

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 26 JANUARY 2016

PLANNING APPLICATION – CAR PARK, BELLIES BRAE, KIRRIEMUIR

GRID REF: 338549 : 753759

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No 15/01064/FULL for erection of a statue to Bon Scott and an associated public garden at Car Park, Bellies Brae, Kirriemuir. This application is recommended for approval.

1. RECOMMENDATION

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

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. INTRODUCTION

3.1 The applicant seeks full planning permission for the erection of a statue and an associated public memorial garden in honour of Bon Scott of AC/DC fame.

3.2 The application site is currently a landscaped quadrant measuring approximately 60sqm with a low wall topped with metal railings bounding the arc and open on the remaining two sides. The site fronts Bellies Brae to the east, a Council car park to the north and west and a public footpath to the south. The wider area includes a former industrial works, a recycling centre, a music studio and residential properties.

3.3 The application seeks to form a memorial garden, including seating, planting and the erection of a 2.4m high bronze statue in honour of previous resident Bon Scott, at the entrance to Bellies Brae Car Park, in the centre of Kirriemuir.

3.4 The application has not been subject of variation.

3.5 The application was advertised in the Dundee Courier as required by legislation.

3.6 This application requires to be determined by the Development Standards Committee due to the recommendation of approval, where Angus Council owns the application site and the proposal has attracted objection.

4. RELEVANT PLANNING HISTORY

None.

5. APPLICANT'S CASE

- 5.1 A covering letter/planning statement was submitted by the agent in support of the application. The submitted document summaries the background and reasons for the proposal. The documents highlights the proposed statue has been designed and created by artist John McKenna and the maintenance of the memorial garden would be undertaken by DD8 Music in association with Kirriemuir Community Allotment Association. The submitted document clarifies that the proposed statue would measure approximately 2.4m high from the base to the tip of the raised hand and would be attached to a cast bronze base measuring, 900mm diameter x 75mm high. The proposed railing would be 1.1m high ended with a 500mm x 500mm x 1.3m approx. pillar. Details regarding the design of the proposed seating were submitted.
- 5.2 Photographs of the proposed statue were also submitted in support of the application.
- 5.3 The supporting information is available to view on the Council's Public Access system.

6. CONSULTATIONS

- 6.1 **Angus Council Roads** – has no objections to the proposal in relation to road safety or flood risk. Conditions were suggested regarding future maintenance of the area and car parking during the construction process. However, I have discussed those matters with the Roads Service and agreed that these are matters more appropriately controlled by other means.
- 6.2 **Angus Council Environmental Health** – has no objections to the proposal.
- 6.3 **Scottish Water** – there was no response from this consultee at the time of report preparation.
- 6.4 **Angus Council Parks And Burial Grounds** – has no comments as the application site is within the jurisdiction of the Roads Service.

7. REPRESENTATIONS

- 7.1 Eighty four letters of representation have been received with one objecting to the proposal and the remaining offering support. The letters 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 objection are as follows:
- **Potential attraction of antisocial and unlawful behaviour to the vicinity detracting from residential amenity.**

The main points of support are as follows:

- **Would enhance existing tourism**
- **Would boost local economy**
- **Good location in terms of parking, access and visibility**
- **Visual improvements to the area**
- **High quality materials proposed**
- **Positive recognition of Kirriemuir's cultural heritage**

These matters will be addressed under Planning Considerations below.

