

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 1 NOVEMBER 2016**

**PLANNING APPLICATION – ALTERATIONS & CHANGE OF USE TO DWELLINGHOUSE AND TATTOO STUDIO AT MONTROSE DAY CARE CENTRE PANMURE PLACE MONTROSE DD10 8HF**

**Grid Ref. No: 371622 : 757682**

**REPORT BY HEAD OF PLANNING AND PLACE**

**Abstract:**

This report deals with planning application No. 16/00650/FULL for the Alterations & Change of Use to form a Dwellinghouse and Tattoo Studio for Mr I Fraser at Montrose Day Care Centre Panmure Place Montrose DD10 8HF. 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 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 planning permission for the proposed alterations & change of use of the former Montrose Day Care Centre to form a dwellinghouse and tattoo studio.

3.2 The application site comprises the former Montrose Day Care Centre which is located in the southern section of the Mid Links. It is a predominantly residential area located to the east of the town centre. The application property is located in a row of stone built buildings to the west of Montrose Academy and the Mid Links parkland / public open space. It is a Category C listed former Church building. The site includes a small area of space to the front of the building set out in a formal garden style. It is bounded by Panmure Place public roadway to the east and a walkway to the south that links Panmure Place with St Mary's Road to the west. Residential properties are located in close proximity to the south and north of the building and a public hall is located to the west. The application site is located within the boundary of Montrose Conservation Area.

3.3 The application proposes the change of use of the former Montrose Day Care Centre to accommodate a mixed use within this C listed Gothic Style church building. The proposal would provide for residential accommodation located in the front/east section of the building and a tattoo studio in the west/rear section of the building. Separate doorways accessed from the public walkway linking Panmure Place with St Mary's Road would afford separate access to the separate uses proposed.

3.4 The proposal has been advertised in the press as required by legislation.

3.5 The application requires to be determined by the Development Standards Committee due to the recommendation for approval whilst being subject to more than 5 objections.

#### 4. RELEVANT PLANNING HISTORY

There is no relevant planning history relating to this site. However, it is relevant to note that the building has been vacant since the completion and occupation of the new Day Care Centre in January of 2016. That day care centre was approved under application 13/00907/FULL.

#### 5. APPLICANT'S CASE

Supporting information has been submitted in the form of supporting comments from the applicant in response to comments received from third parties. The comments can be summarised as follows:

- The building would be more residential in use with the tattoo studio and art gallery occupying 20 percent of the building;
- The exterior of the building would remain as at present with an improvement in the form of the removal of plastic covers to show off the stained glass windows;
- The applicant would like to be accepted as a member of the local community;
- Thinking of Tattoo shops as dirty places that unruly people hang around is very archaic;
- The removal of the ambulance parking bay would free up three parking spaces;
- Customers would be directed to the free car park in Baltic Street;
- The proposed opening hours would be 10am to 6.30 pm and closed on Sundays;
- No under 18's would be permitted;
- There would be zero tolerance as regards loitering or littering;
- There would be no smells or noise other than background music;
- The area would be cleaner and more presentable;
- Advice would be sought in respect of signage;
- The existing premises managed by the applicant is at present in a conservation area;
- School children pass the current premises without littering, loitering or noise nuisance.

#### 6. CONSULTATIONS

6.1 **The Roads Service** - has no objections.

6.2 **Scottish Water** - there was no response from this consultee at the time of report preparation.

6.3 **Community Council** - there was no response from this consultee at the time of report preparation.

6.4 **The Environmental Health Service** – has no objection subject to conditions relating to hours of use and retaining both uses as one entity.

#### 7. REPRESENTATIONS

Seven representations objecting to the application (two anonymous) and two in support of the application have been received in respect of the application. The correspondence will be circulated to Members of the Development Standards Committee and copies will be available to view in the local library and on the council's Public Access website.

The main points of objection are as follows:

- **Concern that the proposal will result in noise, nuisance and smell** - These issues are discussed further in Section 8: Planning Considerations.
- **Concern that the proposal is in close proximity to Montrose Academy and passing school children** - This issue is discussed further in Section 8: Planning Considerations.
- **Visual appearance and compatibility with character of area** - This issue is discussed further in Section 8: Planning Considerations.
- **Possible impacts on privacy and amenity** - These issues are discussed further in Section 8: Planning Considerations.
- **Parking and access issues** – This issue is discussed further in Section 8: Planning Considerations.

