

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 14 MAY 2019

PLANNING APPLICATION - 59 HAWTHORN GROVE BALDOVIE DUNDEE DD5 3NA

GRID REF: 345195 : 734036

SERVICE LEADER – PLANNING & COMMUNITIES

Abstract:

This report deals with planning application No 18/00960/FULL for the change of use of a section of residential garden ground to storage and distribution (by delivery) use of pet food including the siting of a single metal storage container to create a mixed use comprising a house and storage/distribution at 59 Hawthorn Grove, Baldovie, Dundee, for Mr Craig Smith. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

3. INTRODUCTION

3.1 The applicant seeks planning permission for the change of use of a section of residential garden ground at 59 Hawthorn Grove, Baldovie, for the storage and distribution of pet food and the siting of a single metal storage container for the storage of pet food.

3.2 The application site comprises a two storey residential dwelling house and its associated curtilage. The property is located in a small cul-de-sac that fronts Poplar Drive. The house and rear garden are bound by neighbouring dwelling houses at the north, east and west and the vehicle turning head of the cul-de-sac at the south. Parking is available forward of the south elevation of the dwelling house at the east of the turning head. A location plan is provided as Appendix 1.

3.3 The application involves the siting of a metal storage container in the rear garden of the house adjacent to the west boundary. The container is of metal construction with a buff coloured finish and its east elevation is clad in slatted timber. It measures 2.4 x 6.4m with an overall height of 2.55m and a double door opening at the south facing elevation. The container is bound by existing garden boundary fence enclosures at the south and west, an existing timber garden shed at the north and the balance of the garden at the east.

3.4 The applicant has indicated that the container is used for the storage of pet food in association

with a part-time pet food delivery business operated from the premises. The sale of pet food would be by delivery only and customers would not visit the site. The applicant would be the sole operator of the business and would not employ any other person in relation to the proposed use.

- 3.5 The application was subject of neighbour notification and was advertised in the local press.
- 3.6 The application requires determination by Committee as it has attracted objection from the Murroes and Wellbank Community Council.

4. RELEVANT PLANNING HISTORY

There is no relevant planning history.

5. APPLICANT'S CASE

- 5.1 The applicant has provided information in support of the application. It is indicated that: -
- The applicant is the sole employee of the business and there are no other staff attending work on the site;
 - The activity on the site is minimal as the applicant operates the business part time;
 - The pet food is delivered by lorry and is bagged, dry, complete food;
 - Stock delivery is once per month and is immediately transferred to the storage container;
 - The volume delivered monthly is on average 950kg;
 - The delivery is off loaded by a pallet truck and then the applicant uses a wheelbarrow to transfer from the drive to the container;
 - No customers purchase goods from the location – everything is delivered to the customer;
 - Most weeks the applicant moves twice to/ from the site for deliveries;
 - The storage container is barely visible to surrounding neighbours and the plan is to attach timber cladding to the container with climbing vegetation to disguise this further.
- 5.2 The applicant has also submitted letters of support from three neighbouring properties. Those letters indicate amongst other things that the operation of the business has not affected traffic in the area; has not caused noise pollution, odour, extra waste or attracted vermin; the container is used for storage only and that customers do not visit the premises.
- 5.3 The Supporting Information can be viewed on the council's [Public Access](#) website.

6. CONSULTATIONS

- 6.1 **Community Council** - The Community Council has raised concern regarding the compatibility of the proposal with policies of the Angus Local Development Plan on the following grounds: -
- Road traffic and pedestrian safety;
 - Impacts on surrounding residential amenity through noise from supply and dispatch of products, potential odour from materials being stored, processed and additional waste generated;
 - Increased attraction of vermin;
 - Impacts of a large industrial storage unit on neighbouring properties;
 - Insufficient details on the weight of the storage container, the impact on neighbouring land, access arrangements, hard standing areas, drainage or removal arrangements;
 - The proposal is not compatible with the residential character and pattern of development of the housing estate;
 - Title deed restrictions that prevent commercial activities;
 - The storage unit should be assessed in terms of the council's policies on residential caravans and mobile homes.

The Community Council response can be viewed on the council's [Public Access](#) website.

- 6.2 **Angus Council - Roads** - Offers no objection.

- 6.3 **Scottish Water** - There was no response from this consultee at the time of report preparation
- 6.4 **Angus Council Environmental Health** - Offers no objection to the proposal subject to conditions restricting delivery times, noise from plant or equipment, and limiting the use of the container to storage only.

7. REPRESENTATIONS

- 7.1 One letter of objection was received from the Ballumbie Castle Estate Resident's Association. The letter of representation will be circulated to Members of the Development Standards Committee and a copy will be available to view in the local library or on the council's [Public Access](#) website.
- 7.2 The main points of concern are as follows: -
- Impacts on limited parking provision and vehicle movement space and damage to cul-de-sac mono-block surface from the delivery lorry;
 - Disruption to surrounding residential amenity by movement and parking of delivery lorry;
 - The container is already in situ and has a negative impact on the amenity of surrounding residential property.

