

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 3 NOVEMBER 2015**

**PLANNING APPLICATION - CHANCE INN 32 MAIN STREET INVERKEILOR ARBROATH DD11 5RN**

**GRID REF: 366461 : 749361**

**REPORT BY HEAD OF PLANNING AND PLACE**

**Abstract:**

This report deals with planning application 15/00466/FULL for alterations and change of use from public house and holiday flats to seven affordable homes for Infitas2 Ltd. at The Chance Inn, Inverkeilor, by Arbroath. This application is recommended for approval.

**1. RECOMMENDATION**

It is recommended that the application be approved for the reasons 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 Full planning permission is sought for alterations and change of use from public house and holiday flats to form seven affordable homes at The Chance Inn, 32 Main Street, Inverkeilor.

3.2 The application site is located on the west side of the Main Street, Inverkeilor. The site incorporates The Chance Inn which comprises a sandstone public house and associated holiday accommodation. Information submitted in support of the application indicates that the public house has been closed since 2013. The area is primarily residential in nature but is bound by Gordons Restaurant with Rooms to the north, an open area to the west and Main Road to the east.

3.3 The proposal involves for alterations and change of use from public house and holiday flats to seven flatted properties. The drawings indicate that this would involve very limited external alterations which are contained to the rear of the property. Three 2 bedroom and four 1 bedroom flats would be formed for the private rental market. The proposal makes provision for parking at the rear of the property accessed through the pend; some garden ground, bin storage and a drying area.

3.4 The application has been varied to increase the area within the site which is available for cars to access the proposed parking spaces.

3.5 The application was advertised in the Dundee Courier.

#### **4. RELEVANT PLANNING HISTORY**

- 4.1 Planning application 05/00264/FUL for the change of use of the premises from a hotel to a public house was approved subject to conditions on 6 May 2005.
- 4.2 Planning application 05/00488/FUL for alterations and extension to part of inn to form three holiday flats was approved subject to conditions on 26 May 2005. The occupation of the flats was limited to holidaymakers and prevented permanent occupation due to the existence of the public house and the potential for amenity issues resulting from that.
- 4.3 Planning application 10/01103/FULL for removal of condition number three of planning permission 05/00488/FUL to allow permanent residential occupation was refused planning permission on 23 December 2010 for the following reason(s):-

*That the proposal to lift restrictive occupancy condition 3 of planning permission reference 05/00488/FUL is not supported by sufficient information to determine that the land use compatibility concerns raised at the time of that application can be overcome and as a result the application is considered to be contrary to Policies S4, ER11 and S6 and consequently Policy S1 in the Angus Local Plan Review.*

#### **5. APPLICANT'S CASE**

- 5.1 The applicant has provided a supporting statement which indicates that (in summarised terms):-
- The public house and holiday flats went out of business in July 2013 and the property has lain disused since that time.
  - The proposal involves the formation of one and two bedroom properties which would be available as private rented homes through a social enterprise to provide the optimum number of affordable homes for local people.
  - The applicant's research indicates that there are 189 applicants on the housing list in the Inverkeilor area seeking one bedroom accommodation and 73 applicants seeking two bedroom accommodation.
  - While it is realised that a proportion of the village residents may wish to see the building retained as a public house, since it closed nearly two years ago, no satisfactory offers have been received from prospective purchasers who wish to continue to run it as a public house.
  - There have been at least four different owners (or managers/lessees) of The Chance Inn over the past six years and the business has not been successful. The last business closed in July 2013 and the premises were taken over by an administrator.
  - It is noted that there is a restaurant with guest rooms immediately next door.
- 5.2 In response to a request for further information about the viability of the public house, the applicant provided the following information (in summarised terms):-
- The property was purchased in May 2015 for approximately. £200,000. The original asking price was £250,000 but the price was reduced when it was realised that no interest was being generated.
  - The Chance Inn was actively advertised as a public house by Graham & Sibbald on the internet and by other means. During that time it is believed that only two local business people looked at the property but no serious offers were actually received and no formal (in writing) offers were received.
  - The public house had four different operators during the last six years, none of whom could make it pay. There are dozens of such businesses for sale throughout Scotland as they are not viable for a small population.
  - It would be difficult for a new owner to compete with the restaurant and B&B business next door.
  - The new homes created would be affordable homes for rent and operated by a long established and experienced social enterprise landlord and would not be sold off to private buyers. They would add to the economic well-being of the village.