The main points of support are as follows:

- **Views of the nature of the use are outdated** - These issues are discussed further in Section 8: Planning Considerations.
- **The use would not produce smells, noise, loitering or littering** - These issues are discussed further in Section 8: Planning Considerations.
- **The proposed uses would bring the building back into use** - This issue is discussed further in Section 8: Planning Considerations.

## 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 As the application for planning permission relates to a listed building within a conservation area, Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 apply to the proposal. Respectively they require the planning authority, in assessing planning applications for listed buildings to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and in relation to subjects within a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in determining this application.

8.3 In this case the development plan comprises:-

- TAYplan (Approved 2012)
- Angus Local Development Plan (Adopted 2016)

The application is not strategically significant and therefore the policies of TAYplan are not referenced. The relevant policies of the Angus Local Development Plan are reproduced at Appendix 2 to this report.

8.4 The Development Strategy of the Angus Local Development Plan (ALDP) seeks to guide the majority of development to locations within towns; to maintain the quality of rural Angus by encouraging development which supports the population and services of local communities; provide opportunities for appropriate diversification of the rural economy; and maintain the quality of valued landscapes, the natural, built and historic environment, and biodiversity.

8.5 Policy DS1 'Development Boundaries and Priorities' indicates that all proposals will be expected to support delivery of the Development Strategy. DS1 is supportive of development within development boundaries which is of a scale and nature appropriate to its location. DS1 prioritises the redevelopment of brownfield land over greenfield land and indicates that development should not adversely impact on European designated sites. In this case the principle of the development does not give rise to any significant issues in terms of the Development Strategy and would not adversely impact any European designated site.

8.6 The building is currently vacant but was most recently used as a day care centre. A new day care centre has been constructed and that building provides purpose built facilities to replace those that were previously accommodated in the building subject of this application. Accordingly, the principle of allowing an alternative, non-community related use for the building is broadly acceptable in terms of development plan policy.

8.7 Policy TC2 deals with proposals for residential development. Amongst other things it indicates that all new residential development must represent a compatible land use; provide a satisfactory residential environment; not result in unacceptable impacts on the built and natural environment, amenity, access and infrastructure.

8.8 The Mid Links area of Montrose contains a number of different land uses but the principle of a residential use in the existing building is compatible with the use of neighbouring buildings. The building is reasonably large and is capable of providing a good standard of accommodation and an acceptable residential environment for its occupants. Whilst it does not have garden ground or off-street car parking that is not unusual for an existing building in an urban area. The proposal does not involve any significant external alteration and a residential use of the building is unlikely to give rise to any significant effects on occupants of neighbouring residential property. The reuse of the building as a single dwelling will not have any significant impact on existing infrastructure and as indicated no significant alterations are

proposed which will limit potential for unacceptable impacts on the built or natural environment. Similarly, a single house in an existing building is unlikely to impact significantly on access, parking or general road traffic safety in the area.