These matters are addressed in the Planning Considerations Section below.

- 7.3 Concern is also raised that title deed restrictions limit or control the nature of use of houses in the area. Committee is advised that title deed restrictions are not a material planning consideration and cannot be taken into account in determining this application.

8. PLANNING CONSIDERATIONS

- 8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 In this case the development plan comprises:-
- TAYplan (Approved 2017)
 - Angus Local Development Plan (ALDP) (Adopted 2016)
- 8.3 The application is not of strategic significance and the policies of TAYplan are not referenced in this report. The relevant policies of the ALDP are provided in Appendix 2 and have been taken into account in the preparation of this report.
- 8.4 The application site is located within the Ballumbie development boundary and is not specifically allocated or otherwise identified for development. Policy DS1 of the ALDP states amongst other things that proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.
- 8.5 The key issue in relation to this application is whether it is appropriate to allow a business of the nature and scale proposed to operate in a residential area having regard to its impact on the area and those that reside in the vicinity. In assessing that matter it is necessary to consider whether the siting of the storage container associated with the business is acceptable.
- 8.6 The storage container measures around 16sqm in area and 2.55m in height. It is comparable in size to a small single garage and it is not unusual for structures of that size to be located in rear garden areas on or close to the boundary. The container is slightly higher than adjacent fencing but impact on occupants of neighbouring property would not be significant when considered in terms of the council's planning advice note for development within the curtilage of houses. It is

visible from neighbouring property and from the immediate environs of the site but any visual impact is insignificant. The container is not readily visible and is certainly not particularly prominent from surrounding public areas. The house retains a reasonable amount of garden ground with the container in situ. The application does not provide for any plant or equipment in association with the operation but the subsequent installation of this would be unlikely to require planning permission. The Environmental Health Service has requested a condition to limit noise emissions and in these circumstances a condition of that nature is reasonable. It is relevant to note that a storage container of this size would be permitted development if it was used for any purpose incidental to the enjoyment of the house and if it was either 0.05m lower or alternatively 1m or more from the boundary. In these circumstances the siting of the container is acceptable and the issues regarding business use are discussed below.

- 8.7 Development plan policy generally seeks to direct employment uses to employment land allocations or existing employment areas. However, policy also allows for employment uses outwith those areas where the use is considered acceptable in the proposed location, and where there is no unacceptable impact on the built heritage and natural environment, surrounding amenity, access and infrastructure. The ALDP also recognises that there is scope for integrated living/ working accommodation and that is consistent with Scottish Planning Policy which indicates that plans should encourage opportunities for home-working and live-work units.
- 8.8 This application seeks permission for the occupant of the house to operate a business from the property. This is a proposal for home-working and that represents a locational justification for the business use. The information provided in support of the application indicates that the business would operate on a very limited basis. The applicant indicates there would generally be one delivery of pet food to the property by lorry each month. The dog food would be stored in the container and delivered to customers twice weekly by the applicant. The applicant would be the sole operator of the part-time business and customers would not visit the site to purchase the product.
- 8.9 The storage of pet food in a metal container is unlikely to give rise to any significant issues in terms of noise or odour. The Environmental Health Service has offered no objection subject to conditions. Similarly, the very limited activity associated with delivery of pet food to the property, and the onward delivery to customers is unlikely to generate a level of activity that would materially affect those that live in the area. The Roads Service has offered no objection in relation to road traffic or pedestrian safety. While it is not possible to control the number of vehicle movements associated with a business of this nature, the level of activity is likely to be limited by the capacity of the storage container. However, even if the business operated at a slightly greater level the vehicular movement would not be untypical of a residential area of this nature.
- 8.10 The business use does not give rise to any significant issues in terms of the built or natural environment of the area. Amenity impacts on the area and its residents could be mitigated by planning condition and the use would not adversely affect road safety or infrastructure.
- 8.11 The scale and nature of the proposal is compatible with development plan policy.
- 8.12 In terms of other considerations it is relevant to have regard to the representations submitted in relation to the proposal in so far as they raise material planning issues. The road safety concerns and amenity impacts from traffic are noted. However, the level of vehicular movement associated with the proposal is minimal and the Roads Service has offered no objection. Hawthorn Grove is an adopted road and is capable of accommodating vehicle movement associated with the use. It is not unusual for lorries to visit areas of this nature to undertake deliveries or to collect waste. Notwithstanding, whilst the number of deliveries can be readily accommodated on the existing road network, disturbance to residential amenity could occur if a storage and distribution use was receiving deliveries at unusual times of the day in a residential area. It is therefore reasonable to attach a condition that restricts the days and hours of delivery of stock.
- 8.13 The container is in situ but planning legislation allows for the submission of retrospective applications. The container is not particularly prominent in the streetscape and its impact on occupants of neighbouring property is not significant when considered in relation to the council's planning advice note that deals with development in the curtilage of a house. It is noted that

letters have been submitted from those residents closest to the container indicating support for the application. There is no evidence of noise or odour emanating from the container and given its solid metal construction and sealed doors it is unlikely to be readily accessed by vermin. Information on the weight and stability of the container is not required to determine this planning application. The container is not a mobile home or residential caravan and the council's policies that deal with those matters are not relevant to the determination of this application. In any case, a metal container would be unlikely to amount to a significantly greater effect on the underlying land than a traditionally constructed building of a similar size. Buildings of a similar size in similar locations are not uncommon features in residential areas. Similarly, as indicated above, title deed restrictions are not a material planning consideration.