5.3 The applicant has provided correspondence from a Graham & Sibbald, Chartered Surveyors which indicates (in summarised terms):-

- The property was put to the market on a 'for sale' basis in May 2014 and as you know a sale concluded in July 2015. We prepared marketing details which were distributed to local agents, solicitors and uploaded on the G&S and Co-star commercial property websites. A colour advert was placed with the Press and Journal in November 2014. This is considered an appropriate marketing period and campaign in which to identify a suitable purchaser.
- The property was valued in November 2012 at £200,000. During marketing it was hoped a higher figure closer to £250,000 could be achieved, however this proved not to be the case. Whilst your purchase incorporated a residential portfolio, it is understood you have apportioned £200,000 to the Chance Inn.
- Market conditions are such that the licensed trade sector remains challenging, particularly for properties where there is no existing business which can exhibit strong trading figures. We understand the Chance Inn had several unsuccessful operates (sic) prior to the disposal process. The most recent operated the business as a tenant paying a rent of £15,000pa from January 2012 to January 2013. This tenant decided to vacate the premise at lease expiry. We were never provided with accounts; however the aforementioned would suggest the business was not particularly successful.
- The subjects were considered to represent an increased financial/management obligation to potential owners due to the existence of 3 separately accessed dwellings. The planning conditions required that these were to be used as letting accommodation in association with the public house/restaurant and therefore could not be sold as private dwellings in isolation. This likely reduced the number of parties interested/ financially capable of purchasing the subjects.
- We carried out numerous viewings with local parties and on several occasions repeat viewings where potential investors were present. No formal offers were however forthcoming and indeed verbal offers were well below expectation.

## 6. CONSULTATIONS

6.1 **Angus Council - Education** - has offered no objection to the application.

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

6.3 **Angus Council - Roads** – has considered the proposal in terms of the traffic likely to be generated by it and its impact on the public road network and has no objection to the proposal.

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

6.5 **Angus Council Environmental Health** - has offered no objection to the application.

## 7. REPRESENTATIONS

Seven (7) letters of representation were received from 6 households. 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. The main issues raised relate to:

- Concern regarding loss of community facility, one of last remaining;
- Inadequate marketing of property;
- Other houses are approved in village with limited community facilities;
- Other offers for property have been rejected;
- Neighbour notification issues; and
- Adverse impact on village life.

## **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 2012)
  - Angus Local Plan Review (Adopted 2009)
- 8.3 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 Draft Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014 and published the Proposed Angus Local Development Plan for a statutory period for representations. 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 statutory period for representation has now expired and submitted representations are in the process of being assessed. Any unresolved representations are likely to be considered at an Examination by an independent Reporter appointed by Scottish Ministers. The Council must accept the conclusions and recommendations of the Reporter before proceeding to adopt the plan. Only in exceptional circumstances can the Council choose not to do this. 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 its contents until the level and significance of any objection to the policies and proposals of the plan are known.
- 8.4 As the application is not of strategic importance the policies of TAYplan are not referred to in this report and the policies of the Angus Local Plan Review form the basis for the consideration of the proposal. The relevant local plan policies are reproduced at Appendix 1.
- 8.5 The proposal relates to the change of use and alterations to The Chance Inn and its associated holiday rental property to form 7 affordable flatted properties. The key issue for the proposal is the acceptability of the change of use from the public house and tourist accommodation to residential property and this is the primary issue raised in the objections to the application. In that regard the current development plan has no policies which provide a specific test relating to proposals which would result in the loss of a public house. Policy TC8 of the Proposed Angus Local Development relates to proposals which affect community facilities and services and provides a presumption in favour of their retention. The policy indicates that alternative uses will only acceptable where one of three criteria is met.
- 8.6 The first criterion relates to viability of the business and requires marketing of the property. The applicant has submitted information in an attempt to demonstrate that the existing business is no longer viable and has been actively marketed for sale at a reasonable price for a reasonable period. The applicant has indicated that the premises closed in July 2013 and in the six years prior to that had four different operators which they suggest demonstrates a lack of viability in the business. They have provided information regarding the marketing of the property including confirmation from Graham & Sibbald Chartered Surveyors that the property was on the market between May 2014 and July 2015 and no formal offers were forthcoming during that period. While this information does suggest difficulties in the successful operation of the business and a lack of interest by other parties in its purchase; the information is not sufficiently robust to demonstrate the business is not viable or that it has been marketed for sale at a reasonable price for a reasonable period. The second criterion allows alternatives uses where the building is incapable of being reused for its existing purpose or redeveloped for an appropriate local community or tourism use. The building appears to be capable of being reused for its existing use or another appropriate use.