- 8.9 The proposal also involves the provision of a tattoo studio within the rear section of the building (approximately 73sqm). A tattoo studio does not fall within any defined Use Class and as such is regarded as a Sui Generis use (i.e. a use in its own right). The key policy consideration in relation to the acceptability of a use of this nature is Policy DS4 which deals with amenity. That policy indicates that all proposed development must have full regard to opportunities for maintaining and improving environmental quality. It states that 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.
- 8.10 In this case the building would be subdivided internally through the provision of a 2 metre high demountable screen that would separate the tattoo studio from the residential accommodation. The tattoo studio would be operated by the occupant of the residential property to be formed in the remainder of the building and the business and the house would be inextricably linked. The letters of representation raise concern that the proposed use would have an adverse impact on amenity by virtue of matters including additional activity, noise and congestion. However, the building was most recently used as a day centre which is a use that falls within Class 10 of the Use Classes Order. That use was not subject to planning restrictions and another Class 10 use could occupy the building without the requirement for planning permission. Such use could cause a level of activity similar, if not greater than that likely to be associated with a tattoo studio that is operated by the occupant of the associated dwelling. The proposed use is unlikely to generate a greater level of vehicular movement, activity or noise than the current lawful use. Aspects such as age and waste disposal in relation to carrying out of tattooing are controlled under the Civic Government (Scotland) Act 1982. It advises amongst other provisions that tattooing will not be carried out on any person under the age of eighteen. The Roads Service is satisfied that the proposal would not significantly affect road traffic or pedestrian safety. Current arrangements provide for those using the building to enter the separate uses by separate entrances located on the lane to the south of the building that links Panmure Place with St Mary's Road to the west. On street public parking is available in the Mid Links area and the parking provision would reflect the arrangements available to the building if it reverted to a Class 10 use with potential to generate significantly more traffic. The pedestrian movement, traffic and parking associated with the uses proposed would not significantly affect the amenity of the area in comparison to other activities that could lawfully take place within the building. The Environmental Health Service has indicated that it has no objection to the application subject to a number of conditions and I am satisfied that those conditions would ensure that the proposed use would not significantly impact on the amenity of occupants of nearby property.
- 8.11 Policy PV8 indicates amongst other things that development proposals affecting listed buildings will only be supported where the proposed development will not adversely affect the integrity of the site or reasons for which it was designated. In terms of conservations areas it notes that development proposals affecting local historic environment sites will only be permitted where supporting information commensurate with the site's status demonstrates that the integrity of the historic environment value of the site will not be compromised. In this case only minor works to the building are proposed such as the installation of the 2 metre high demountable office partitioning, new kitchen units and a bathroom suite. The external works proposed are limited to the removal of unsympathetic plastic protective covers from the windows and minor works associated with the formation of any vents necessary for the new bathroom. Those works will not affect the special interest of the listed building. The Mid Links is an area where there is a degree of activity and the building was constructed as a church hall and until recently was used as a day care centre. The proposed uses would continue to generate some activity which would be consistent with the character of the area. This application does not provide for the erection of any signs and any such signs would be considered through any necessary applications for listed building consent and/or advertisement consent. Overall the proposal provides for a new use for a listed building in a manner that would not affect its special interest and that would not have an adverse impact on the character or appearance of the conservation area.
- 8.12 The concerns raised by third parties have been discussed above. They are not considered to give rise to any material considerations that justify refusal of planning permission.

- 8.13 In conclusion, the proposal will provide for the reuse of a currently vacant listed building located in the Montrose Conservation area in a manner that will not give rise to any significant adverse impacts on the amenity or appearance of the area. It is considered to be of a scale and nature appropriate to its location and consistent with the relevant policies of the ALDP. Whilst I note the concerns raised in the representations, these do not give rise to issues that justify refusal of the application. In this case the proposal complies with development plan policy and there are no material considerations that justify refusal of the application.

## **9. OTHER MATTERS**

### **HUMAN RIGHTS IMPLICATIONS**

The decision to grant permission/consent, 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 decision 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 and subject to the following conditions:

### **Reason(s) for Approval:**

That the application will provide for the reuse of a currently vacant listed building located in the Montrose Conservation area in a manner that complies with relevant policies of the development plan. There are no material considerations that justify refusal of the planning application contrary to the provisions of the development plan.

### **Conditions:**

1. That the hours of operation of the tattoo studio shall be restricted to 0900 - 1800 hours, Monday to Saturday inclusive and 1100 – 1600 hours on Sundays.

*Reason: In order that the amenity of nearby occupied premises shall be adequately safeguarded.*

2. That the tattoo studio shall be operated only by the occupants of the residential accommodation hereby approved.

*Reason: In order to protect the amenity of the occupants of the residential accommodation and in order to ensure that the impacts associated with any external operator can be assessed.*

**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.

**REPORT AUTHOR: VIVIEN SMITH**

**EMAIL DETAILS: [PLANNING@angus.gov.uk](mailto:PLANNING@angus.gov.uk)**

**DATE: 21 OCTOBER 2016**

**Appendix 1: Location Plan**

**Appendix 2: Relevant Development Plan Policies**

## APPENDIX 2

### DEVELOPMENT PLAN POLICIES AGAINST WHICH THE PROPOSAL HAS BEEN ASSESSED

#### 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 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 TC2: Residential Development**

All proposals for new residential development\*, including the conversion of non-residential buildings must:

- be compatible with current and proposed land uses in the surrounding area;
- provide a satisfactory residential environment for the proposed dwelling(s);
- not result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and
- include as appropriate a mix of house sizes, types and tenures and provision for affordable housing in accordance with Policy TC3 Affordable Housing.