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 Section 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting special regard shall be paid to the desirability of preserving the building or its setting.
- 8.3 In this case the development plan comprises:-
- TAYplan (Approved 2012)
 - Angus Local Plan Review (Adopted 2009)
- 8.4 The development plan policies relevant to consideration of this application are provided in Appendix 2 and have been taken into account in the preparation of this report.
- 8.5 Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014 and subsequently published for a statutory period for representations. The statutory period for representation has now expired and unresolved representations have been submitted to Scottish Ministers for consideration at an Examination. The Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP(June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it is a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to policies and proposals of the plan that are subject to unresolved objection. The policies of the Proposed Plan are only referred to where they would materially alter the recommendation or decision.
- 8.6 Policy S1(a) indicates that proposals within development boundaries, on sites which are not allocated for development will generally be supported where they are in accordance with the relevant policies of the Local Plan. The application relates to the formation of a memorial garden and the erection of a statue within a currently landscaped quadrant measuring approximately 60sqm fronting Bellies Brae, in Kirriemuir. I will return to this policy having considered other relevant policy tests.
- 8.7 Policy SC20 supports developments which would provide new or improved tourist related facilities/attractions. The proposal is to form a memorial garden with a commemorative bronze statue and would provide a new tourist attraction in the town. It would not have an unacceptable detrimental effect on the local landscape and it is in keeping with the scale and character of adjacent buildings. The improvement of the landscaped area and the provision of a commemorative statue adjacent to the entrance of a car park that serves the town centre does not give rise to any significant issues in terms of land use compatibility. The final criteria of Policy SC20 requires proposal to accord with all other relevant policies of the Local Plan.
- 8.8 Policy S3 takes account of factors such as site location and layout and how the proposal would fit with the local landscape character and pattern of development, as well as the scale, massing, height, proportions and density of the development. The proposed statute would measure approximately 2.4m in height and the landscaping of the memorial garden would be acceptable for the proposed location. It is considered the proposal would fit with the local landscape character, would be of an acceptable design, scale, height and massing and would not negatively impact upon the appearance or character of the surrounding area. The proposed stature would be bronze, the benches would be made from recycled materials, there would be metal railings with a sandstone pillar and the ground would be bituminous macadam with granite edging. The proposed materials, textures and colours would be sensitive to the surrounding area and the proposal would not affect any sensitive or key views from public areas. There are listed buildings in the wider area including the Gairie Works to the east but the proposal would not adversely affect the setting of such interests.
- 8.9 Policy S6: 'Development Principles' identifies a number of factors which are relevant in the determination of this proposal. Concerns have been raised by third parties regarding the potential to attract unlawful or anti-social behaviour to the area and the impact this could have on amenity. However this is a proposal to improve an existing open space area and to provide a commemorative statue. I do not consider that land use in itself would generate unlawful or

anti-social behaviour and in any case these would be matters for the police. The siting of a commemorative statue adjacent to a car park serving a town centre is not uncommon. In this case it is adjacent to a well-used public road and would benefit from some natural surveillance. I do not consider that the location is unacceptable or that it would invariably lead to unacceptable amenity impacts. The Roads Service has considered the proposal and has offered no objection. It is indicated that waste storage and collection provisions would not be provided on the site but it is noted that public bins are located nearby. The proposal does not give rise to any significant issues in terms of the remaining criteria of Schedule 1.

- 8.10 Returning to Policy S1 and the remaining test of Policy SC20, the proposal would not give rise to any significant issues in terms of the relevant policies of the local plan and would be appropriate within the proposed location.
- 8.11 The letters submitted in relation to the proposal by third parties are noted and the issues of objection have been addressed as appropriate above. The letters of support are noted.
- 8.12 In conclusion, the proposal to form a memorial garden and to erect a commemorative statue would provide a new tourist attraction in Kirriemuir in a manner that complies with relevant development plan policy. I recognise the concerns raised by the third party but consider that a proposal of the nature proposed could be accommodated at this location in a manner that would not result in unacceptable impacts on the amenity of surrounding residents. There are no material considerations that justify refusal of the planning application.

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.

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(s) for Approval:

The proposal would provide a new tourist attraction in the town, in a manner that is compatible with relevant development plan policy. There are no material considerations that justify refusal of the planning application.