- 8.7 The third and final criterion of TC8 indicates proposals for alternative uses will be acceptable where it can be demonstrated that equivalent alternative facilities exist elsewhere in the local community. Gordon's Restaurant with Rooms is located directly adjacent to the application site and provides both a food and accommodation offering for the village. The village also benefits from a primary school and village hall, both of which represent community facilities and services which would remain available for the residents. In that context, I consider that the change of use of The Chance Inn would not result in Inverkeilor having no facilities to serve the local community and the proposal is compatible with the third criterion of Policy TC8.
- 8.8 The relevant Angus Local Plan Review policies include Policy SC3 which relates to proposals for 5 or more dwellings on sites which are not allocated for housing in the local plan. The proposal would allow the vacant property to be brought back into a purposeful new use, providing a mix of one and two bedroom properties to add to the mix of accommodation available in the village. The proposed use is compatible with those in the surrounding area, which is primarily residential in nature. Environmental Health has indicated no objection to the proposal in the context of the proximity of the proposed residential use to the adjacent restaurant. While the number of units proposed does not trigger the requirement for affordable housing, the supporting information indicates that the properties would be available for private rent through a social enterprise. The requirements of policy S6 are considered below.
- 8.9 The proposal raises no issues in terms of impacts on privacy or amenity; and the Roads Service has confirmed that the parking and access arrangements are acceptable. The plans indicate that there would be sufficient space for bin storage. The proposal raises no issues with the remaining criteria of Schedule 1 and as such complies with Policy S6. The proposal involves minimal external alterations to the property and would allow for retention of the traditional sandstone building and thus complies with Policy S3.
- 8.10 In terms of the representations received, issues relating to the loss of the public house are addressed above in the discussion under Policy TC8 of the Proposed Angus Local Development Plan. The neighbour notification procedures have been followed correctly.
- 8.11 While retention of the public house and tourist accommodation is desirable, the village would retain a reasonable offering of community facilities and services. The proposed new use would add to the mix of accommodation available in the village. The proposal is considered to comply with the relevant policies of the development plan and Policy TC8 of the Proposed Angus Local Development Plan. There are no material considerations which 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 reasons:

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

The proposed new use would add to the mix of accommodation available in the village. The proposal is considered to comply with the relevant policies of the development plan and Policy TC8 of the Proposed Angus Local Development Plan. There are no material considerations which justify refusal of the application.