Within development boundaries Angus Council will support proposals for new residential development where:

- the site is not allocated or protected for another use; and
- the proposal is consistent with the character and pattern of development in the surrounding area.

In countryside locations Angus Council will support proposals for the development of houses which fall into at least one of the following categories:

- retention, renovation or acceptable replacement of existing houses;
- conversion of non-residential buildings;
- regeneration or redevelopment of a brownfield site that delivers significant visual or environmental improvement through the removal of derelict buildings, contamination or an incompatible land use;
- single new houses where development would:
- round off an established building group of 3 or more existing dwellings; or
- meet an essential worker requirement for the management of land or other rural business.
- in Rural Settlement Units (RSUs)\*\*, fill a gap between the curtilages of two houses, or the curtilage of one house and a metalled road, or between the curtilage of one house and an existing substantial building such as a church, a shop or a community facility; and
- in Category 2 Rural Settlement Units (RSUs), as shown on the Proposals Map, gap sites (as defined in the Glossary) may be developed for up to two houses.

Further information and guidance on the detailed application of the policy on new residential development in countryside locations will be provided in supplementary planning guidance, and will address:

- the types of other buildings which could be considered suitable in identifying appropriate gap sites for the development of single houses in Category 1 Rural Settlement Units, or for the development of up to two houses in Category 2 Rural Settlement Units.
- the restoration or replacement of traditional buildings.
- the development of new large country houses.

\*Includes houses in multiple occupation, non-mainstream housing for people with particular needs, such as specialist housing for the elderly, people with disabilities, supported housing care and nursing homes.

\*\*Rural Settlement Units are defined in the Glossary and their role is further explained on Page 9.

### **Policy TC8 Community Facilities and Services**

The Council will encourage the retention and improvement of public facilities and rural services. Proposals resulting in the loss of existing public community facilities will only be supported where it can be demonstrated that:

- the proposal would result in the provision of alternative facilities of equivalent community benefit and accessibility; or
- the loss of the facility would not have an adverse impact on the community; or
- the existing use is surplus to requirements or no longer viable; and

- no suitable alternative community uses can be found for the buildings and land in question.

The Council will seek to safeguard rural services that serve a valuable local community function such as local convenience shops, hotels, public houses, restaurants and petrol stations. Proposals for alternative uses will only be acceptable where it can be demonstrated that:

- the existing business is no longer viable and has been actively marketed for sale as a going concern at a reasonable price/rent for a reasonable period of time;
- the building is incapable of being reused for its existing purpose or redeveloped for an appropriate local community or tourism use; or
- equivalent alternative facilities exist elsewhere in the local community.

New community facilities should be accessible and of an appropriate scale and nature for the location. In the towns of Angus, and where appropriate to the type of facility, a town centre first approach should be applied to identifying a suitable location.

### **Policy PV8 : Built and Cultural Heritage**

Angus Council will work with partner agencies and developers to protect and enhance areas designated for their built and cultural heritage value. Development proposals which are likely to affect protected sites, their setting or the integrity of their designation will be assessed within the context of the appropriate regulatory regime.

#### National Sites

Development proposals which affect Scheduled Monuments, Listed Buildings and Inventory Gardens and Designed Landscapes will only be supported where:

- the proposed development will not adversely affect the integrity of the site or the reasons for which it was designated;
- any significant adverse effects on the site or its setting are significantly outweighed by social, environmental and/or economic benefits; and
- appropriate measures are provided to mitigate any identified adverse impacts.

Proposals for enabling development which is necessary to secure the preservation of a listed building may be acceptable where it can be clearly shown to be the only means of preventing its loss and securing its long term future. Any development should be the minimum necessary to achieve these aims. The resultant development should be designed and sited carefully in order to preserve or enhance the character and setting of the listed building.

#### Regional and Local Sites

Development proposals which affect local historic environment sites as identified by Angus Council (such as Conservation Areas, sites of archaeological interest) will only be permitted where:

- supporting information commensurate with the site's status demonstrates that the integrity of the historic environment value of the site will not be compromised; or
- the economic and social benefits significantly outweigh the historic environment value of the site.

Angus Council will continue to review Conservation Area boundaries and will include Conservation Area Appraisals and further information on planning and the built and cultural heritage in a Planning Advice Note.