- 8.14 The letters that have been submitted from occupants of neighbouring property, particularly those closest to the storage container who use the same cul-de-sac entrance, support the conclusion of this report that impacts associated with the business use and the siting of the storage container are not significant or unacceptable. As indicated above, a storage container of this size and used for purposes incidental to the enjoyment of the house, could be located within the rear garden of the property without the need for planning permission subject to some minor alteration to position.
- 8.15 The application seeks permission for a home-working operation. The scale of that proposal is relatively modest and does not give rise to significant impacts on the amenity of the area or those that reside in the vicinity. The comments received from the residents association and from the community council have been taken into account in the preparation of this report and are discussed above. The letters submitted from neighbouring properties that offer support for the application have also been taken into account. This application complies with the development plan subject to the proposed planning conditions and there are no material considerations that justify refusal.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

10. CONCLUSION

It is recommended that the application be approved for the following reason:

Reason for Approval:

The proposal provides for a home-working operation in a manner that is compatible with development plan policy subject to the stated planning conditions. There are no material considerations that justify refusal.

Conditions:

1. That the storage and distribution use hereby approved shall only be operated by the occupant(s) of 59 Hawthorn Grove, Baldovie, Dundee, and the storage of materials in

association with the business shall only be undertaken within the storage container approved by this permission.

Reason: In order to ensure the operation of a home-work development as approved in the interests of protecting residential amenity.

2. Deliveries of stock to the site shall be limited to Monday to Saturday 09.00 to 17.00 only, with no deliveries on a Sunday.

Reason: In the interests of residential amenity and in order to avoid disturbance and nuisance to occupants of nearby property.

3. That any plant or equipment located and operated within the metal storage container shall be so enclosed, attenuated and/or maintained such that it shall not give rise to noise in excess of Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: In the interests of residential amenity and in order to avoid disturbance and nuisance to occupants of nearby noise sensitive property.

4. Except as otherwise provided by the terms of this permission, the business shall be operated in accordance with the plans and supporting information submitted with the application and contained in the letter dated 20 December 2018 and email dated 10 March 2019 both from Craig Smith.

Reason: In order to clarify the terms of the permission hereby granted and to ensure the development is implemented as approved.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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DATE: 3 MAY 2019

APPENDIX 1: LOCATION PLAN
APPENDIX 2: RELEVANT DEVELOPMENT PLAN POLICIES

59, Hawthorn Grove, Baldovie, Angus, DD5 3NA



Site Plan shows area bounded by: 345124.37, 733955.32 345265.79, 734096.74 (at a scale of 1:1250), OSGridRef: NO45193402. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Appendix 2: Relevant Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities

All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

*Sharing an edge or boundary, neighbouring or adjacent

Policy DS3 : Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- **Distinct in Character and Identity:** Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- **Safe and Pleasant:** Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- **Well Connected:** Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
- **Resource Efficient:** Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Policy TC4 : Householder / Domestic Development

Proposals for householder development (including alterations/extensions to houses and flats, development within the curtilage of houses and flats, means of enclosure, satellite antenna and domestic scale microgeneration) will be supported where the siting, design, scale or massing of the proposal, does not:

- adversely affect the residential amenity enjoyed by the house or surrounding domestic properties including, in the case of microgeneration, through noise or shadow flicker;
- detrimentally affect the character and/or appearance of the building, site or surrounding area; and
- result in the overdevelopment of the plot or a loss of garden ground, parking or bin storage.

Further guidance on householder development will be set out in a Householder Development Planning Advice Note.

Policy TC15 : Employment Development

Proposals for new employment development (consisting of Class 4, 5, or 6) will be directed to employment land allocations or existing employment areas within development boundaries, subject to the application of the sequential approach required by Policy TC19 Retail and Town Centre Uses for office developments of over 1,000 square metres gross floorspace.

Proposals for employment development outside of employment land allocations or existing employment areas, but within the development boundaries of the towns and the settlements within the rural area will be supported where:

- there are no suitable or viable sites available within an employment land allocation or existing employment area; or

- the use is considered to be acceptable in that location; and
- there is no unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure.

Proposals for employment development (consisting of Class 4, 5, or 6) outwith development boundaries will only be supported where:

- the criteria relating to employment development within development boundaries are met;
- the scale and nature of the development is in keeping with the character of the local landscape and pattern of development; and
- the proposal constitutes rural diversification where:
 - the development is to be used directly for agricultural, equestrian, horticultural or forestry operations, or for uses which by their nature are appropriate to the rural character of the area; or
 - the development is to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic and/or operational need for the location.