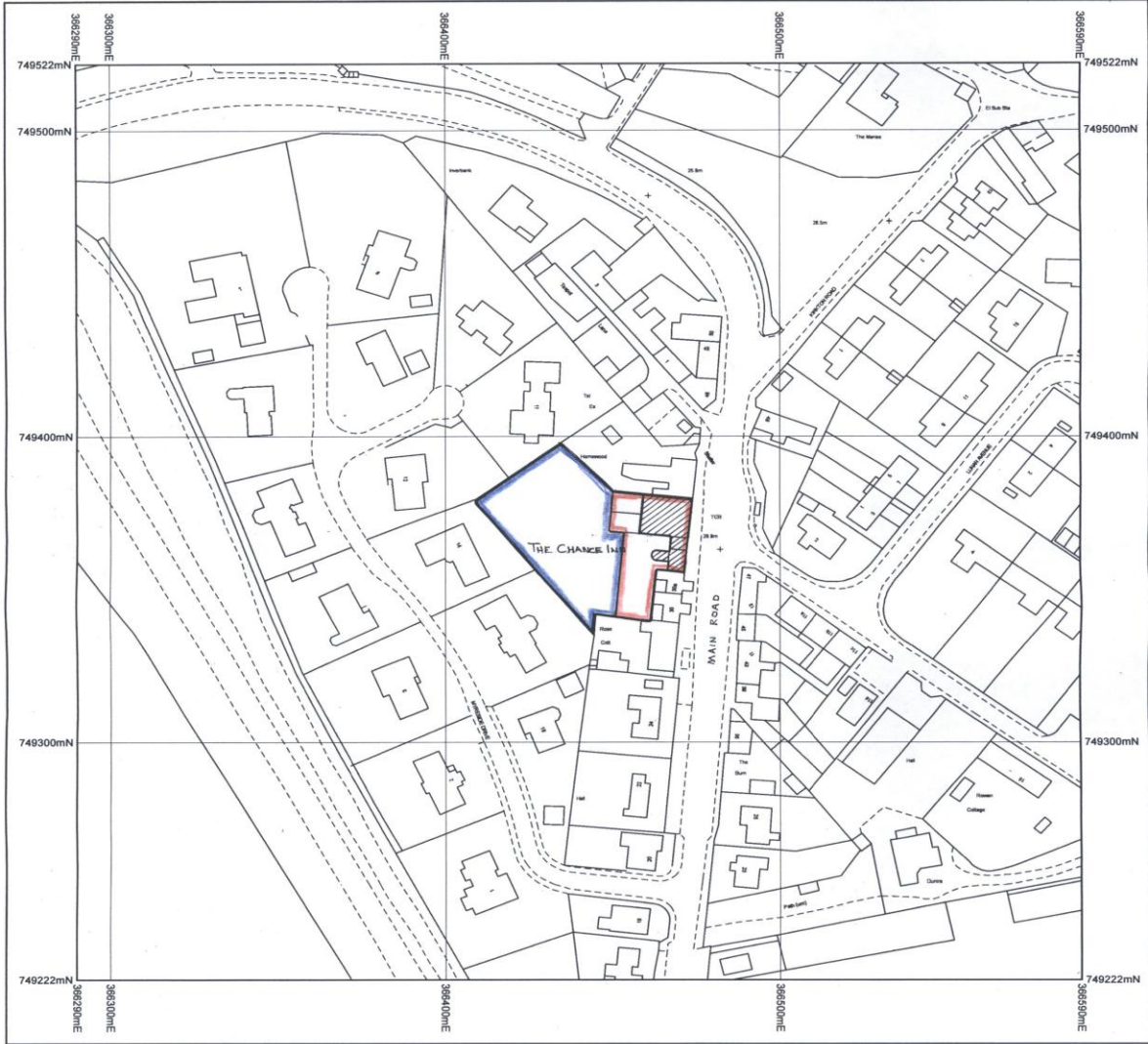
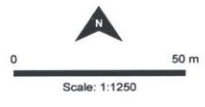
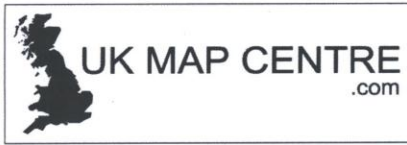
NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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**DATE: 22 OCTOBER 2015**

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

# Appendix 1 : Location Plan



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The Chance Inn, Inverkiellor

## **Appendix 2 - 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 SC3 : Windfall Sites**

Angus Council will support proposals for residential development of 5 or more dwellings on windfall sites within development boundaries in addition to the identified supply where they:

- will make a significant contribution towards regeneration and renewal;
- are compatible with established and proposed land uses in the surrounding area;
- include affordable housing in accordance with Policy SC9; and
- take account of the provisions of Policy S6 : Development Principles.

#### **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.