approve Conditionally

REASON FOR DECISION

It is considered that the proposed use is complementary to the existing Class 4 business use and can be undertaken without causing undue conflict with, or any nuisance to, the enjoyment of existing residential amenity, owing to the proposed boundary treatment and access being taken from the applicant's adjoining premises. As such, the proposal complies with Policy H1 (Residential Areas), Policy D1 (Quality Placemaking) and Policy D2 (Amenity) of the Aberdeen

Local Development Plan 2023 and Policy 1 (Tackling the Climate and Nature Crises), Policy 3 (Biodiversity), Policy 14 (Design, Quality and Place) and Policy 23 (Health and Safety) of National Planning Framework 4.

CONDITIONS

(01) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

(02) HOURS OF OPERATION

That the use hereby approved shall not operate outwith the hours of 8:00am and 5:00pm Monday – Friday.

Reason - to ensure no loss of amenity for surrounding properties and to align with the office hours of the business.

(03) EXTERNAL LIGHTING

That the use hereby approved shall not operate unless a lighting plan, with details, specifications and illumination levels, of all lighting to be installed within the site has been submitted to and approved in writing by the planning authority. Thereafter, the lighting shall be installed in accordance with that plan and not be altered, other than being removed, without agreement from the planning authority.

Rason - in order to ensure lighting does not impact on the general amenity of the surrounding residential area.

(04) EXTERNAL LIGHTING TIMES

That the lighting contained within the lighting plan, to be agreed under condition 2, shall not operate outwith the hours of 8:00am and 5:00pm Monday – Friday .

Reason - to ensure that light pollution from the development does not result in undue loss of amenity for surrounding properties.

(05) BIODIVERSITY

That the use hereby approved shall not operate unless the biodiversity enhancements as noted on plan reference 23021_004_pl, shall be implemented on site. Thereafter, these measures shall be retained in perpetuity.

Rason - in order to protect and enhance biodiversity, deliver positive effects from the development and strengthen nature networks.

ADVISORY NOTES FOR APPLICANT

HOURS OF DEMOLITION AND CONSTRUCTION WORK

Unless otherwise agreed in writing with Aberdeen City Council Environmental Health Service (poll@aberdeencity.gov.uk / 03000 200 292), demolition or construction work associated with the proposed development should not take place out with the hours of 07:00 to 19:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. No noisy work should be audible at the site boundary on Sundays.

Where complaints are received and contractors fail to adhere to the above restrictions, enforcement action may be initiated under the Control of Pollution Act 1974.