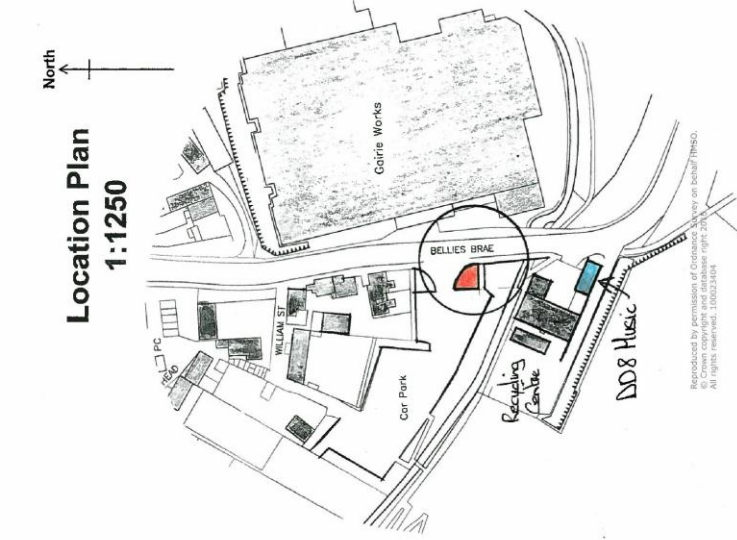
NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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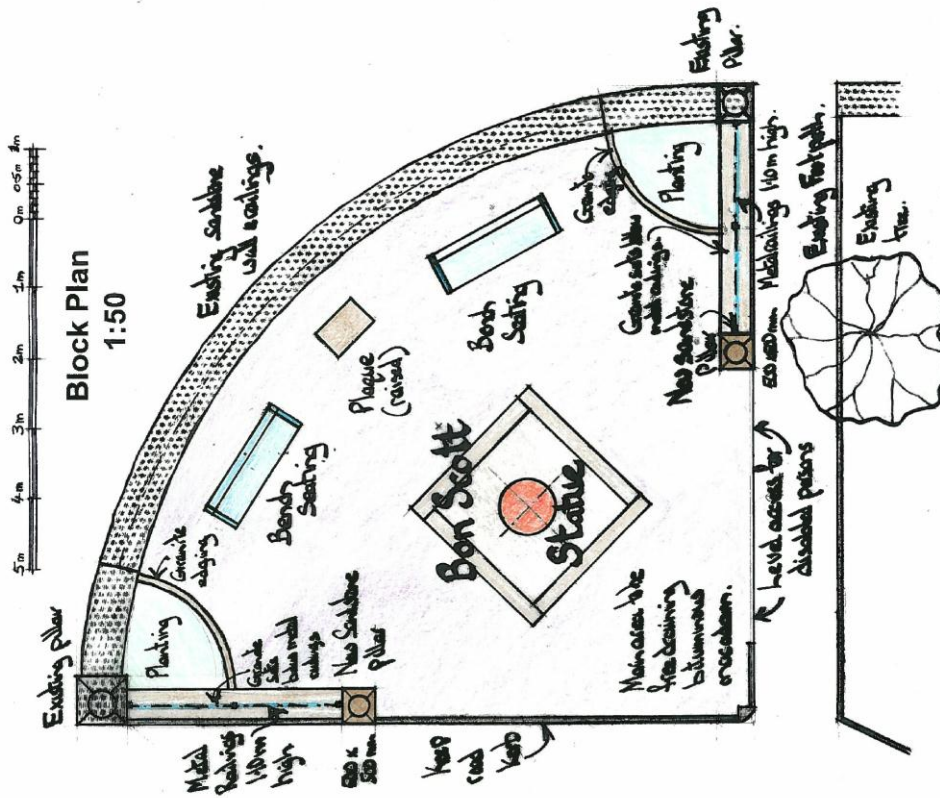
DATE: 15 JANUARY 2016

Appendix 1 : Location Plan
Appendix 2 : Relevant Development Plan Policies

Appendix 1 : Location Plan



**Proposed Bon Scott Statue
at Bellies Brae, Kirriemuir
For DD8 Music
6, Bellies Brae, Kirriemuir**



Appendix 2 : Relevant Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:-

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Policy S6 : Development Principles (Schedule 1)

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

(a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.

(b) Proposals should not result in unacceptable visual impact.

(c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

(d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.

(e) Access to housing in rural areas should not go through a farm court.

(f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.

(g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- (o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- (p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).
- (q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)
- (r) Development should minimise waste by design and during construction.

Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy SC20 : Tourism Development

Development proposals to provide new or improved tourist related facilities/attractions and accommodation will be permitted and encouraged where they:-

- improve the range and quality of visitor attractions and tourist facilities and/or extend the tourist season;
- have no unacceptable detrimental effect on the local landscape or rural environment;
- are in keeping with the scale and character of adjacent buildings or surrounding countryside;
- are generally compatible with surrounding land uses; and
- accord with other relevant policies of the Local Plan.

Policy ER16 : Development Affecting the Setting of a Listed Building

Development proposals will only be permitted where they do not adversely affect the setting of a listed building. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls.